



**PORTS  
AUTHORITY**

GOVERNMENT OF PUERTO RICO

**REQUEST FOR QUALIFICATIONS / STATEMENT OF QUALIFICATIONS**

**Engineering / Bid Support Services / Construction Support Activities for  
Runway Conversion to Taxiway and Taxiway Improvements at  
Rafael Hernández International Airport,  
Aguadilla, Puerto Rico**



**March 2026**

## **REQUEST FOR QUALIFICATIONS**

### **Engineering / Bid Support Services / Construction Support Activities for Runway Conversion to Taxiway and Taxiway Improvements at Rafael Hernández International Airport, Aguadilla, Puerto Rico**

The Puerto Rico Ports Authority (PRPA) is interested in entering into a Contract in connection with the provision of certain design services and accordingly invites experienced Architecture & Engineering (A&E) firms, to submit Statements of Qualifications (SOQ) to provide engineering, design, bid support, and construction support services for the Runway Conversion to Taxiway and Taxiway Improvements Project at Rafael Hernandez International Airport, Aguadilla, Puerto Rico. This RFQ is not an offer to enter into a contract, but merely a request to firms interested in submitting SOQs to the PRPA for the Project. By submitting a SOQ, the Respondents represent that they have carefully read the terms and conditions of this RFQ and all attachments and Addenda and agree to be bound by them. Also, they have become knowledgeable of the Laws and Regulations applicable to this procurement.

In accordance with a Subrecipient Agreement executed between the Puerto Rico Department of Housing (PRDOH) and the Puerto Rico Ports Authority (PRPA) on 1<sup>st</sup> December 2025, the PRPA was allocated One Hundred Million Dollars (\$100,000,000.00) under the Department of Housing and Urban Development (HUD) INFRASTRUCTURE MITIGATION PROGRAM (Program) for the provision of the services described herein. CDBG-MIT funds are aimed at activities that increase resiliency to disasters and reduce long-term risks of loss of life, injuries, damage to and loss of property suffering and hardship by reducing the impact of future disasters by providing a significant opportunity to implement strategic, transformative, and high-impact projects that will strengthen the Island's resilience by reducing risks attributable to future natural disasters, addressing repetitive property loss, and improving critical infrastructure.

Therefore, the PRPA in the discharge of its responsibilities as a sub grantee under said program and with the concurrence of the PRDOH, is issuing this REQUEST FOR QUALIFICATIONS (RFQ) to experienced A&E firms interested in providing the requested services to submit their STATEMENT OF QUALIFICATIONS (SOQ) in accordance with the instructions included on this Request for Qualifications (RFQ) no later than **May 30th 2026, at 3:00PM**. Firms interested in participating in the SOQ process must complete the Proponent Registration Form provided below.

The complete RFQ documents can be obtained  
<https://www.prpa.pr.gov/documentos?tipodocumento=Avisos>.

The resulting service contract is subject, but not limited, to the following federal and state provisions:

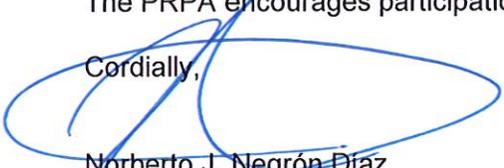
- Title VI of the Civil Rights Act of 1964;
- DOT Regulation 2 CFR Part 200 (i) - Access to Records
- PRDOH 2 C.F.R. Part 200.521-Performance, Monitoring Reporting; 2 C.F.R. Part 339-Timelines and Performance Goals; 2 C.F.R. Part 200 Subpart E Indirect Costs; 24

C.F.R. Part 570.500 – Subrecipient notification; Subrecipient Agreement of 1 December 2025 and all legal citations thereof;

- Act No. 97 of June 10, 1972, as amended, 31 L.P.R.A. Sec. 441 et seq, Department of Housing Organic Act;
- Act. No. 125 of May 7, 1942, as amended, the Puerto Rico Ports Authority Act, 23 L.P.R.A. Sec 336, Art 6; PRPA Regulation 8981 of 7 July 2017 (Regulation for Bids);
- Act No. 38 of June 30, 2017, Uniform Administrative Procedure Act of Puerto Rico, 31 L.P.R.A. Sec 9601 et seq.
- DOT Regulation 49 CFR Part 20 - Lobbying and Influencing Federal Employees
- DOT Regulation 49 CFR Part 26 -Disadvantage Business Enterprises Participation
- DOT Regulation 2 CFR Part 180– Government-wide Debarment and Suspension
- DOT Regulation 49 CFR Part 30 - Federal Trade Restriction Clause
- Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. §1701u), as amended, and its implementing regulations at 24 CFR Part 75.
- 2 CFR §§ 200.318 through 200.327 – Procurement Standards under the Uniform Administrative Requirements for Federal Awards.
- 2 CFR Part 200, Appendix II to Part 200 – Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.
- 24 CFR Part 570, as applicable to the Community Development Block Grant – Mitigation (CDBG-MIT) Program.
- Build America, Buy America Act (41 U.S.C. §§ 8301–8305), as applicable.

The PRPA encourages participation in this competitive procurement process.

Cordially,



Norberto J. Negrón Díaz  
Puerto Rico Ports Authority  
Executive Director

**RFQ- REGISTRATION FORM**  
**Professional Architectural/ Engineering Services**

Firms participating in the above-referenced SOQ must complete the following Proponent Registration Form and send it by email to [airport.rfq@prpa.pr.gov](mailto:airport.rfq@prpa.pr.gov).

Company Name: \_\_\_\_\_

Main Office Address: \_\_\_\_\_

\_\_\_\_\_

Main Office Phone Number: \_\_\_\_\_

RFQ Contact Name: \_\_\_\_\_

RFQ Contact Email: \_\_\_\_\_

Regional/Local Office Address: \_\_\_\_\_

\_\_\_\_\_

Regional/Local Office Phone  
Number: \_\_\_\_\_

Any change to the information above must be sent to the Puerto Rico Port Authority to:  
[airport.rfq@prpa.pr.gov](mailto:airport.rfq@prpa.pr.gov).

By Registering, the Respondent agrees to be bound by all terms and conditions of the RFQ.

## **Table of Contents**

<b>A. Facility Description</b>	<b>6</b>
<b>B. Project Location</b>	<b>6</b>
<b>C. Project Information</b>	<b>7</b>
<b>D. Scope of work and Design Requirements</b>	<b>10</b>
<b>E. Instructions</b>	<b>10</b>
<b>F. Submittal Content</b>	<b>11</b>
<b>G. Evaluation Criteria and Methodology</b>	<b>14</b>
<b>H. General Conditions</b>	<b>15</b>
<b>I. Attachments</b>	<b>21</b>
<b>J. Forms Provided</b>	<b>141</b>

## **A. FACILITY DESCRIPTION**

The Rafael Hernandez Aguadilla International Airport (IATA: BQN, ICAO: TJBQ, FAA LID: BQN) is the second busiest commercial service airport in Puerto Rico. Located in Aguadilla, on the northwest coast of Puerto Rico, the airport serves a mix of passenger and air cargo operations.

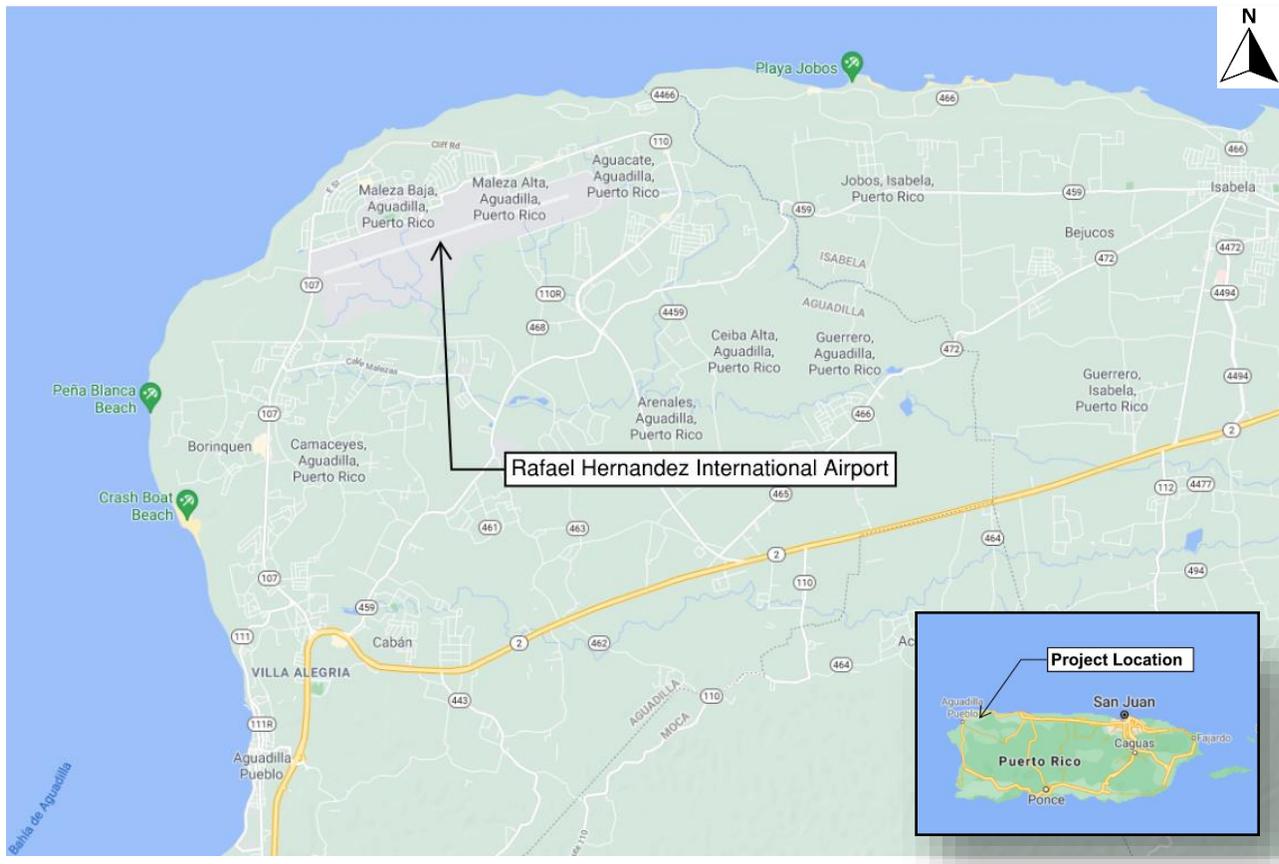
BQN was originally constructed in the Late 1930's by the U.S. Army Air Corps to support WWII. The airport ultimately evolved to become a U.S. Air Force B-52 Strategic Air Command base in the 1950's. Formerly known as Ramey Air Force Base, PRPA took over ownership of the airfield in the 1970's under the Base Realignment and Closure (BRAC) program.

The FAA's National Plan of Integrated Airports Systems (NPIAS) classifies BQN Airport as a primary commercial service airport. The airport's aircraft approach category is D and airplane design group is ADG-V. FAA approved a Modification to Standard (MOS) to allow the operation of a B747-8 ADG VI standards under certain circumstances.

The airport operates as a single primary runway, designated as Runway 8-26. The airfield is supported by two partial parallel taxiways, Taxiway A to the north and Taxiway M to the south of the runway. The runway has four exit taxiways, with additional airfield circulation supported by three additional taxiways. RW 8-26 is 11,700 feet long and 200 feet wide, with 50-foot paved shoulders and 1,000-foot paved overruns. BQN is currently the longest operational runway in the Caribbean.

## **B. PROJECT LOCATION**

This Request for Qualifications provides the Respondents with requirements of the elements involved in the design and preparation of the construction documents for the Runway 8-26 Conversion to a Taxiway and Taxiway Improvements at the Rafael Hernandez International Airport (BQN) located in Aguadilla, Puerto Rico. Refer to **Figure 1-1** for the site location.



**Figure 1-1: Location Map**

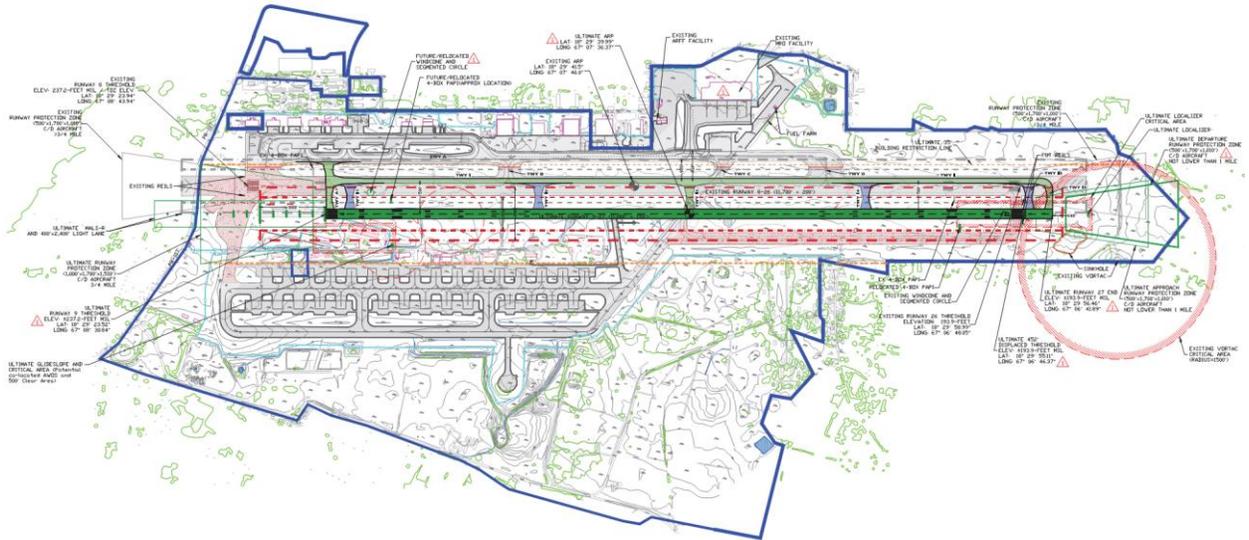
### **C. PROJECT INFORMATION**

BQN currently has a single runway, Runway 8-26, served by two partial parallel taxiways: Taxiway Alpha and Taxiway Mike. In total, there are nine taxiways that serve the runway and connect to apron areas used by cargo, commercial, military, and general/business aviation services.

