



APPENDIX K:

Federal Contract Provisions

ARTICLE I

BREACH; TERMINATION & REMEDIES

Section 1.1 Breach of Contract Terms

Subject to the other provisions of this Agreement, any violation or breach of terms of this Agreement on the part of the Contractor or its subcontractors, if any, may result in the suspension or termination of this Agreement or such other action, including the recovery of damages that may be necessary to enforce the rights of the Department of Agriculture of Puerto Rico. The duties and obligations imposed by the Agreement and the rights and remedies available thereunder shall be in addition to, and not a limitation of, any duties, obligations, rights, and remedies otherwise imposed or available by law.

Section 1.2 Termination with or Without Cause

Notwithstanding any provision to the contrary in this Agreement, the Department of Agriculture of Puerto Rico shall have the right to terminate this Agreement without cause by providing the Contractor thirty (30) days' notice by registered mail, return receipt requested, or overnight express mail. Any provisions of this Agreement which expressly or by implication are intended to survive its termination or expiration will survive and continue to bind the Parties.

Section 1.3. Unpaid Fees in case of Termination or Expiration of Agreement

Upon any termination or expiration of this Agreement, the Department of Agriculture of Puerto Rico shall promptly pay the Contractor any accrued but unpaid fees hereunder incurred prior to the effective date of such termination or expiration, as the case may be, including services rendered at the request of the Department of Agriculture of Puerto Rico (and agreed to in writing by the Parties) in connection with any transition of responsibilities hereunder and shall reimburse the Contractor for any unreimbursed expenses that are reimbursable hereunder.

Section 1.4 Rights and Obligations



Upon any termination or expiration of this Agreement, the rights and obligations of the Parties shall terminate, except for the rights and obligations that shall survive the termination or expiration of this Agreement.

ARTICLE II

EQUAL EMPLOYMENT OPPORTUNITY ACT

Section 2.1 Equal Employment Opportunity

To the extent applicable, in the performance of this Agreement, the Contractor agrees as follows:

- a) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- b) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- c) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or



action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

- d) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- e) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- f) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h) The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (h) in every contract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each contractor or vendor. The Contractor will take such action with respect to any contract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided however, that in the event a contractor becomes involved in, or is threatened with, litigation with a contractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.



The Contractor further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the Contractor so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such Government which does not participate in work on or under the contract.

The Contractor agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The Contractor further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractor by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the Contractor agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the Contractor under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

ARTICLE III

CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

Section 3.1 Clean Air Act



- a) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- b) The Contractor agrees to report each violation to Department of Agriculture of Puerto Rico and understands and agrees that the Department of Agriculture of Puerto Rico will, in turn, report each violation as required to assure notification to the Government of Puerto Rico, FEMA, HUD, or other Federal Program agencies, and the appropriate Environmental Protection Agency Regional Office.
- c) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by FEMA.

Section 3.2 Federal Water Pollution Control Act

- a) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq.
- b) The Contractor agrees to report each violation to the Department of Agriculture of Puerto Rico and understands and agrees that the Department of Agriculture of Puerto Rico will, in turn, report each violation as required to assure notification to the Government of Puerto Rico, FEMA, HUD, or other Federal Program agencies, and the appropriate Environmental Protection Agency Regional Office.
- c) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

ARTICLE IV SUSPENSION & DEBARMENT

This contract is a covered transaction for purposes of 2 C.F.R. Part 180 and 2 C.F.R. Part 3000. As such, the Contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).



- a) The Contractor must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower-tier transaction it enters into.
- b) This certification is a material representation of fact relied upon by the Department of Agriculture of Puerto Rico. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Department of Agriculture of Puerto Rico, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- c) The Contractor agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower-tier-covered transactions.
- d) The Contractor certifies that, at the time of the execution of this Agreement, its principals and affiliates have not been debarred, suspended, or placed in ineligibility status under the provisions of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000 (government debarment and suspension regulations).
- e) The Contractor represents and warrants that it will not enter into any contracts or subcontracts with any individual or entity which has been debarred, suspended or deemed ineligible under those provisions. During the term of this Agreement, the Contractor will periodically review www.SAM.gov and local notices to verify the continued accuracy of this representation.

ARTICLE V

BYRD ANTI-LOBBYING AMENDMENT 31 U.S.C. § 1352 (AS AMENDED)

Section 5.1. Applicability

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification required certification regarding lobbying. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with



non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the Department of Agriculture of Puerto Rico who in turn will forward the certification(s) to the federal awarding agency.

