

SCHEDULE 7**GOVERNMENT CONTRIBUTIONS FLOW-DOWN REQUIREMENTS**

The following provisions are required by the regulations at 2 C.F.R. Part 200 and/or by HUD or FEMA guidance to be included, as applicable, in all Construction Contracts funded in whole or in part with Government Contributions. Accordingly, any Construction Contract with respect to which a Cruise Pier Improvement Projects Cost will be paid with Government Contributions, at any level, shall contain the following provisions (or equivalent provisions, e.g. with 'Concession Company' replaced with 'Contractor'), as indicated in this Schedule 7. In other words, these provisions apply to the Concession Company and any Contractor and the Construction Contracts any of them enters into that is funded in whole or in part with Government Contributions. With respect to the expenditure of Government Contributions, the Concession Company agrees to these provisions and shall require and cause any such Construction Contracts to include these provisions. References to the "Concession Company" in this Schedule 7 shall be deemed to include any Contractor, as applicable, that is paid with Government Contributions. For the avoidance of doubt, any Contract for Cruise Port Facility Operations or any Contract (including Construction Contract) for Cruise Pier Improvement Projects that is paid with funds not originating from Government Contributions is not required to contain any of the following provisions.

Section 1. Equal Employment Opportunity.

During the performance of this contract, the Concession Company agrees as follows:

1. The Concession Company will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Concession Company 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, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Concession Company 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.

2. The Concession Company 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.

3. The Concession Company 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 Concession Company's legal duty to furnish information.

4. The Concession Company 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' representatives 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.

5. The Concession Company 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.

6. The Concession Company 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 his 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.

7. In the event of the Concession Company'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 Concession Company 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.

8. The Concession Company will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Concession Company will take such action with respect to any subcontract 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 subcontractor or vendor as a result of such direction by the administering agency, the Concession Company may request the United States to enter into such litigation to protect the interests of the United States.

The Authority 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.

The Authority 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 Authority 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 subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant 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 applicant 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.

Section 2. Compliance with the Contract Work Hours and Safety Standards Act.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3. Withholding for unpaid wages and liquidated damages. The Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid

wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

Section 3. Clean Air Act and the Federal Water Pollution Control Act.

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.

The Concession Company agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to the federal Government Contributions issuing agency, and the appropriate Environmental Protection Agency Regional Office.

The Concession Company agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Government Contributions.

Federal Water Pollution Control Act

(a) The Concession Company 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 Concession Company agrees to report each violation to the Authority and understands and agrees that Authority will, in turn, report each violation as required to assure notification to the Governmental Authority that approved the Government Contributions Authorization, and the appropriate Environmental Protection Agency Regional Office.

The Concession Company agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by the federal Government Contributions agencies.

Section 4. Suspension & Debarment.

Federal regulations restrict the Authority from contracting with parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities, where the contract is funded in whole or in part with federal funds. Accordingly, a contract or subcontract must not be made with any parties listed on the SAM Exclusions list. SAM Exclusions is the list maintained by the General Services Administration that contains the name of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under certain statutory or regulatory authority. The Concession



Company can verify its status and the status of its principals, affiliates, and subcontractors at www.SAM.gov.

(a) This Contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the Concession Company is required to verify that none of the Concession Company, its 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).

(b) The Concession Company must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by the Authority. If it is later determined that the Concession Company 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 Puerto Rico Central Office for Recovery, Reconstruction and Resiliency, the Puerto Rico Department of Housing, and/or the Authority, as appropriate, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

Section 5. Byrd Anti-Lobbying Amendment.

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification found at APPENDIX A, 44 C.F.R. PART 18. Each tier certifies to the tier above that it will not and has not used Federal 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 recipient.

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(to be submitted with each bid or offer exceeding \$100,000)

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.



(2) If any funds other than Federal appropriated funds have been paid or will be paid to



any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Name of Contractor	RFP or ITB No.

Signature	Printed Name

Title	Date

Section 6. Procurement of Recovered Materials

In the performance of this Contract, the Concession Company shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired:

Competitively within a timeframe providing for compliance with the Contract performance schedule;

Meeting Contract performance requirements; or
At a reasonable price.