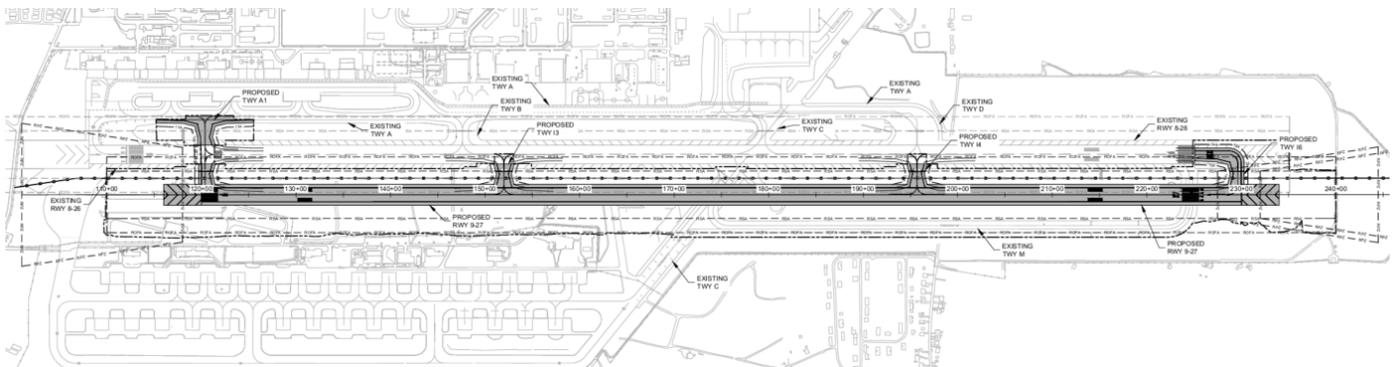
The most recent Pavement Maintenance and Management Program was performed in 2016 and 2017. This analysis determined the AC pavement section of Runway 8-26 received a PCI rating condition of serious and poor. PCI inspections are visual analyses of the primary distress manifestations exhibited on the surface of the pavement. PRPA has completed numerous pavement overlay projects to enhance the pavement strength and maintain safe operating conditions. This project will review the condition of the existing RW 8-26 pavement for use as a parallel taxiway.

The Airport is currently constructing a new parallel RW 9-27, to the south of the existing runway. This project is scheduled to be completed by the end of 2028. The parallel runway project includes an 11,000' x 150' Concrete Runway with 35' shoulders, four connector taxiways and all associated facilities. Figure 1-2 below demonstrates the Airport Layout Plan conditionally approved by the FAA in January 2022. As part of the RW 9-27

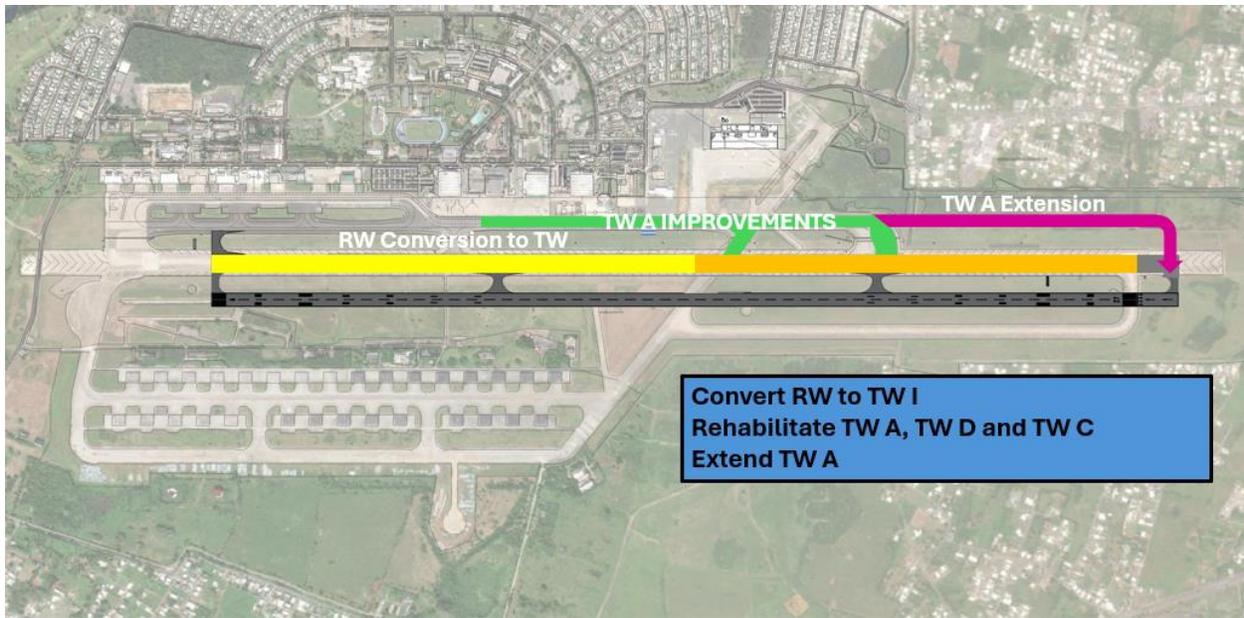
construction project, existing Taxiway M has been demolished. The removal of Taxiway M necessitates specific aircraft operating procedures depending upon Airport weather conditions and the type of aircraft operation. These constraints will be explained in detail as part of the Pre-Qualifications Meeting. The layout for the current RW 9-27 project is shown in Figure 1-3. The layout for the Runway Conversion to Taxiway and Taxiway Improvements is shown in Figure 1-4 below.



**Figure 1-2: FAA Approved ALP Layout**



**Figure 1-3: Current RW 9-27 Project Layout**



**Figure 1-4: Project Layout**

BQN is served by 3 regularly scheduled passenger airline carriers including United, Jet Blue, and Frontier, and five major all-cargo operators including Lufthansa Cargo, Martin Air, Cargo Lux, Caribex, and several air taxi, charter and air cargo operators supporting the FedEx and UPS cargo operations at BQN. The various aircrafts, their sizes, and TDG fillet design was analyzed in accordance with FAA AC 150/5300-13B "Airport Design." The largest aircraft to utilize Runway 8-26 and Taxiway B and their corresponding ADG and TDG are listed in the Table below:

**Table 1-1: Most Demanding Aircraft (TDG and ADG)**

<b>Aircraft</b>	<b>Taxiway Design Group</b>	<b>Aircraft Design Group</b>
Boeing 747-400	5	V

The runway is serviced primarily by two partial parallel taxiways, Taxiway A and Taxiway M (now demolished). Runway 8-26 and Taxiway A are currently separated by 405 feet. Taxiway A is located north of the runway, providing access to the existing hangars, commercial terminal facility, and cargo facilities. The taxiway is approximately 9,000 feet in length and 75 feet in width with 30-foot paved shoulders.

Ultimate Runway 9-27, Taxiway I, and connections to existing Taxiway A are designed to meet the requirements of 90-degree intersection details of TDG-5 per Table 4-8 of AC 150/5300-13B.

## **D. SCOPE OF WORK AND DESIGN REQUIREMENTS**

Due to the specificity of the requirements of the design being procured herein the Design Requirements have been incorporated into **Attachment E** entitled Scope of Work.

## **E. INSTRUCTIONS**

Firms interested in providing the requested services shall submit a Statement of Qualifications (in PDF format) to [airport.rfq@prpa.pr.gov](mailto:airport.rfq@prpa.pr.gov) no later than **May 30th, 2026, at 3:00PM.**

Any questions regarding this RFQ shall be addressed to [airport.rfq@prpa.pr.gov](mailto:airport.rfq@prpa.pr.gov).

Cover letter shall be addressed to:

Norberto J. Negrón Díaz, ESQ.  
Executive Director  
Puerto Rico Ports Authority

To the attention of:

Romel Pedraza, P.E  
Deputy Executive Director

If hard copies are also going to be included, they must be delivered by mail to the following address:

Puerto Rico Ports Authority  
Sección de Archivo y Correo  
PO Box 362829  
San Juan, P.R. 00936-2829

Statements of Qualifications (SOQ) delivered after the specified deadline or delivered with inaccurate and/or incomplete information will be rejected and the Respondent disqualified. Late SOQs will be returned to the submitting firm unopened with the remark, Rejected.

## F. SUBMITTAL CONTENT

The following information must be included in the Statement of Qualifications submitted:

1. **Introductory Letter** - Introductory Letter, signed by an authorized representative, of no more than two (2) pages, containing the following office information:
  - a. Project Title: **SOQ for Engineering / Bid Support Services / Construction Support Activities for Runway Conversion to Taxiway and Taxiway Improvement at Rafael Hernandez International Airport, Aguadilla, PR.**
  - b. Firm's name
  - c. Contact person: email, mailing and physical address of main/regional office, mobile and office phone numbers.
  - d. Organizational Chart. An Organizational Chart suitable for the engagement depicting key roles and the names of key personnel who would be responsible for the role. The Respondents must provide an organizational chart showing the corporate structure and lines of responsibility and authority in the performance of the **Architectural and Engineering Services.**
  - e. Executive Summary. The executive summary should include a brief overview of the project approach and the key personnel who will be responsible for the services to be provided.
  - f. Integrity. Has the Respondents or any of its Team Members been involved in any criminal, civil, or administrative suits, actions, investigations, litigations, sanctions, and/or administrative complaints or proceedings that were commenced, pending, settled, threatened, resolved, or concluded during the five (5) year period prior to the date of the SOQ Due Date. If the answer to this question is "yes", state for each such suit, action, investigation, or proceeding the (a) date of the suit, action, investigation or proceeding (or time period involved); (b) the specific nature of the suit, action, investigation, or proceeding; (c) the amount of funds involved, if any; (d) the names of the parties; (e) the names and complete addresses of the courts and law enforcements agencies involved; (f) the title and file number of the suit, action, investigation, or proceeding; (g) the disposition or current status; and (h) any sentence, fine, or other penalty imposed. Also include an opinion from an attorney discussing whether the Respondents's work will be impacted by the litigation.
2. **Firm's experience on similar projects** - Provide a list of at least three (3) projects that demonstrate the firm's and staff experience on airport infrastructure design projects of similar size and complexity performed within the last five (5) years. The design firm must demonstrate its technical capacity to fully comply with the Design

Requirements stated in the Scope of work. For each project, the list must include project name, a very brief scope of work and a reference contact person with email address or phone number. Limit responses to a maximum of three (3) pages.

3. **Planning/Coordination** – Explain how you propose to approach project coordination with stakeholders to conduct stakeholder outreach. Limit responses to a maximum of one (1) page.
4. **Firm’s capabilities for project’s execution** - Provide a brief description of the firm office(s) that will lead the project. Indicate the personnel who would serve as the project leader and specialist: specific experience for each person on relevant projects and if they are available to work during the period needed, or their current workload. Indicate if the firm has or considers a local office and the number of personnel; also indicate how the firm management will substantially undertake the work production and the different tasks as construction consultant. Limit responses to a maximum of five (5) pages.
5. **Personnel qualifications** - Provide qualifications of personnel who will serve directly in key positions for projects, including the name of resources to be assigned, their education, years of experience, licenses, certifications, and résumés or professional information, specifying year of graduation, start and end dates for each job position (s) and project (s). Limit responses to a maximum of five (5) pages.
6. **Project Approach** – Provide a detailed project approach outlining the sequence of the work and milestones. Include the approach to project phasing and impacts to airport operations expected during construction. Include your understanding of how aircraft operations will be maintained during construction. Include any required Mods to FAA standards and your understanding of other agency approvals and coordination required for the project. Include a description of anticipated project concerns and proposed solutions. Response shall not exceed 5 pages.
7. **Puerto Rico Government Documentation:**
  - a. Good Standing Certificate (corporations only), Puerto Rico Department of State.
  - b. Copy of Certificate of Puerto Rico General Services Administration (ASG) *Registro Único de Proveedores de Servicios Profesionales* (RUP).
  - c. Corporate Resolution or Sworn Statement authorizing officer to sign the contract.
  - d. Sworn Statement, PR Act 2, January 4, 2018, as amended.

8. **Federal Government Documentation:**

Documentation must be filled and completed, if applicable.

**Attachments**

- a. **Attachment A** – Terms and Conditions
- b. **Attachment B** – Additional Clauses (Non-Construction)
- c. **Attachment C** – CDBG Purchase Orders Certification
- d. **Attachment D** – HUD General Provisions

**Exhibits**

- e. **Exhibit 1** – Certification for No Conflict of Interest
- f. **Exhibit 2** – Certification Regarding Debarment, Suspension and Other Responsibility Matters – Primary Covered Transactions
- g. **Exhibit 3** – Non-Collusive Affidavit
- h. **Exhibit 4** – Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements

**Failure to comply with any of the requirements herein contained may result in the disqualification of the A&E firm.**

## G. EVALUATION CRITERIA AND METHODOLOGY

### Statement of Qualification

Each Statement of Qualification will be examined by an Evaluation Committee named by the PRPA Executive Director as per Article XXIV of the Regulations for Bid for compliance with the requirements stated in this RFQ.