ARTICLE VI

PROCUREMENT OF RECOVERED MATERIALS

Therefore, to the extent applicable:

In the performance of this Agreement, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
- ii. Meeting contract performance requirements; or
- iii. At a reasonable price.

Information about this requirement, along with the list of EPA designated items, is available at [Comprehensive Procurement Guideline](#).

The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

ARTICLE VII PROHIBITION ON CONTRACTING

FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

- a) *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy, #405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services, as used in this clause—
- b) *Prohibitions.*
 - 1. Section 889(b) of the John S. McCain National Defense



Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.

2. Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
 - i. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - ii. Enter, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - iii. Enter, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
 - iv. Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

c) *Exceptions.*

1. This clause does not prohibit contractors from providing—
 - i. A service that connects to the facilities of a third party, such as backhaul, roaming, or interconnection arrangements; or
 - ii. Telecommunications equipment that cannot route or



redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

2. By necessary implication and regulation, the prohibitions also do not apply to:

- i. Covered telecommunication equipment or services that:

- a. Are not used as a substantial or essential component of any system; and
- b. Are not used as critical technology of any system.

- ii. Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

d) *Reporting requirement.*

1. In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
2. The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:
 - i. Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.



- ii. Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the Subcontractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunication equipment or services.
- e) *Subcontracts*. The Contractor shall insert the substance of this clause including this paragraph (e), in all subcontracts and other contractual instruments.

ARTICLE VIII

DOMESTIC PREFERENCE FOR PROCUREMENTS

The contractor should, to the greatest extent practicable and consistent with law, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

For purposes of this clause: *Produced in the United States* means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. *Manufactured products* mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

ARTICLE IX

ACCESS TO RECORD AND RECORDS RETENTION

Section 9.1 Access to Records

The Contractor agrees to:

- a. Provide the Department of Agriculture of Puerto Rico, the Government of Puerto Rico, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents,



papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

- b. Permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- c. Provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

Section 9.2 Contracts under a Major Disaster Declaration

In compliance with section 1225 of the Disaster Recovery Reform Act of 2018, the Department of Agriculture of Puerto Rico and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

Section 9.3 Records Retention

The Contractor agrees to maintain all books, records, accounts and reports and all other records produced or collected in connection with this Agreement for a period of not less than six (6) years after the date of final payment and close-out of all pending matters related to this Agreement or the federally declared disasters. If any litigation, claim, or audit is reasonably anticipated to arise or is started before the expiration of the 6-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

ARTICLE X

CONTRACT CHANGES OR MODIFICATIONS

The Department of Agriculture of Puerto Rico may, at any time, by written order, make changes in the Services or work to be performed within the general scope of this Agreement. If such changes cause an increase or decrease in the Contractor's cost of, or time required for, performance of any services under this Agreement, an equitable adjustment shall be made, and this Agreement shall be modified in writing accordingly. Provided, however, that no changes shall be made to the scope of the Services that would render the costs incurred in the performance of this Agreement unallowable or not allocable under, or outside the scope or not reasonable for the completion of,



Federal grant awards from FEMA, the U.S. Department of House and Urban Development ("HUD") or any other U.S. Federal agency.

ARTICLE XII

PROVIDING GOOD, SAFE JOBS TO WORKERS

Pursuant to FEMA Information Bulletin No. 520, the Contractor will comply with all applicable federal labor and employment laws. To maximize cost efficiency and quality of work, the Contractor commits to strong labor standards and protections for the project workforce by creating an effective plan for ensuring high-quality jobs and complying with federal labor and employment laws. The Contractor acknowledges applicable minimum wage, overtime, prevailing wage, and health and safety requirements, and will incorporate Good Jobs Principles wherever appropriate and to the greatest extent practicable

ARTICLE XII

PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by federal law, regulation, executive order, policy, procedure, directive, Federal grant award or agreement, or cooperative agreement with any Federal agency to be inserted in this Agreement shall be deemed to be inserted herein and the Agreement shall be read and enforced as though it were included herein. If, through mistake or otherwise, any provision is not inserted, or is not correctly inserted, then upon the application of either party, the Agreement shall be amended to make such insertion or correction.

ARTICLE XIII

COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS AND ACKNOWLEDGMENT OF FEDERAL FUNDING

This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The Contractor will comply with applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

ARTICLE XIV

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS



The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.

ARTICLE XV

COPYRIGHT

The Contractor grants to the Department of Agriculture of Puerto Rico, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the Department of Agriculture of Puerto Rico or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the Department of Agriculture of Puerto Rico data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the Department of Agriculture of Puerto Rico.