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Information about this requirement is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/>. The list of EPA-designated items is available at <http://www.epa.gov/cpg/products.htm>.

Section 7. Access to Records.

The following access to records requirements apply to this Contract:

(a) The Concession Company agrees to provide the Authority, the federal Government Contributions agency, the Comptroller General of the United States, or any of their authorized representatives, access to any books, documents, papers, and records of the Concession Company which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions. The Concession Company agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed

(b) The Concession Company agrees to provide the federal Government Contributions agency or its authorized representatives access to construction or other work sites pertaining to the work being completed under the Contract.

Section 8. Compliance with Federal law, regulations, and Executive Orders.

This is an acknowledgement that Federal financial assistance may be used to fund the Contract in whole or in part. The Concession Company will comply with all applicable federal laws, regulations, executive orders, and federal Government Contributions agency policies, procedures, and directives.

Section 9. No Obligation by Federal Government.

The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the Authority, the Concession Company, or any other party pertaining to any matter resulting from the Contract.

Section 10. Contracting with Small and Minority Business, Women's Business Enterprises, and Labor Surplus Area Firms.

If the Concession Company intends to subcontract any portion of the work covered by this Contract, the Concession Company must take all necessary affirmative steps to assure that small and minority businesses, women's business enterprises and labor surplus area firms are solicited and used when possible. Affirmative steps must include:

(a) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(b) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;



(c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(d) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and

(e) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

Section 11. Seals, Logos and flags.

The Concession Company shall not use the DHS or HUD seal(s), logos, crests, or reproductions of flags or likenesses of DHS or HUD agency officials without specific FEMA or HUD pre-approval.

Section 12. Program Fraud and False or Fraudulent Statements or Related Acts.

The Concession Company 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.

Section 13. Compliance with HUD CDBG Labor Standards Requirements (applicable to HUD CDBG funds, but not FEMA Public Assistance or Hazard Mitigation Grant funds).

If work under a contract is funded in whole or in part with HUD CDBG funds, the terms of HUD form 4010 "Federal Labor Standards Provisions" apply and shall be deemed included herein. The terms in HUD Form 4010 include but are not limited to provisions requiring compliance with the following:

(a) **The Davis-Bacon Act** (40 U.S.C. 3141-3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The Concession Company shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.

(b) **The Copeland "Anti-Kickback" Act** (18 U.S.C. § 874, 40 U.S.C. § 3145) and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(c) **Subcontracts.** The Concession Company or subcontractor shall insert in any subcontracts the clauses contained in subparagraphs (1) through (11) of paragraph (a) of HUD form 4010 and such other clauses as HUD may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.



(d) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.



Section 14. HUD Section 3 Clause.

If work to be performed under a contract will be funded in whole or in part with a HUD CDBG funds (including, but not limited to CDBG-MIT), the work is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing. If Section 3 applies, the Parties agree to comply with HUD's regulations in 24 C.F.R. part 75 that implement Section 3, including but not limited to inclusion of a HUD Section 3 clause in every subcontract subject to compliance with n 24 C.F.R. part 75, and taking appropriate action upon finding that a subcontractor is in violation of the requirements in 24 C.F.R. part 75.

Section 15. 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 (Interim), 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 Government Contributions 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 into, 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;

() Enter into, 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 telecommunications equipment or services that: i. Are not used as a substantial or essential component of any system; and ii. 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 Receiver of Government Contributions, 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 contractor 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 telecommunications 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.

Section 16. Domestic Preferences for Procurements.

As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, 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.”

Section 17. Provisions Required by Law Deemed Inserted.

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

Section 18. Agreement to Execute Other Required Documents.

By entering into this Agreement the Parties understand and agree that funding provided under Government Contributions programs is bound by specific contracting requirements. To the extent any such requirement is applicable to this Agreement and not otherwise set forth herein, the Parties agree to execute such amendments or further agreements as may be necessary to ensure that the Cruise Pier Improvement Project complies with the Government Contributions requirement.