From the experience and qualification data obtained from consultants, the Evaluation Committee will prepare a pre-selection short list of the best qualified consultants. Utilizing the Qualifications Evaluation Sheet, included below, the Evaluation Committee will establish an order of qualification of the short-listed firms.

The Firms will be evaluated on the basis of their demonstrated capacity to perform successfully a design compliant with the Scope of work. The evaluation consists of the: professional qualifications, expertise, the capacity to deploy the necessary resources, and undertake successfully the project, among other criteria.

For the purpose of development of the SOQ, firms may not enter into any efforts to obtain information from the PRPA, such as: preliminary studies, and/or other internal information. SOQ shall be specific to the requirements stated in Section D. Site visits, and technical data may be shared with the Firms during the negotiation phase.

**Table 1-2: Qualifications Evaluation Sheet**

<b>Rating Criteria</b>	<b>Maximum Score</b>
Past Experience Record	25
Project Approach	20
Firm Organization	10
Capability	25
Personnel Qualifications	20
<b>Total Result</b>	<b>100</b>

After evaluation of the SOQs, PRPA may request interviews with the highest ranked firms or may initiate cost proposal negotiations with the first-ranked firm.

In the event the Committee cannot negotiate a satisfactory contract fee with the first-ranked Firm, negotiations will be terminated with that Firm and will then begin negotiations with the next second-ranked Firm and subsequently until reach a reasonable fee.

This process will continue until satisfactory contractual arrangements with a Firm have been reached.

Immediately after the selection, the Firms shall be notified of the final selection results through letters. Upon selection notification the selected Firm agrees to execute a contract under prescribed conditions and furnish the required insurance within ten (10) days of been required to do so.

## **H. GENERAL CONDITIONS**

1. The PRPA reserves the right to initiate additional or separate procurement action for any of the services described in this RFQ.
2. During the submission and evaluation period, Respondents shall not communicate with PRPA personnel regarding this RFQ except through the official point of contact identified in Section E. Clarification requests shall be submitted in writing and responses will be issued through formal addenda to ensure equal access to information.
3. The Respondent acknowledges the right of the PRPA to reject any or all SOQs and to waive any informality or irregularity in any SOQ received. In addition, the Respondent recognizes the right of the PRPA to reject an SOQ if the Respondent fails to furnish any required information or documents.
4. A Firm responding to this RFQ understands and agrees that in the event that a Firm is selected, the firm must maintain the following insurance coverage policies, which include but are not limited to:
  - a. Workmen's compensation insurance required for this type of work, covering the construction time period ("Fondo del Seguro del Estado").
  - b. Public Liability Insurance (\$1,000,000) and a hold harmless agreement in favor of the PRPA.
    - i. General Liability
    - ii. Automobile Liability
  - c. Professional Liability Insurance with minimal coverage in the amount of one million dollars (\$1,000,000).
5. Firms understand that issuance of this RFQ does not constitute a commitment by PRPA to award a contract, even if selected. PRPA reserves the right to accept or reject, in whole or part, and without further explanation, any or all SOQ submitted and/or cancel this solicitation and reissue this RFQ or another version of it, including, but not limited to, if it deems that doing so is in the best interests of the PRPA, the PRDOH, the FAA or the Government of Puerto Rico.
6. Any Firm responding to this RFQ understands and agrees that, in the event that the Firm is selected, is subject to Act No. 84 of June 18, 2002. It establishes a code of conduct that regulates the ethical conduct of the (as) contractors and

suppliers of goods or services with the Executive of the Commonwealth of Puerto Rico and applicant economic incentive agencies.

7. A Firm responding to this RFQ understands, agrees and accepts that, in the event that the Firm is selected, the firm is subject to FAA's Federal Contract Provisions (**Attachment F**) and HUD General Provisions (**Attachment D**).
8. The resulting contract shall incorporate all mandatory federal provisions required under 2 CFR Part 200, Appendix II to Part 200, including but not limited to termination for cause and convenience, administrative and contractual remedies for breach, Equal Employment Opportunity compliance, access to records by HUD, PRDOH, and the Comptroller General, and the requirement that all applicable federal provisions be incorporated into any subcontracts.
9. Respondents shall comply with federal conflict of interest requirements under 2 CFR § 200.318(c). The PRPA reserves the right to conduct investigations when perceived any conflicts of interest of any firms submitting SOQ in response to this RFQ. The mere appearance of a conflict of interest shall constitute sufficient cause for the outright rejection of a SOQ.
10. Responses to this RFQ are public records available for inspection by the public upon issuance of the Authority's Notice of Intended Selection. Neither the PRPA, the PRDOH, the FAA nor any other federal agency will be responsible or liable in any way for any losses that the Respondent may suffer from the lawful disclosure of information or materials to third parties.
11. On September 7, 2023, PRDOH approved the Procurement Manual for the CDBG-DR, CDBG-MIT and CDBG State Programs Regulation No. 9506 of September 7, 2023, effective on September 25, 2023, which repeals the Procurement Manual and Contractual Requirements for CDBG-DR Regulation No. 9205 of August 4, 2020. The Manual is available at [www.cdbg-dr.pr.gov](http://www.cdbg-dr.pr.gov) (Resources >Policies >General Policies) and is incorporated by reference and made an integral part of this RFQ.
12. All costs associated with the response to this RFQ are the sole responsibility of the Respondents. Neither the PRPA, PRDOH, the FAA, the Government of Puerto Rico, nor any of its Government Entities or its instrumentalities, nor HUD, or other relevant entities of the Federal Government, will be responsible for the presentation of the SOQ, oral presentations, meetings (either presential or virtual) or for the disclosure of any information or material received in connection with this RFQ, even in the event the Project is cancel or all SOQs are rejected.
13. The Evaluation Committee may invite qualified Respondents to make an oral presentation, submit clarifications, respond to questions, or a combination thereof.

14. The PRPA Evaluation Committee will review all SOQ to ascertain that they are responsive to all submission requirements. SOQ shall be complete in all material respects to be considered for evaluation. SOQ that meet all the requirements that will enable the Evaluation Committee to decide on the qualifications and viability of the proposal will be deemed responsive. The Evaluation Committee will review all responsive SOQ.
15. An Evaluation Committee will be appointed by the PRPA. The Evaluation Committee may rely on specialized advisers, consultants, and/or subject-matter experts to complete the review and rating of the different sections of this RFQ, as well as make final recommendations to the PRPA Evaluation Committee.
16. Once the Evaluation Committee has completed a preliminary evaluation of SOQ's, it may elect to establish a short list of Respondents. Only those Respondents deemed to be qualified to successfully perform the services required, as evidenced by the supporting documentation provided, will be considered for in the shortlist. In the determination of "Qualified Respondents", the Evaluation Committee will also consider the submission of a Certification and compliance with Section 3 requirements under 24 CFR Part 75 and M/WBE participation.
17. Respondents are not to submit a price proposal in the SOQ. The Evaluation Committee will recommend negotiations with top qualified Respondent. Negotiations are exchanges between the PRPA and the Respondent with the intent of allowing the Respondent to revise their price. The primary objective of discussions is to maximize the PRPA's ability to obtain the best possible offer, based on the requirements set forth in this RFQ.
18. After final recommendation from the Evaluation Committee, negotiations, and best and final offer, if any, the Executive Director will issue and award a resolution incorporating the final recommendation of the Evaluation Committee. Cost reasonableness shall be determined in accordance with 2 CFR § 200.324. The resolution to award from the PRPA Executive Director shall include a determination that costs are reasonable.
19. The PRPA reserves the right, without limitations, to disregard or waive any noncompliance, informalities and/or irregularities in the SOQs received in response to this RFQ, not otherwise identified as Mandatory Requirements and Qualifications of this RFQ, when in its opinion, the Public Interest, the best interest of the Government of Puerto Rico, the PRPA or of the PRDOH are served.
20. Upon completion of the RFQ process, the PRPA will make public its report regarding the qualification, procurement, and selection process, which shall contain certain information related to this RFQ process, except trade secrets, proprietary information, or privileged and confidential information of the Respondents, so

identified by Respondents. Accordingly, all Respondents are suggested to submit a redacted copy of their SOQ at the time of submission. For the purpose of clarity, "redacted copy" refers to a copy of the SOQ that has been modified, edited, or revised and any confidential or sensitive information has been removed. The PRPA reserves the right, without limitations, to make public the redacted copies of the SOQs at the conclusion of the RFQ process. If a redacted copy is not submitted by a Respondent, the PRPA will assume that the original copy of the SOQ can be made public. SOQs containing substantial contents marked as confidential or proprietary may be rejected by the PRPA.

21. Any interpretation or correction will be issued as an Addendum by the PRPA. Only a written interpretation or correction by Addendum shall be binding. Firms shall not rely upon any verbal interpretation or correction given by any other method.
22. Anyone of the following causes may be considered sufficient for the disqualification of a Respondent and the rejection of his SOQ:
  - a. More than one SOQ for the same work from an individual, firm, or corporation under the same or different names of any of the Team Members.
  - b. Evidence of collusion among Respondents.
  - c. Evidence of lobbying activities with PRPA or PRHD employees, representatives, or consultants.
  - d. Unsatisfactory performance record as shown by past work for the PRPA, judged from the standpoint of workmanship and progress.
  - e. Uncompleted work which, in the judgment: of the PRPA, might hinder or prevent the prompt completion of the Project if awarded.
  - f. Failure to comply with any qualification regulations of the PRPA.
  - g. Failure to comply with statements and/or letters from Bonding and Insurance companies.
  - h. Failure to submit any of the documents required in this RFQ.
  - i. Submitting any of the Forms required uncompleted or not properly filled out.

- j. Communicating with PRPA or PRHD employees, representatives, or consultants regarding this RFQ other than through official and authorized channels.
23. Attachments are made an integral part of this RFQ and by submitting an SOQ Respondents certify that they assume responsibility for fully complying with their provisions. The blanks on the upper right corner of the first page of each exhibit must be filled out and enclose with the SOQ.
24. In accordance with the provisions of Section 4.2 of the Puerto Rico Uniform Administrative Procedure Act, Act No. 38-2017, 3 LPRA § 9659, as amended, decisions on a procurement process by steps are not reviewable directly but such review will be available as an error in a judicial review of the final resolution of the Administrative Agency.

## **I. ATTACHMENTS**

The following Attachments are incorporated into this RFQ and must be initiated. Respondents are responsible for reviewing all Attachments in their entirety.

- Attachment A** Terms and Conditions
- Attachment B** Additional Clauses (Non-Construction)
- Attachment C** CDBG Purchase Orders Certification
- Attachment D** HUD General Provisions (2 CFR Part 200, Appendix II)
- Attachment E** Scope of Work
- Attachment F** FAA Federal Contract Provisions

Entity: \_\_\_\_\_

Initials: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT A**  
**TERMS AND CONDITIONS TO THE CONTRACT/PURCHASE ORDERS FOR CDBG-DR/CDBG-MIT**

The following terms and conditions are made part of the contract/purchase order entered into between the **Puerto Rico Ports Authority (PRPA)** and all its vendors and **CONTRACTORS** (hereinafter "**CONTRACTOR**") whether for services or supplies. The **CONTRACTOR** acknowledges that non-compliance with the terms and conditions in this attachment and the terms and conditions in the contract/purchase order may result in the termination of the contract/purchase order.

**TERMS AND CONDITIONS**

- 1) The **CONTRACTOR** shall furnish all necessary labor, materials, tools, equipment, software, supplies, and transportation necessary for the performance of the **CONTRACTOR**'s duties under the contract/ purchase order. The Contractor shall procure all necessary permits, consents, and licenses to comply with all applicable laws, federal, state, or municipal, along with all regulations, and ordinances of any regulating body. The **CONTRACTOR** shall pay any applicable sales, use, or personal property taxes arising out of this contract/purchase order and the transactions contemplated thereby. Any other taxes levied upon this contract/purchase order, the transaction, of the equipment, or services delivered pursuant here shall be borne by the Contractor. It is clearly understood that the **PRPA** is exempt from any taxes regarding performance of the scope of work of this contract/purchase order.
- 2) The **Contractor** shall be solely responsible for all damages to persons and/or property that occur as result of **Contractor**'s negligence, and shall take proper safety and health precautions to protect the health and the property of the general public in relation with the scope of work of the contract/ purchase order. In no event, the **PRPA** shall be liable for any indirect, incidental, special, or consequential damages, or damages for loss of profits, revenue, data or use, incurred by either party or any third party, whether in an action in contract or tort, even if the other party or any person has been advised of the possibility of such damages. The **CONTRACTOR** and its affiliates, its successors and assignees will indemnify the **PRPA** from any damages and/or losses arising out of any breach of this contract/purchase order by the **CONTRACTOR** or against personal injuries or property damage resulting from any act of negligence or omission by the **CONTRACTOR** and its affiliates in connection with this contract/purchase order.
- 3) The **CONTRACTOR** agrees to indemnify, defend and hold harmless the **PRPA**, their officers, and employees from and against: 1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the contract/purchase order; 2) Any claims or losses resulting to any person or entity injured or damaged by the vendor, its officers, employees, or subcontractors by the publications, translation, reproduction, delivery, performance, use or disposition of any data used under this contract/purchase order in a manner not authorized by the contract/purchase order, or by federal or State statutes or regulations; 3) Any failure of the vendor, its officers, employees, or subcontractors to observe State and Federal laws, including but not limited to labor and wage laws.
- 4) The **CONTRACTOR**'s responsibility under the contract/ purchase order will terminate when all work has been completed, the final inspection by the **PRPA** has been made and the work and/or supplies have been accepted by the **PRPA** authorized representative. The **CONTRACTOR** will remain responsible as required by the applicable guaranties.
- 5) Performance warranty:
  - a. **CONTRACTOR** warrants that it will perform all work and provide all Deliverables under this Contract in a manner consistent with the degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.
  - b. **CONTRACTOR** warrants that all Deliverables it completes under this Contract shall: meet or exceed the standards of **CONTRACTOR**'s trade, profession, or industry; meet or exceed the specifications set forth in the Attachments; and be fit for ordinary use, of good quality, and with no material defects.
  - c. If **CONTRACTOR** submits Deliverables that do not meet specifications, fails to complete Deliverables timely, or fails to perform its obligation under this Contract, **PRPA** may require **CONTRACTOR**, at its sole expense, to:
    - i. repair or replace Deliverables that do not meet specifications;
    - ii. refund payment for Deliverables that do not meet specifications and accept the return of such Deliverables;
    - iii. pay liquidated damages for any past due Deliverable; and
    - iv. take necessary action to ensure that future performance and Deliverables meet specifications and conform to the Contract.
- 6) The **CONTRACTOR** will submit in writing to the Contracting Officer any complaint and/or dispute it might have related to its duties under the contract/ purchase order and/or the rejection of the services and/or goods by the **PRPA**. The Contracting Officer will render a decision regarding the dispute within thirty (30) days, after receipt of the **Contractor**'s complaint, and this decision will be final.
- 7) The **CONTRACTOR** will not hire SUBCONTRACTORS that have been denied participation in HUD and/or the Government of Puerto Rico contracting programs. The **CONTRACTOR** must verify the eligibility of the subcontractors in the System for Award Management (SAM) and in the Limited Denial of Participation List (LDP), and retain documentation of the search results to confirm eligibility of the subcontractors. To comply with the eligibility verification process, the **CONTRACTOR** may request assistance from the CDBG-DR Procurement Office at the following email address: [cdbgdpr-procurement@vivienda.pr.gov](mailto:cdbgdpr-procurement@vivienda.pr.gov). All terms and conditions herein apply to subcontractors.

Entity: \_\_\_\_\_  
Initials: \_\_\_\_\_  
Date: \_\_\_\_\_

- 8) The **PRPA**, the Government of Puerto Rico, HUD, and the U.S. Comptroller General shall have unlimited access to records produced in the performance of the duties under the contract/ purchase order, whether written or mechanized in possession of the **CONTRACTOR**, for a period of five (5) years from closeout of the grant to the state, or the period required by other local applicable laws and regulations. Such records include but are not limited to: Records providing a full description of each activity undertaken; Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG-DR program; Records required to determine the eligibility of activities; Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG-DR assistance; Records documenting compliance with the fair housing and equal opportunity requirements of the CDBG-DR program regulations; Financial records as required by 24 C.F.R. § 570.502, and 2 C.F.R. Part 200, including records necessary to demonstrate compliance with all applicable procurement requirements; and other records necessary to document compliance with this contract/purchase order, any other applicable Federal statutes and regulations, and the terms and conditions of **PRPA**'s Federal award.
- 9) The **CONTRACTOR** warrants that to the best of its knowledge, it does not have any apparent or real conflict of interest, defined as a situation in which **CONTRACTOR** may have an unfair competitive advantage over other **CONTRACTORS** or prospective **CONTRACTORS** regarding any **PRPA** procurement proceedings. If the **CONTRACTOR** discovers a conflict of interest after the contract was awarded, the **CONTRACTOR** before the award was made and intentionally did not disclose it to the **PRPA**, the Contracting Officer may terminate the contract/ purchase order through written notification.
- 10) In the event that the **CONTRACTOR** is not in compliance with any of the terms and conditions in this attachment and/or the terms and conditions in the contract/ purchase order, the Contracting Officer may cancel the contract/purchase order immediately and it may declare the **CONTRACTOR** ineligible for further Puerto Rico Department of Housing contracts.
- 11) The **PRPA** may terminate in whole or in part this contract/purchase order if **CONTRACTOR** fails to fulfil any of its obligations, for its convenience (necessary or convenient to the **PRPA**), at **PRPA**'s discretion (with or without cause), if **CONTRACTOR** unilaterally and without prior notice chooses to abandon in any shape, form, or fashion or ceases and desists in the specific performance of its general and particular duties and responsibilities as agreed, if the **CONTRACTOR** is subject to a criminal or criminal or civil action, suit, proceeding, inquiry or court of applicable jurisdiction, or any governmental agency, or the **CONTRACTOR** is subject to an order, judgment, or opinion, issued by any federal or local authority, a court of applicable jurisdiction, or any governmental agency, in connection with the execution, delivery, and performance by the **CONTRACTOR** of this contract/purchase order, if the **CONTRACTOR** has been noncompliant, breach, inaccuracy of any representation, warranties, covenants, or the certifications provided to the **PRPA**, whether the noncompliance, breach or inaccuracy takes place before or after the execution of this contract/purchase order, or if any judgment that obligates the **PRPA** to terminate the contract/purchase order pursuant to Act Number 2 of January 2, 2018, as amended, known as the Anti-Corruption Code for the New Puerto Rico.
- 12) The work to be performed under this contract/purchase order 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. Thresholds for section 3 covered housing and community development assistance are the following: A- Recipient, The requirements of this part apply to recipients of other housing and community development program assistance for a section 3 covered project(s) for which the amount of the assistance exceeds \$200,000.00. B- **CONTRACTOR** and subcontractor. The requirements of this part apply to **CONTRACTORS** and subcontractors performing work on section 3 covered project(s) for which the amount of the assistance exceeds \$200,000.00 and the contract or subcontract exceeds \$100,000.00. The **CONTRACTOR** agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. part 135. The **CONTRACTOR** will not subcontract with any subcontractor where the **CONTRACTOR** has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. part 135. Noncompliance with HUD's regulations in 24 C.F.R. part 135 may result in sanctions, termination of this contract/purchase order for default, and debarment or suspension from future HUD assisted contracts.
- 13) The **CONTRACTOR** will take all necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps shall include: (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists; (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises; (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and (v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.
-

Entity: \_\_\_\_\_  
Initials: \_\_\_\_\_  
Date: \_\_\_\_\_

- 14) Any additional funds to complete the services or goods requested by the **PRPA** to the **CONTRACTOR** will be subject to evaluation before acceptance as well as funds availability and will require an amendment to this contract/purchase order.
- 15) An authorized representative of the **PRPA** will review invoices and, if adequate, will approve and process its payment.
- 16) While providing the services under this contract/purchase order, the **CONTRACTOR** must adhere to applicable requirements of the CDBG-DR grant. If the **CONTRACTOR** performs ineligible activities under the CDBG-DR grant or program, the **CONTRACTOR** cannot include them in the invoice for payment to the **CONTRACTOR**.
- 17) **CONTRACTOR** shall be liable to the **PRPA** for any costs disallowed pursuant to financial and/or compliance audit(s) of funds received under this contract/purchase order. **CONTRACTOR** shall reimburse such disallowed costs from funds other than those **CONTRACTOR** received under this contract/purchase order.
- 18) The **CONTRACTOR** acknowledges and agrees to repay any CDBG-DR funds used for ineligible costs.
- 19) In order for the **CONTRACTOR** to receive payment for any work performed hereunder, the following certification must be included in each application for payment or invoice submitted to the **PRPA** for payment:  
"Under penalty of absolute nullity, I certify that no public servant of the government entity is a party to or has an interest in the profits or benefits that are the product of the contract subject of this invoice, and to be a party to or have an interest in the profits or benefits of resulting from the contract, under this invoice a prior dispensation has been issued. The sole consideration to furnish the contracted goods or services subject of the contract is the payment agreed upon with the authorized representative of the parties. The amount that appears in the invoice is fair and correct. The work has been performed, the products have been delivered and the services rendered, and no payment has been received for them."
- 20) With the exception of the **CONTRACTOR**'s working papers, the **CONTRACTOR** acknowledges the **PRPA**'s ownership of all information, drafts, documents, reports, papers, and other materials developed and prepared by the **CONTRACTOR**, its agents or representatives, for purposes of performing key obligations hereunder. In the event of any termination, the **CONTRACTOR** shall deliver such information, drafts, reports, papers and other materials to the **PRPA**, in document form or as computer program data, and the **CONTRACTOR** recognizes the **PRPA**'s right to request such documentation or computer program data. If the **CONTRACTOR** fails to deliver said information, the **PRPA** may seek a judicial order to enforce its rights.
- 21) Proof of expenditures incurred by the **CONTRACTOR** on behalf of **PRPA** shall be made available to **PRPA**. The **CONTRACTOR** agrees to maintain accurate records and files of all contract/purchase order documents, correspondence, book estimates, bills, and other information related to the **CONTRACTOR** account. These documents shall be open for the **PRPA** examination at all reasonable times during the term of this contract/purchase order, and up to five (5) years from closeout of the grant to the state, or the period required by other local applicable laws and regulations.
- 22) Non-disclosure and Confidentiality:
- Confidential Information; Definition: The term Confidential Information as used throughout this Section, means any information concerning **PRPA** operations and that of its **CONTRACTOR** (e.g., the projects, computer processing systems, object and source codes and other **PRPA** business and financial affairs). The term Confidential Information shall also deem to include all notes, analysis, compilation, studies and interpretation or other documents prepared by **CONTRACTOR**, its agents or representatives, in connection with **PRPA** operations.
  - Non-Disclosure: **CONTRACTOR** agrees to take all reasonable steps or measures to keep confidential all Confidential Information and will not, at any time, present or future, without **PRPA** express written authorization, signed by the Secretary of the **PRPA**, use or sell, market or disclose any Confidential Information to any third party, **CONTRACTOR**, corporation, or association for any purpose whatsoever. **CONTRACTOR** further agrees that, except as they relate to the normal course of the service, the **CONTRACTOR** will not make copies of the Confidential Information except upon **PRPA** express written authorization, signed by an authorized representative of **PRPA**, and will not remove any copy or sample of Confidential Information without prior written authorization from **PRPA**. **CONTRACTOR** retains the right to control its work papers subject to these confidentiality provisions.
  - Return Documents: Upon receipt of written request from the **PRPA**, **CONTRACTOR** will return to **PRPA** all copies or samples of Confidential Information which, at the time of the notice are in **CONTRACTOR**'s or its agent's possession. **CONTRACTOR** reserves the right to retain a set of its work papers.
  - Equitable Relief: The **CONTRACTOR** acknowledges and agrees that a breach of the provision of subparagraph B and C of this Section will cause **PRPA** to suffer irreparable damage that could not be remedied or compensated adequately only by mere monetary retribution. The **CONTRACTOR** further agrees that money damages may not be a sufficient remedy for any breach of this Section. Accordingly, the **CONTRACTOR** agrees that **PRPA** shall have the right to seek injunctive relief and the specific performance of the provisions of this Section to enjoin a breach or attempted breach of the provision hereof, such right being in addition to any and all other rights and remedies that are available to **PRPA** by law, equity or otherwise.
- 23) Nothing contained in this contract/purchase order shall create a contractual relationship with, or a cause of action of a third party against either the **PRPA** or the **CONTRACTOR**.
- 24) The **CONTRACTOR** certifies, to the best of his or her knowledge, that:
-

Entity: \_\_\_\_\_  
Initials: \_\_\_\_\_  
Date: \_\_\_\_\_

- a. 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.
  - b. 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 Forms-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
  - c. The **CONTRACTOR** shall require that the language of this certification be included in the award documents for all subcontracts. 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 31, U.S.C. §1352 (as amended by the Lobbying Disclosure Act of 1995). The **CONTRACTOR** acknowledges that 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. The **CONTRACTOR** certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the **CONTRACTOR** understands and agrees that the provisions of 31 U.S.C. §3801 et seq., apply to this certification and disclosure, if any.
- 25)** The **CONTRACTOR** will not discriminate against any employee or applicant for employment because of race, color, religion, sex, 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, 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 **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. In the event of the **CONTRACTOR's** noncompliance with the nondiscrimination clauses of this contract/purchase order or with any of the said rules, regulations, or orders, this contract/purchase order 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, as amended, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- 26)** 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.
- 27)** 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.
- 28)** The Federal Government is not a party to this contract/purchase order and is not subject to any obligations or liabilities to the non-Federal entity, **CONTRACTOR**, or any other party pertaining to any matter resulting from the contract/purchase order.
- 29)** **CONTRACTOR** shall produce all insurance required by the **PRPA**, if any.
- 30)** In the event that **CONTRACTOR** files for bankruptcy protection, the Government of Puerto Rico and **PRPA** may deem this contract/purchase order null and void, and terminate this contract/purchase order without notice.
- 31)** This contract/purchase order shall be binding upon and shall inure to the benefit of **PRPA** and the **CONTRACTOR**, their successors and assigns. The **CONTRACTOR** shall not assign this contract/purchase order, in whole or in part, without the prior written consent of **PRPA**, and any attempted assignment not in accordance herewith shall be null and void and of no force or effect.
- 32)** The rights of each party hereunder are personal to that party and may not be assigned or otherwise transferred to any other person, **CONTRACTOR**, corporation, or other entity without the prior, express, and written consent of the other party.
- 33)** The failure or delay of either party to insist upon the performance of and/or the compliance with any of the terms and conditions of this contract/purchase order shall not be construed as a waiver of such terms and conditions or the right to enforce compliance with such terms and conditions.
- 34)** This contract/purchase order shall be governed by, interpreted and enforced in accordance with, the laws of the Government of Puerto Rico and any applicable federal laws and regulations. The parties further agree to assert any claims or causes of action that may arise out of this contract/purchase order in the Puerto Rico Court of First Instance, Superior Court of San Juan, Puerto Rico.
- 35)** The fulfillment of this contract/purchase order is based on those funds being made available to the **PRPA** as the lead administrative agency for Recovery. All expenditures under this contract/purchase order must be made in accordance with this contract/purchase order, the policies and procedures promulgated under the CDBG-DR Program, and any other applicable laws. Further, **CONTRACTOR** acknowledges that all funds are subject to recapture and repayment for non-compliance.
-

Entity: \_\_\_\_\_  
Initials: \_\_\_\_\_  
Date: \_\_\_\_\_

- 36) PRPA** may recapture payments it makes to **CONTRACTOR** that (i) exceed the maximum allowable rates; (ii) are not allowed under applicable laws, rules, or regulations; or (iii) are otherwise inconsistent with this contract/purchase order, including any unapproved expenditures. **CONTRACTOR** must refund such recaptured payments within thirty (30) days after the **PRPA** issues notice of recapture to **CONTRACTOR**
- 37) CONTRACTOR** shall be liable to the **PRPA** for any costs disallowed pursuant to financial and/or compliance audit(s) of funds received under this contract/purchase order. **CONTRACTOR** shall reimburse such disallowed costs from funds other than those **CONTRACTOR** received under this contract/purchase order.
- 38)** The terms and conditions of this contract/purchase order related to the following subjects shall survive the termination or expiration of this contract/purchase order: interpretive provisions; consideration; warranties; general affirmations, federal assurances, federal and state certifications; CDBG-DR and state funding, recapture of CDBG-DR and/or state funds, overpayment of CDBG-DR and/or state funds; ownership and intellectual property, copyright; records retention methods and time requirements; inspection, monitoring and audit; confidentiality; public records; indemnification and liability; infringement of intellectual property rights; independent **CONTRACTOR** relationship; compliance with laws; notices; choice of law and venue; severability; dispute resolution; consolidations, merger and dissolution. Terms and conditions that, explicitly or by their nature, evidence the Parties' intent that they should survive the termination or expiration of this contract/purchase order shall so survive.
-

Entity: \_\_\_\_\_

Initials: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT B**  
**ADDITIONAL CLAUSES TO THE PURCHASE ORDERS FOR CDBG-DR/CDBG-MIT OTHER THAN CONSTRUCTION**

The following additional clauses are made part of the contract/purchase order entered into between the **Puerto Rico Ports Authority (PRPA)** and its contractors for other than construction services or supplies. The **Contractor** acknowledges that noncompliance with the terms and conditions in this Attachment B and the terms and conditions in the contract/ purchase order and the Attachment A, may result in the termination of the contract/purchase order.

**TERMS AND CONDITIONS**

- 1) The **PRPA** shall have exclusive ownership of all proprietary interest in, and the right to full and exclusive possession of all information, materials, and documents discovered or produced by **Contractor** pursuant the terms of this contract/ purchase order, including, but not limited to, reports, memorandum, or letters.
- 2) The **Contractor** shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).
- 3) **Procurement of Recovered Materials.**
  - a. The Contractor shall procure items designated in the Environmental Protection Agency (EPA) guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonable available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.
  - b. Paragraph (a) shall apply to items purchased under this contract where: (1) the **Contractor** purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the **Contractor**: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.
- 4) **Termination for Cause and for Convenience (contracts of \$10,000 or more).**
  - a. The **PRPA** may terminate this contract in whole, or in part, for the **PRPA**'s convenience or the failure of the **Contractor** to fulfill the contract/purchase order obligations (cause/default). The **PRPA** shall terminate by delivering to the **Contractor** a written Notice of Termination specifying the nature, extent and effective date of the termination. Upon receipt of the notice, the **Contractor** shall: (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the **PRPA** all information, reports, papers, and other materials accumulated or generated in performing the contract, whether completed or in process.
  - b. If the termination is for the convenience of the **PRPA**, the **PRPA** shall be liable only for the payment for services rendered before the effective date of the termination.
  - c. If the termination is due to the failure of the **Contractor** to fulfill its obligations under the contract (cause/default), the **PRPA** may (1) require the **Contractor** to deliver to it, in the manner and to the extent directed by the **PRPA**, any work described in the Notice of Termination; (2) take over the work and continue the same to completion by contract of otherwise, and the **Contractor** shall be liable for any additional cost incurred by the **PRPA**; and (3) withhold any payments to the **Contractor**, for the purpose of set-off or partial payment, as the case may be, of amounts owned by the **PRPA** to the **Contractor**. In the event of termination for cause/default, the **PRPA** shall be liable to the **Contractor** for reasonable costs incurred by the **Contractor** before the effective date of the termination. Any dispute shall be decided by the Contracting Officer.
- 5) **For all other termination information, please refer to Attachment A.**

Entity: \_\_\_\_\_

Initials: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT C**  
**CDBG-DR/CDBG-MIT PURCHASE ORDERS CERTIFICATION OF COMPLIANCE WITH LEGAL REQUIREMENTS**

Given that the Agreement involves funds for which HUD is the oversight agency, the **CONTRACTOR** agrees to carry out its obligations under this Agreement in compliance with all the requirements described in Attachment D (HUD General Provisions) and the following provisions:

**A.** Compliance with Executive Order 24: Pursuant to Executive Order 24 of June 18, 1991, the **CONTRACTOR** certifies and guarantees that at the signing of this Agreement it has filed all the necessary and required income tax returns to the Government of Puerto Rico for the last five (5) years. The **CONTRACTOR** further certifies that it has complied and is current with the payment of any and all income taxes that are, or were due, to the Government of Puerto Rico. The **CONTRACTOR** shall hand out, to the satisfaction of the **Puerto Rico Ports Authority (PRPA)** and whenever requested by the **PRPA** during the term of this Agreement, the necessary documentation to support its compliance of this clause. The **CONTRACTOR** will be given a specific amount of time by the **PRPA** to produce said documents. During the term of this Agreement, the **CONTRACTOR** agrees to pay and/or to remain current with any repayment plan agreed to by the **CONTRACTOR** with the Government of Puerto Rico.

**B.** Compliance with Executive Order 52: Pursuant to Executive Order 52 of August 28, 1992, amending EO-1991-24, the **CONTRACTOR** certifies and warrants that it has made all payments required for unemployment benefits, workmen's compensation and social security for chauffeurs, whichever is applicable, or that in lieu thereof, has subscribed a payment plan in connection with any such unpaid items and is in full compliance with the terms thereof. The **CONTRACTOR** accepts and acknowledges its responsibility for requiring and obtaining a similar warranty and certification from each and every **CONTRACTOR** and subcontractor whose service the **CONTRACTOR** has secured in connection with the services to be rendered under this Agreement and shall forward evidence to **PRPA** as to its compliance with this requirement.

**C.** Social Security and Income Tax Retentions: The **CONTRACTOR** will be responsible for rendering and paying the Federal Social Security and Income Tax Contributions for any amount owed as a result of the income from this Agreement.

**D.** Government of Puerto Rico Municipal Tax Collection Center (CRIM, for its Spanish acronym): The **CONTRACTOR** certifies and guarantees that at the signing of this Agreement it has no current debt with regards to property taxes that may be registered with the Government of Puerto Rico's Municipal Tax Collection Center. The **CONTRACTOR** further certifies to be current with the payment of any and all property taxes that are or were due to the Government of Puerto Rico. The **CONTRACTOR** shall hand out, to the satisfaction of the **PRPA** and whenever requested by the **PRPA** during the term of this Agreement, the necessary documentation to support its compliance of this clause. The **CONTRACTOR** will deliver upon request any documentation requested under this clause as per request of **PRPA**. During the Term of this Agreement, the **CONTRACTOR** agrees to pay and/or to remain current with any repayment plan agreed to by the **CONTRACTOR** with the Government of Puerto Rico with regards to its property taxes.

**E.** Income Tax Withholding: The **PRPA** shall retain the corresponding amount from all payments made to the **CONTRACTOR**, as required by the Puerto Rico Internal Revenue Code. The **PRPA** will advance such withholdings to the Government of Puerto Rico's Treasury Department (known in Spanish as Departamento de Hacienda del Gobierno de Puerto Rico). The **PRPA** will adjust such withholdings provided the **CONTRACTOR** produces satisfactory evidence of partial or total exemption from withholding.

**F.** Compliance with Act No. 45 of April 18, 1935, as amended, 11 L.P.R.A. § 1, et seq.: The **CONTRACTOR** certifies and guarantees that at the signing of this Agreement has valid insurance issued by the State Insurance Fund Corporation (CFSE, for its Spanish Acronym), as established by Act No. 45, supra, known as the "Puerto Rico Workers' Accident Compensation Act".

**G.** Government of Puerto Rico's Agency for the Collection of Child Support (ASUME, for its Spanish acronym): The **CONTRACTOR** certifies and guarantees that at the signing of this Agreement that the **CONTRACTOR** nor any of its Partners, if applicable, have any debt or outstanding debt collection legal procedures with regards to child support payments that may be registered with the Government of Puerto Rico's Child Support Administration. The **CONTRACTOR** hereby certifies that it is a limited liability company organized and existing in good standing under the laws of the Government of Puerto Rico. The **CONTRACTOR** shall present, to the satisfaction of **PRPA**, the necessary documentation to substantiate the same. The **CONTRACTOR** will be given a specific amount of time by **PRPA**, to deliver said documents.

**H.** Compliance with Act No. 1-2012, as amended, 3 L.P.R.A. § 1854, et seq.: The **CONTRACTOR** hereby certifies that in signing this Agreement it is in compliance with Act No. 1-2012, as amended, known as "Puerto Rico Government Ethics Act of 2011", in connection with the possibility of a conflict of interest.

Entity: \_\_\_\_\_

Initials: \_\_\_\_\_

Date: \_\_\_\_\_

**I.** Clause of Governmental Ethics Certification of Absence of Conflict of Interests - The **CONTRACTOR** certifies that: (1) No public servant of this executive agency has a pecuniary interest in this contract, purchase or commercial transaction. (2) No public servant of this executive agency requests or accepts me, directly or indirectly, for him (her), for any member of his family unit or for any person, gifts, bonuses, favors, services, donations, loans or anything else of monetary value. (3) No public servant (s) request or accept any good of economic value, linked to this transaction, from any person of my entity as payment for performing the duties and responsibilities of their employment. (4) No public servant requested me, directly or indirectly, for him (her), for any member of her family unit, or for any other person, business or entity, some of economic value, including gifts, loans, promises, favors or services in exchange for the performance of said public servant is influenced in my favor or of my entity. (5) I have no kinship relationship, within the fourth degree of consanguinity and second by affinity, with any public servant who has the power to influence and participate in the institutional decisions of this executive agency.

**J.** Non-Conviction. The **CONTRACTOR** certifies that it has not been convicted nor accused of a felony or misdemeanor against the government, public faith and function, or that involves public property or funds, either federal or local in origin. Furthermore, **CONTRACTOR** also certifies that:

**a.** It has not been convicted, nor has pleaded guilty at a state or federal bar, in any jurisdiction of the United States of America, of crimes consisting of fraud, embezzlement or misappropriation of public funds, as stated in Act Number 2 of January 2, 2018, as amended, known as the Anti-Corruption Code for the New Puerto Rico, which prohibits the award of Offers or government contracts to those convicted of fraud, misappropriation of public fund.

**b.** It understands and accepts that any guilty plea or conviction for any of the crimes specified in Article 3 of said Act, will also result in the immediate cancellation of any contracts in force at the time of conviction, between the undersigned and whichever Government Agencies, Instrumentalities, Public Corporations, Municipalities and the Legislative or Judicial Branches.

**c.** It declares under oath the above mentioned in conformity with what is established as in Act Number 2 of January 2, 2018, as amended, known as the Anti-Corruption Code for the New Puerto Rico, which prohibits awarding Offers for government contracts, to those convicted of fraud, embezzlement or misappropriation of public funds.

**d.** The **CONTRACTOR** represents and guarantees that none of its employees, officials or agents have been convicted of a felony or misdemeanor as described in this sub-section. Moreover, the **CONTRACTOR** agrees to notify **PRPA** should any employee, official, or agent is convicted of a felony or misdemeanor as described in this sub-section after the date of this Agreement. Said notice shall be made within ten (10) days from the time of the conviction.

**K.** Other payments or compensation: The **CONTRACTOR** certifies that it does not receive payment or compensation for regular services rendered as an official or public employee to another government entity, agency, public corporation or municipality, and knows the ethical standards of his profession and assumes responsibility for his actions.

**L.** Consequences of Non-Compliance: The **CONTRACTOR** expressly agrees that the conditions outlined throughout this Section are essential requirements of this Agreement; thus, should any one of these representations, warrants, and certifications be incorrect, inaccurate or misleading, in whole or in part, there shall be sufficient cause for **PRPA** to render this Agreement null and void and the **CONTRACTOR** reimburse to **PRPA** all moneys received under this Agreement.

**M.** Compliance with Federal Law, Regulations & Executive Orders: The **CONTRACTOR** acknowledges that HUD financial assistance will be used to fund the contract/purchase order only. Also, the **CONTRACTOR** shall comply with all applicable federal, state or local rules, regulations, or policies relating to CDBG-DR and CDBG program services. This includes without limitation, applicable Federal Registers; 2 C.F.R. part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Community Development Act of 1974; 24 C.F.R. part 570 Community Development Block Grant; applicable waivers; Fair Housing Act, 24 C.F.R. § 35, 24 C.F.R. part 58, 24 C.F.R. part 135; National Historic Preservation Act, and any other applicable state laws or regulations, including the requirements related to nondiscrimination, labor standards and the environment; and Action Plan amendments and HUD's guidance on the funds. Also, **CONTRACTOR** shall comply, without limitation, those set forth in HUD's General Provisions.

Entity: \_\_\_\_\_  
Initials: \_\_\_\_\_  
Date: \_\_\_\_\_

## ATTACHMENT D HUD GENERAL PROVISIONS

Given that the Contract involves funds for which the U.S. Department of Housing and Urban Development (HUD) is the oversight agency, the following terms and conditions may apply to this Contract. In addition, Contractor shall comply with the Federal Labor Standards Provisions set forth in Form HUD-4010, available at <https://www.hudexchange.info/resource/2490/hud-form-4010-federal-labor-standards-provisions/>

The CONTRACTOR shall include these terms and conditions in all subcontracts or purchase orders directly servicing the Contract.

These general provisions may be updated from time to time. It is the sole responsibility of the CONTRACTOR to be aware of any changes hereto, to amend and implement such changes and to ensure subcontracts terms and conditions are modified as necessary, if any.

### General Provisions:

#### 1. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party, the Contract shall forthwith be physically amended to make such insertion or correction.

#### 2. STATUTORY AND REGULATORY COMPLIANCE

CONTRACTOR shall comply with all laws and regulations applicable to the Community Development Block Grant-Disaster Recovery funds appropriated by the Supplemental Appropriations for Disaster Relief Requirements, 2017 (Pub. L. 115-56), approved September 8, 2017 (Appropriations Act), as amended, including but not limited to the applicable Office of Management and Budget Circulars, which may impact the administration of funds and/or set forth certain cost principles, including if certain expenses are allowed.

#### 3. BREACH OF CONTRACT TERMS

The **Puerto Rico Ports Authority (PRPA)** reserves its right to all administrative, contractual, or legal remedies, including but not limited to suspension or termination of this Contract, in instances where the CONTRACTOR or any of its subcontractors violate or breach any Contract term. If the CONTRACTOR or any of its subcontractors violate or breach any Contract term, they shall be subject to such sanctions and penalties as may be appropriate. The duties and obligations imposed by the Contract documents, 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.

#### 4. REPORTING REQUIREMENTS

The CONTRACTOR shall complete and submit all reports, in such form and according to such schedule, as may be required by the **PRPA** and/or the Government of Puerto Rico. The CONTRACTOR shall cooperate with all the **PRPA** and/or the Government of Puerto Rico efforts to comply with HUD requirements and regulations pertaining to reporting, including but not limited to 24 C.F.R. §§ 85.40-41 (or 84.50-52, if applicable) and 570.507, when applicable.

#### 5. ACCESS TO RECORDS

The Government of Puerto Rico, the **PRPA**, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, shall have, at any time and from time to time during normal business hours, access to any work product, books, documents, papers, and records of the CONTRACTOR which are related to this Contract, for the purpose of inspection, audits, examinations, and making excerpts, copies and transcriptions.

#### 6. MAINTENANCE/RETENTION OF RECORDS

All records (files, data, work product) connected with this Contract will be turned over to **PRPA** following the Agreement termination to be maintained for the remainder of the grant and post grant closeout.

---

**7. SMALL AND MINORITY FIRMS, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS**

The CONTRACTOR will take necessary affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used in subcontracting when possible. Steps include, but are not limited to:

- (i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- (iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and
- (v) Using the services and assistance of the Small Business Administration, and the Minority Business Development Agency of the Department of Commerce.

Additionally, for contracts of \$10,000 or more, the CONTRACTOR shall file Form HUD 2516 (Contract and Subcontract Activity) with the **PRPA** on a quarterly basis.

**8. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT**

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements", and any implementing regulations issued by HUD.

**9. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964**

The Proposer will comply with the provisions of Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in any program or activity that receives Federal funds or other Federal financial assistance. Programs that receive Federal funds cannot distinguish among individuals on the basis of race, color or national origin, either directly or indirectly, in the types, quantity, quality or timeliness of program services, aids or benefits that they provide or the manner in which they provide them. This prohibition applies to intentional discrimination as well as to procedures, criteria or methods of administration that appear neutral but have a discriminatory effect on individuals because of their race, color, or national origin. Policies and practices that have such an effect must be eliminated unless a recipient can show that they were necessary to achieve a legitimate nondiscriminatory objective.

**10. SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974**

The CONTRACTOR shall comply with the provisions of Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Section 109 further provides that discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973, as amended, is prohibited.

**11. SECTION 504 OF THE REHABILITATION ACT OF 1973**

The CONTRACTOR shall comply with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), as amended, and any applicable regulations.

The CONTRACTOR agrees that no qualified individual with handicaps shall, solely on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives Federal financial assistance from HUD.

**12. AGE DISCRIMINATION ACT OF 1975**

---

The CONTRACTOR shall comply with the Age Discrimination Act of 1975 (42 U.S.C. § 6101 *et seq.*), as amended, and any applicable regulations. No person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to, discrimination under, any program or activity receiving Federal financial assistance.

**13. DEBARMENT, SUSPENSION, AND INELIGIBILITY**

The CONTRACTOR represents and warrants that it and its subcontractors are not debarred or suspended or otherwise excluded from or ineligible for participation in Federal assistance programs subject to 2 C.F.R. Part 2424.

**14. CONFLICTS OF INTEREST**

The CONTRACTOR shall notify the PRPA as soon as possible if this Contract or any aspect related to the anticipated work under this Contract raises an actual or potential conflict of interest (as defined at 2 C.F.R. Part 215 and 24 C.F.R. § 85.36 or 84.42, if applicable). The CONTRACTOR shall explain the actual or potential conflict in writing in sufficient detail so that the PRPA is able to assess such actual or potential conflict. The CONTRACTOR shall provide the PRPA any additional information necessary to fully assess and address such actual or potential conflict of interest. The CONTRACTOR shall accept any reasonable conflict mitigation strategy employed by the PRPA, including but not limited to the use of an independent subcontractor(s) to perform the portion of work that gives rise to the actual or potential conflict.

**15. SUBCONTRACTING**

When subcontracting, the CONTRACTOR shall solicit for and contract with such subcontractors in a manner providing for fair competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

- (i) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (ii) Requiring unnecessary experience and excessive bonding;
- (iii) Noncompetitive pricing practices between firms or between affiliated Companies;
- (iv) Noncompetitive awards to consultants that are on retainer contracts,
- (v) Organizational conflicts of interest;
- (vi) Specifying only a brand name product instead of allowing an equal product to be offered and describing the performance of other relevant requirements of the procurement; and
- (vii) Any arbitrary action in the procurement process.

The CONTRACTOR represents to the PRPA that all work shall be performed by personnel experienced in the appropriate and applicable profession and areas of expertise, taking into account the nature of the work to be performed under this Contract.

The CONTRACTOR will include these HUD General Provisions in every subcontract issued by it, so that such provisions will be binding upon each of its subcontractors as well as the requirement to flow down such terms to all lower-tiered subcontractors.

**16. ASSIGNABILITY**

The CONTRACTOR shall not assign any interest in this Agreement and shall not transfer any interest in the same (whether by assignment or novation) without prior written approval of the PRPA.

**17. INDEMNIFICATION**

The CONTRACTOR shall indemnify, defend, and hold harmless the Government of Puerto Rico and PRPA, its agents and employees, from and against any and all claims, actions, suits, charges, and judgments arising from or related to the negligence or willful misconduct of the CONTRACTOR in the performance of the services called for in this Contract.

**18. COPELAND "ANTI-KICKBACK" ACT**

**(Applicable to all construction or repair contracts)**

Salaries of personnel performing work under this Contract shall be paid unconditionally and not less often than once a month without payroll deduction or rebate on any account except only such payroll deductions as are mandatory by law or permitted by the applicable regulations issued by the Secretary of Labor pursuant to the Copeland "Anti-Kickback Act" of

---

June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; Title 18 U.S.C. § 874; and Title 40 U.S.C. § 276c). The CONTRACTOR shall comply with all applicable "Anti-Kickback" regulations and shall insert appropriate provisions in all subcontracts covering work under this Agreement to ensure compliance by subcontractors with such regulations, and shall be responsible for the submission of affidavits required of subcontractors thereunder except as the Secretary of Labor may specifically provide for variations of or exemptions from the requirements thereof.

**19. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

**(Applicable to construction contracts exceeding \$2,000 and contracts exceeding \$2,500 that involve the employment of mechanics or laborers.)**

The CONTRACTOR shall comply with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-330) as supplemented by Department of Labor regulations (29 C.F.R. Part 5).

All laborers and mechanics employed by CONTRACTORS or subcontractors shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act, and the CONTRACTORS and subcontractors shall comply with all regulations issued pursuant to that act and with other applicable Federal laws and regulations pertaining to labor standards.

**20. DAVIS-BACON ACT**

**(Applicable to construction contracts exceeding \$2,000 when required by Federal program legislation.)**

The CONTRACTOR shall comply with the Davis Bacon Act (40 U.S.C. §§ 276a to 276a-7) as supplemented by Department of Labor regulations (29 C.F.R. Part 5).

All laborers and mechanics employed by CONTRACTORS or subcontractors, including employees of other governments, on construction work assisted under this Contract, and subject to the provisions of the federal acts and regulations listed in this paragraph, shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act.

On a semi-annual basis, the CONTRACTOR shall submit Form HUD 4710 (Semi-Annual labor Standards Enforcement Report) to **PRPA**.

**21. TERMINATION FOR CAUSE**

**(Applicable to contracts exceeding \$10,000)**

If, through any cause, the CONTRACTOR shall fail to fulfill in a timely and proper manner his or her obligations under this Contract, or if the CONTRACTOR shall violate any of the covenants, agreements, or stipulations of this Contract, the **PRPA** shall thereupon have the right to terminate this Contract by giving written notice to the CONTRACTOR of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, and reports prepared by the CONTRACTOR under this Agreement shall, at the option of the **PRPA**, become the **PRPA**'s property and the CONTRACTOR shall be entitled to receive just and equitable compensation for any work satisfactorily completed hereunder. Notwithstanding the above, the CONTRACTOR shall not be relieved of liability to the Government of Puerto Rico and **PRPA** for damages sustained by the Government of Puerto Rico and/or **PRPA** by virtue of any breach of the Agreement by the CONTRACTOR, and the Government of Puerto Rico and/or **PRPA** may withhold any payments to the CONTRACTOR for the purpose of set-off until such time as the exact amount of damages due to the Government of Puerto Rico and/or **PRPA** from the CONTRACTOR is determined.

**22. TERMINATION FOR CONVENIENCE**

**(Applicable to contracts exceeding \$10,000)**

The **PRPA** may terminate this Contract at any time by giving at least ten (10) days' notice in writing to the CONTRACTOR. If the Contract is terminated by the **PRPA** as provided herein, the CONTRACTOR will be paid for the time provided and expenses incurred up to the termination date.

---

**23. SECTION 503 OF THE REHABILITATION ACT OF 1973**  
**(Applicable to contracts exceeding \$10,000)**

The CONTRACTOR shall comply with Section 503 of the Rehabilitation Act of 1973 (29 U.S.C. § 793), as amended, and any applicable regulations.

Equal Opportunity for Workers with Disabilities:

- 1) The CONTRACTOR will not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The CONTRACTOR agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals with disabilities without discrimination based on their physical or mental disability in all employment practices, including the following:
    - (i) Recruitment, advertising, and job application procedures;
    - (ii) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring;
    - (iii) Rates of pay or any other form of compensation and changes in compensation;
    - (iv) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;
    - (v) Leaves of absence, sick leave, or any other leave;
    - (vi) Fringe benefits available by virtue of employment, whether or not administered by the CONTRACTOR;
    - (vii) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;
    - (viii) Activities sponsored by the CONTRACTOR including social or recreational programs; and
    - (ix) Any other term, condition, or privilege of employment.
  - 2) The CONTRACTOR agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
  - 3) In the event of the CONTRACTOR's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the act.
  - 4) The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Deputy Assistant Secretary for Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the CONTRACTOR'S obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants with disabilities. The CONTRACTOR must ensure that applicants and employees with disabilities are informed of the contents of the notice (e.g., the CONTRACTOR may have the notice read to a visually disabled individual, or may lower the posted notice so that it might be read by a person in a wheelchair).
  - 5) The CONTRACTOR will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the CONTRACTOR is bound by the terms of Section 503 of the Rehabilitation Act of 1973, as amended, and is committed to take affirmative action to employ and advance in employment individuals with physical or mental disabilities.
  - 6) The CONTRACTOR will include the provisions of this clause in every subcontract or purchase order in excess of \$10,000, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to Section 503 of the act, as amended, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such
-

action with respect to any subcontract or purchase order as the Deputy Assistant Secretary for Federal Contract Compliance Programs may direct to enforce such provisions, including action for noncompliance.

#### **24. EQUAL EMPLOYMENT OPPORTUNITY**

##### **(Applicable to construction contracts and subcontracts exceeding \$10,000)**

The CONTRACTOR shall comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60).

During the performance of this Agreement, the CONTRACTOR agrees as follows:

- 1) The CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The CONTRACTOR shall take affirmative action to ensure that applicants for employment are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, 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.
  - 2) The CONTRACTOR shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by Contracting Officer setting forth the provisions of this non-discrimination clause. The CONTRACTOR shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
  - 3) 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 or national origin.
  - 4) The CONTRACTOR will send to each labor union or representative of workers with which he or she has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers representative of the CONTRACTOR's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
  - 5) 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.
  - 6) The CONTRACTOR will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to books, records and accounts by the contracting 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 CONTRACTOR's non-compliance with the non-discrimination clause of this Agreement or with any of such rules, regulations or orders, this Agreement may be cancelled, terminated or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 and such other sanctions as 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) CONTRACTOR shall incorporate the provisions of 1 through 7 above in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor so that such provisions shall be binding on such subcontractor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the
-

Entity: \_\_\_\_\_  
Initials: \_\_\_\_\_  
Date: \_\_\_\_\_

contracting agency may direct as a means of enforcing such provisions including sanctions for non-compliance, provided, however, that in the event the CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

**25. CERTIFICATION OF NONSEGREGATED FACILITIES**  
**(Applicable to construction contracts exceeding \$10,000)**

The CONTRACTOR certifies that it does not maintain or provide for its establishments, and that it does not permit employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for employees any segregated facilities at any of its establishments, and it will not permit employees to perform their services at any location under its control where segregated facilities are maintained. The CONTRACTOR agrees that a breach of this certification is a violation of the equal opportunity clause of this Agreement.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are, in fact, segregated on the basis of race, color, religion, or national origin because of habit, local custom, or any other reason.

The CONTRACTOR further agrees that (except where it has obtained for specific time periods) it will obtain identical certification from proposed subcontractors prior to the award of subcontracts exceeding \$10,000 which are not exempt from the provisions of the equal opportunity clause; that it will retain such certifications in its files; and that it will forward the preceding notice to such proposed subcontractors (except where proposed subcontractors have submitted identical certifications for specific time periods).

**26. CERTIFICATION OF COMPLIANCE WITH CLEAN AIR AND WATER ACTS**  
**(Applicable to contracts exceeding \$100,000)**

The CONTRACTOR and all subcontractors shall comply with the requirements of the Clean Air Act, as amended, 42 U.S.C. § 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq., and the regulations of the Environmental Protection Agency with respect thereto, at 40 C.F.R. Part 15 and 32, as amended, Section 508 of the Clean Water Act (33 U.S.C. § 1368) and Executive Order 11738.

In addition to the foregoing requirements, all nonexempt contractors and subcontractors shall furnish to the owner, the following:

- 1) A stipulation by the CONTRACTOR or subcontractors, that any facility to be utilized in the performance of any nonexempt contract or subcontract, is not listed on the Excluded Party Listing System pursuant to 40 C.F.R. 32 or on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 C.F.R. Part 15, as amended.
  - 2) Agreement by the CONTRACTOR to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. § 1857 c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 U.S.C. § 1318) relating to inspection, monitoring, entry, reports and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
  - 3) A stipulation that as a condition for the award of the Agreement, prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized, or to be utilized for the Agreement, is under consideration to be listed on the Excluded Party Listing System or the EPA List of Violating Facilities.
  - 4) Agreement by the CONTRACTOR that he or she will include, or cause to be included, the criteria and requirements in paragraph (1) through (4) of this section in every nonexempt subcontract and requiring that the CONTRACTOR will take such action as the government may direct as a means of enforcing such provisions.
-

**27. ANTI-LOBBYING**

**(Applicable to contracts exceeding \$100,000)**

By the execution of this Contract, the CONTRACTOR 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 CONTRACTOR, 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 CONTRACTOR shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- 3) The CONTRACTOR 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.

**28. BONDING REQUIREMENTS**

**(Applicable to construction and facility improvement contracts exceeding \$100,000)**

The CONTRACTOR shall comply with Puerto Rico bonding requirements, unless they have not been approved by HUD, in which case the CONTRACTOR shall comply with the following minimum bonding requirements:

- 1) A bid guarantee from each bidder equivalent to five percent (5%) of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his or her bid, execute such contractual documents as may be required within the time specified.
- 2) A performance bond on the part of the CONTRACTOR for one hundred percent (100%) of the Agreement price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the CONTRACTOR's obligations under such contract.
- 3) A payment bond on the part of the CONTRACTOR for one hundred percent (100%) of the Agreement price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

**29. SECTION 3 OF THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968**

**(As required by applicable thresholds)**

---

Entity: \_\_\_\_\_  
Initials: \_\_\_\_\_  
Date: \_\_\_\_\_

- 1) The work to be performed under this Agreement 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.
- 2) The parties to this Agreement agree to comply with HUD's regulations in 24 C.F.R. Part 135, which implement Section 3. As evidenced by their execution of this Agreement, the parties to this Agreement certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- 3) The CONTRACTOR agrees to send to each labor organization or representative of workers with which the CONTRACTOR has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the CONTRACTOR's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- 4) The CONTRACTOR agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 C.F.R. Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 C.F.R. Part 135. The CONTRACTOR will not subcontract with any subcontractor where the CONTRACTOR has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 C.F.R. Part 135.
- 5) The CONTRACTOR will certify that any vacant employment positions, including training positions, that are filled: (1) after the CONTRACTOR is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 C.F.R. Part 135 require employment opportunities to be directed, were not filled to circumvent the CONTRACTOR's obligations under 24 C.F.R. Part 135.
- 6) Noncompliance with HUD's regulations in 24 C.F.R. Part 135 may result in sanctions, termination of this Agreement for default, and debarment or suspension from future HUD assisted contracts.
- 7) With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450e) also applies to the work to be performed under this Agreement. Section 7(b) requires that to the greatest extent feasible: (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this Agreement that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).
- 8) For contracts exceeding \$100,000, the CONTRACTOR shall submit Form HUD 60002 (Section 3 Summary Report) to **PRPA** on a quarterly basis, notwithstanding the annual reporting requirement set forth in that form's instructions.

### **30. FAIR HOUSING ACT**

CONTRACTOR shall comply with the provisions of the Fair Housing Act of 1968, as amended. The act prohibits discrimination in the sale or rental of housing, the financing of housing or the provision of brokerage services against any person on the basis of race, color, religion, sex, national origin, handicap or familial status. The Equal Opportunity in Housing Act prohibits discrimination against individuals on the basis of race, color, religion, sex or national origin in the sale, rental, leasing or other disposition of residential property, or in the use or occupancy of housing assisted with Federal funds.

---

**31. ENERGY POLICY AND CONSERVATION ACT**

CONTRACTOR shall comply with mandatory standards and policies relating to energy efficiency as contained in the Government of Puerto Rico's energy conservation plan, issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*).

**32. HATCH ACT**

CONTRACTOR agrees to comply with mandatory standards and policies relating to Hatch Act, Public Law 94-163, as amended.

The Hatch Act applies to political activities of certain state and local employees. As a Puerto Rico Department of Housing CONTRACTOR, you may do any of the following activities: be a candidate in nonpartisan elections; attend political meetings and conventions; contribute money; campaign in partisan elections; and hold office in political parties.

The CONTRACTOR may not do the following activities: be a candidate in partisan elections; use official influence to interfere in elections; coerce political contributions from subordinates in support of political parties or candidates the office of special counsel operates a website that provides guidance concerning hatch act issues.

**33. HEALTH AND SAFETY STANDARDS**

All parties participating in this project agree to comply with Sections 107 and 103 of the Contract Work Hours and Safety Standards Act. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions, which are unsanitary, hazardous, or dangerous to his or her health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation.

**34. PERSONNEL**

The CONTRACTOR represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of, or have any contractual relationship with, the contracting party. All the services required hereunder will be performed by the CONTRACTOR or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and local law to perform such services. No person who is serving sentence in a penal or correctional institution shall be employed on work under this Contract.

**35. WITHHOLDING OF WAGES**

If in the performance of this Agreement, there is any underpayment of wages by the CONTRACTOR or by any subcontractor thereunder, the **PRPA** may withhold from the CONTRACTOR out of payment due to him or her an amount sufficient to pay to employees underpaid the difference between the wages required thereby to be paid and the wages actually paid such employees for the total number of hours worked. The amounts withheld may be disbursed by the **PRPA** for and on account of the CONTRACTOR or subcontractor to the respective employees to whom they are due.

**36. CLAIMS AND DISPUTES PERTAINING TO WAGE RATES**

Claims and disputes pertaining to wage rates or to classifications of professional staff or technicians performing work under this Contract shall be promptly reported in writing by the CONTRACTOR to the **PRPA** for the latter's decision, which shall be final with respect thereto.

**37. DISCRIMINATION BECAUSE OF CERTAIN LABOR MATTERS**

No person employed on the services covered by this Agreement shall be discharged or in any way discriminated against because he or she has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable hereunder to his or her employer.

**38. INTEREST OF MEMBERS OF LOCAL PUBLIC AGENCY AND OTHERS**

---

The CONTRACTOR agrees to establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have a family, business, or other tie. The CONTRACTOR will be aware of and avoid any violation of the laws of this State which prohibit municipal officers and employees from having or owning any interest or share, individually or as agent or employee of any person or corporation, either directly or indirectly, in any contract made or let by the governing authorities of such municipality for the construction or doing of any public work, or for the sale or purchase of any materials, supplies or property of any description, or for any other purpose whatsoever, or in any subcontract arising therefrom or connected therewith, or to receive, either directly or indirectly, any portion or share of any money or other thing paid for the construction or doing of any public work, or for the sale or purchase of any property, or upon any other contract made by the governing authorities of the municipality, or subcontract arising therefore or connected therewith.

The CONTRACTOR will also be aware of and avoid any violation of the laws of this State which prescribe a criminal penalty for any public officer who has an interest in any contract passed by the board of which he or she is a member during the time he or she was a member and for one year thereafter.

**39. INTEREST OF CERTAIN FEDERAL OFFICERS**

No member of, or delegate to, the Congress of the United States and no Resident Commissioner shall be admitted any share or part of this Agreement or to any benefit to arise therefrom.

**40. INTEREST OF CONTRACTOR**

The CONTRACTOR agrees that it presently has no interest and shall not acquire any interest, direct or indirect, in the above described project or any parcels therein or any other interest which would conflict in any manner or degree with the performance of the Work hereunder. The CONTRACTOR further agrees that no person having any such interest shall be employed in the performance of this Agreement.

**41. POLITICAL ACTIVITY**

The CONTRACTOR will comply with the provisions of the Hatch Act (5 U.S.C. 1501 *et seq.*), which limits the political activity of employees.

**42. RELIGIOUS ACTIVITY**

The CONTRACTOR agrees to abstain from using any funds related to this Agreement for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction, or proselytization.

**43. FLOOD DISASTER PROTECTION ACT OF 1973**

The CONTRACTOR will ensure that procedures and mechanisms are put into place to monitor compliance with all flood insurance requirements as found in the Flood Disaster Protection Act of 1973, 24 C.F.R. § 570.605.

**44. LEAD BASED PAINT**

The CONTRACTOR must comply with the regulations regarding lead-based paint found at 24 C.F.R. § Part 35 on LEAD-BASED PAINT POISONING PREVENTION IN CERTAIN RESIDENTIAL STRUCTURES with regards to all housing units assisted using CDBG-DR funds.

**45. VALUE ENGINEERING**

**(Applicable to construction contracts exceeding \$2,000 when required by Federal program legislation.)**

The CONTRACTOR must comply with the regulations regarding systematic and organized approach to analyze functions of systems, equipment, facilities, services, and materials to ensure they achieve their essential functions at the lowest cost consistent to life cycle in execution, reliability, quality, and safety, in accordance with 24 C.F.R. § 200.318.(g).

---

Entity: \_\_\_\_\_

Initials: \_\_\_\_\_

Date: \_\_\_\_\_

## ***ATTACHMENT C***

### ***SCOPE OF WORK***

#### ***Design Requirements***

The Designer will provide the required professional services to design the Conversion of Runway 8-26 to a Taxiway and Taxiway Improvements. The Designer must be registered in Puerto Rico.

#### **Data Collection and Project Development**

A topographic survey of the existing site has been performed. The topographic survey has been provided to show the location of existing facilities, areas of new work required by this RFP and the character of the sites. Prior to starting work, the Designer shall verify the location of all existing utilities and obtain all additional survey data required to provide a quality final design. The existence, size and/or location of the utilities are not guaranteed by the surveys provided. It is the responsibility of the Designer to obtain all required information needed to complete the design.

Site location survey – the Designer will retain a professional land surveyor who is licensed in Puerto Rico to provide site location survey services in the vicinity of the proposed project area sufficient to prepare the project plans. The land surveyor may be required to locate the pertinent existing physical features within the vicinity of the project including pavements, utility structures, underground utilities, drainage pipe elevations, swales and ditches, fence lines, property lines, rights-of-way, and tree and brush lines. The Designer will incorporate results of the survey into the project plans to supplement the available existing data for the project locations.

A geotechnical report was performed by Geo Engineering Geotechnical Engineers in February, 2015. Any subsurface information provided is only for the Designer's information and is not guaranteed to fully represent all subsurface conditions. The geotechnical report is provided only to better convey data (boring logs, testing, etc.) or to document observed site conditions. The assumptions, analysis, and recommendations of any report provided by PRPA were developed at

a prior date and may not reflect present project requirements. PRPA shall not be responsible for any interpretation or conclusion by the Designer drawn from the data or information.

Soils investigation – the Designer will retain a professional geotechnical engineer who is licensed in Puerto Rico to provide geotechnical services in the vicinity of the proposed project area. Field exploration and laboratory testing is required to produce a soils investigation, soils report, and recommendations.

Environmental review – the Designer will evaluate the preliminary design of the project to determine the environmental impacts of the project. The Designer must review the latest pertinent Federal, State, and local environmental regulatory measures for recent changes and compliance issues and contact the appropriate regulatory authorities to ascertain the permitting requirements for the project based on the anticipated final design and its potential environmental impacts. After review of all available environmental documents including the airport master plan, CDBG requirements, and wetlands studies, the Designer will incorporate the recommendations of the regulatory agencies into the final design of the project to avoid and/or mitigate the environmental impacts of the project. If required, the Designer shall conduct the necessary environmental site assessments and surveys including but not limited to wetland delineation, protected species survey, and subsurface contaminant investigations.

### Designs, Plans, Reports, and Specifications

The Designer will prepare a design package meeting the following requirements. A Safety Risk Management (SRM) plan must be developed by the Designer per FAA requirements. An SRM panel must review and approve the phasing plan of the project prior to project commencement. The design submittals will consist of 30%, 60%, 90%, 100%, and Issued for Construction plans. Project specifications and contract documents will also be required to distribute to the PRPA, owner's representative, and the FAA for review. Each review will be subject to a two-week timeframe for the owner to return comments and questions back to the Designer. The Designer will further develop the plans subsequent to the review and comment period for each interim submittal. The review and comments may not be all inclusive and the Designer shall determine if additional information is required to accurately present data for each submittal. The Designer will prepare an

Estimate of Probable Construction Costs, based on the plans, reports, calculations, specifications, and environmental permitting requirements. The Designer will also conduct in-house quality control and design review meetings with experienced representatives and provide staff members the opportunity to perform independent analyses of the final plans and specifications to ensure clarity, accuracy, completeness, and constructability. The requirements for each submittal phase are as follows:

**Engineering Design Report** – The Designer shall prepare an Engineering Design Report in accordance with FAA requirements. The report shall outline the basis of design including all information required for PRPA and Stakeholders to make decisions related to the project scope, project cost and operational and phasing considerations.

**30% Design** – This phase is intended to identify and evaluate value engineering alternatives and practical solutions for the work items identified. This submittal shall be of sufficient detail to show how the users’ functional and technical requirements will be met, indicate the designer’s approach to the solution of technical problems and show compliance with design criteria or provide justification for noncompliance.

Minimum Submittal Requirements Include (but are not limited to):

- **Engineer’s Design Report** developed to a preliminary level
  - General Scope of Project
  - Applicable Standards
  - Considerations for Airport Operational Safety
  - Pavement Design
  - Environmental Considerations
  - Utility Lines in Work Area
  - Application of Life Cycle Cost Analysis if applicable
  - Project Schedule
- Engineer’s Opinion of Probable Construction Costs
- Concept Safety & Phasing Plan
- Concept Drawings
  - Cover Sheet
  - Existing Conditions Plan
  - Demolition Plan

- Site Plan
- Typical Sections
- Electrical Site Demolition
- Electrical Site Plan
- List of Specifications
- Preliminary Project Schedule Timeline
- Certified Topographic Survey
- Certified Geotechnical Report
- Required information and data for each required permit

**60% Design** – This phase is intended to ensure that the drawings, specifications, engineer’s design report, and construction safety & phasing plan, are proceeding in a timely manner. This submittal is also to ensure that the design criteria and previous review comments are being correctly interpreted.

Minimum Submittal Requirements Include (but are not limited to):

- **Engineer’s Design Report** (developed to approximately 60% completion)
  - All items progressed from the 30% submittal
  - Drainage Design
  - Airfield Lighting and Signage
  - Navaids
  - Pavement Markings
  - Miscellaneous Work Items
- Safety and Phasing plan
- Design Drawings
  - Cover Sheet
  - Access and Staging Plan
  - Maintenance of Traffic Plan
  - Phasing Plan
  - Existing Conditions Plan
  - Demolition Plan
  - Erosion & Sediment Control Plan
  - Site Plan
  - Site Profiles
  - Pavement Marking Plan
  - Grading Plan
  - Drainage Plan
  - Details

- Electrical Site Demolition
- Electrical Site Plan
- Updated Engineer's Opinion of Probable Construction Costs
- Detailed Project Schedule Timeline & Updates
- Specifications
- Concept review comments & responses
- Permit applications

**100% Design** – This phase is intended to address all comments from previous submittals. This submittal represents a 100% complete design with the exception of the incorporation of any review comments resulting from the review of the submittal. Prepare drawings, specifications, update engineer's report, and schedule of values. This submittal shall be complete in every respect and shall be ready for advertising, from the Engineer's perspective.

Minimum Submittal Requirements Include (but are not limited to):

- Engineer's Design Report
  - All items 100% complete
  - Include backup material previously submitted and revised
  - Design calculations
- Design Drawings
  - Cover Sheet
  - Access and Staging Plan
  - Maintenance of Traffic Plan
  - Phasing Plan
  - Existing Conditions Plan
  - Demolition Plan
  - Erosion & Sediment Control Plan
  - Site Plan
  - Runway / Taxiway Plan and Profiles
  - Pavement Marking Plan
  - Grading Plan
  - Drainage Plan
  - Details (Civil, ES&PC, Demolition)
  - Cross Sections
  - Electrical Site Demolition
  - Electrical Site Plan
  - Electrical Site Details
- Specifications – final edited
- Updated Engineer's Opinion of Probable Construction Costs
- Pre-Final Detailed Project Schedule
- Annotated interim review comments

- All supporting documentation for permit application approvals

**Issued for Bid** – This phase is intended to provide well-defined bidding requirements that provides the least possible interference with airport operations. This phase includes final design drawings together with a complete design analysis, and construction specifications covering all technical and engineering details. This phase also includes all documents required for competitive bidding of the project in compliance with all FAA, PRPA, Government of Puerto Rico and CDBG requirements.

Requirements for this phase:

- Incorporate all design comments and respond as necessary to requests for additional information.
- Provide Final Engineering Report
- Develop final specifications using AC 150/5370-10 current version, *Standards for Specifying Construction of Airports*.
- Develop a final safety plan in accordance with AC 150/5370-2 current version, *Operational Safety on Airports During Construction*
- Provide final design drawings, specifications, project schedule, and final Engineer's Opinion of Probable Construction Costs and construction schedule for the project.
- Bidding Documents

Final Design Drawings include (but are not limited to):

- Cover Sheet
- Access and Staging Plan
- Maintenance of Traffic Plan
- Phasing Plan
- Existing Conditions Plan
- Demolition Plan
- Erosion & Sediment Control Plan
- Site Plan
- Runway / Taxiway Plan and Profiles
- Pavement Marking Plan
- Grading Plan
- Drainage Plan
- Details (Civil, ES&PC, Demolition)
- Cross Sections
- Electrical Site Demolition
- Electrical Site Plan
- Electrical Site Details

## A/E/C Computer-Aided Design (CAD) Standard

This section is a guideline for preparation of deliverable engineering drawings in the AutoCAD environment and shall be followed for each design submittal for all standards stated. For any standards not mentioned, refer to the United States National CAD Standard.

### *Drawing Format*

Only submittals prepared with Autodesk products will be accepted. The files must be “native” formats, fully functional, editable, and completely usable in AutoCAD. Drawings created in any other software and converted to AutoCAD will not be accepted.

AutoDesk AutoCAD – products version 2020 or higher will be accepted. Other requirements include:

- All title blocks must be placed in paper space.
- For engineering drawings, drawing units must be set to decimal units with one base unit equal to one foot. For architectural or structural drawings, drawing units must be set to one base unit equal to one inch.
- Only one copy of the base file should be used throughout the entire contract.
- The Z coordinates of all elements must be “0” unless the drawing is in three (3) dimensions.
- The application of line widths and colors should be set through each layer.
- The final drawings must be zoomed to extents and purged.
- All viewports shall be locked.
- Do not bind or insert external reference files into the base drawings.
- Prior to delivery, all documents and drawings are to be appropriately organized and saved as a zip file using AutoCAD eTransmit or the export command when using Civil 3D. eTransmit and export will ensure that a copy of all the elements that make up the files will be captured.

Standard engineering drawing size ANSI D (22” x 34”) shall be used for full size sheets. Other sizes may be allowed with pre-approval. All sheets issued as a complete set must be the same size.

Reference the National CAD Standards (NCS), latest edition, for Sheet Numbering/Naming System, File Naming System, and Layering Guidelines.

Additional or re-submittals may be required during any design phase. Revision clouds are never used to indicate additions/changes to drawings during the design phases. Drawings Issued for

Permit and drawings Released for Construction are identical except drawings Issued for Permit are signed and sealed by the registered professional approving the release of the drawings.

*File Transmittals*

- For each submittal, a Transmittal must be created.
- Transmittal package type must be Zipper ``(\*.zip)``.
- .DWG File format must be AutoCAD 2010/LT 2010 Drawing Format and visual fidelity must be maintained for annotative objects.
- Please all files in one folder.
- Purge Drawings.
- All As-Builts should be finished in AutoCAD and clearly marked "As-Builts". A complete set, hard and soft copy, must be submitted.
- PDF's of the individual sheets should also be included in the electronic file submittal.

For all other AutoCAD submittal requirements, refer to the United States National CAD Standard.

# Applicable Standards

The design guidelines utilized for this project include the Advisory Circulars (AC) as published by the FAA and CDBG requirements.

## FAA Advisory Circulars

The FAA advisory circulars listed below will be incorporated during the design of this project. Standards not listed are not excluded and will apply to this project as required. The current version of each applicable standard shall be followed.

- AC 150/1500-14: Architectural, Engineering, and Planning Consultant Services for Airport Grant Projects
- AC 150/5200-28: Notice to Airmen (NOTAMS) for Airport Operators
- AC 150/5210-5: Painting, Marking, and Lighting of Vehicles Used on an Airport
- AC 150/5210-24: Airport Foreign Object Debris (FOD) Management
- AC 150/5220-23: Frangible Connections
- AC 150/5300-13: Airport Design
- AC 150/5300-18: General Guidance and Specifications for Submission of Aeronautical Surveys to NGS: Field Data Collection and Geographic Information System (GIS) Standards
- AC 150/5320-5: Airport Drainage Design
- AC 150/5320-6: Airport Pavement Design and Evaluation
- AC 150/5320-30: Design and Evaluation Details for Airport Visual Aids
- AC 150/5325-4: Runway Length Requirements for Airport Design
- AC 150/5335-5: Standardized Method of Reporting Airport Pavement Strength - PCN
- AC 150/5340-1: Standards for Airport Markings
- AC 150/5340-18: Standards for Airport Sign Systems
- AC 150/5340-30: Design and Installation Details for Airport Visual Aids
- AC 150/5340-42: Specification for Airport Light Bases, Transformer Housings, Junction Boxes and Accessories
- AC 150/5345-26: Specification for L-823 Plug and Receptacle, Cable Connectors
- AC 150/5345-46: Specification for Runway and Taxiway Light Fixtures

- AC 150/5345-7: Specification for L-824, Underground Electrical Cable for Airport Lighting Circuits
- AC 150/5345-26: Specification for L-823 Plug and Receptacle, Cable Connectors
- AC 150/5345-42: Specification for Airport Light Bases, Transformers Housing, Junction Boxes, and Accessories
- AC 150/5345-44: Specification for Runway and Taxiway Signs
- AC 150/5345-46: Specification for Runway and Taxiway Light Fixtures
- AC 150/5345-47: Specification for Series to Series Isolation Transformers for Airport Lighting Systems
- AC 150/5345-51: Specification for Discharge-Type Flashing Light Equipment
- AC 150/5345-53: Airport Lighting Equipment Certification Program
- AC 150/5345-55: Specification for L-893, Lighted Visual Aid to Indicate Temporary Runway Closure
- AC 150/5370-2: Operational Safety on Airports During Construction
- AC 150/5370-10: Standard Specifications for Construction of Airports
- AC 150/5370-12: Quality Management for Federally Funded Airport Construction Projects

## Design Standards

New Taxiways are required to meet all design standards with no exceptions. The only Modification of Standards for construction standards that the FAA will consider is PCC additives for hot paving, etc., if needed. The airport is categorized as ADG V, TDG-5, and Approach Category D. The design aircraft is the Boeing 747-400 (TDG-5; ADG-V).

## Taxiway Dimensional and Geometrical Design Standard

Proposed taxiway and connections must incorporate all necessary standards outlined in Table 4-1 and 4-2 of 150/5300-13B for ADG V and TDG 5. Proposed taxiway connections must be designed to meet existing grade at tie-in locations and follow all geometric and gradient design standards. Taxiway dimensional and geometric design standards applicable to this project are listed in Table 2-1.

**Table 2-1: Taxiway I Design Standards**

	<b>Design</b>
<b>Taxiway Design Group (TDG)</b>	5
Taxiway Width	75 ft
Taxiway Edge Safety Margin	14 ft
Taxiway Shoulder Width	30
<b>Taxiway Fillet Dimensions</b>	
Fillet Radius	0 ft
Centerline Radius	95 ft
Outer Radius	162 ft

*Fillet Design*

As noted, Taxiway I design shall follow TDG-5. Proposed fillets shall be designed per Table 4-8 of AC 150/5300-13 for TDG-5.

**Fleet Mix**

The design aircraft traffic should consist of a fleet mix in terms of aircraft types, operating weights, and annual departures. The fleet mix should be representative of anticipated aircraft use for the duration of the design life of 20 years.

The aircraft fleet mix has been approved by FAA. **Table 2-2** compiles the entire fleet mix by departures for incorporation into FAARFIELD 2.0.2.

**Table 2-1: Aircraft Fleet Mix**

<b>Aircraft</b>	<b>FAARFIELD 2.0.2 Comparison</b>	<b>Aircraft Weight (lbs.)</b>	<b>Annual Departures</b>	<b>% Annual Growth</b>
Airbus A319	A319-100 std	141978	239	-5
Airbus A320	A320-200 std	162925	1916	-5
Airbus A321	A321-200 opt	207025	1100	-5
Boeing 737-800	B737-800	174700	129	1.2
Boeing 737-900	B737-900	174700	437	-5
Boeing 747-400	B747-400	877000	283	1.2
Boeing 747-400	B747-400 Belly	877000	283	1.2
Boeing 747-800	B747-8	990000	173	1.2
Boeing 747-800	B747-8 Belly	990000	173	1.2
Boeing 767-300	B767-300	352000	1095	1.2
Boeing 777-200LRF/LR	B777-200 LR	768000	358	1.2

Single Wheel – 15	S-15	15000	1265	1.2
Single Wheel – 20	S-20	20000	270	1.2
Shorts 360	Shorts 360	27200	522	1.2
Swearingen Merlin 4/4A	SWL-5	5000	865	1.2
Convair CV-540/580	USER DEFINED	30275	1076	1.2
Embraer E120	USER DEFINED	15665	833	1.2
Aerospatiale AT72	USER DEFINED		368	1.2

## Pavement Section Design

The proposed pavement sections should be composed of construction materials conforming to the specifications prescribed in AC 150/5370-10 (current version), *Standard Specifications for Construction of Airports*, specifically the following:

- P-501 Cement Concrete Pavement
- P-401 Asphalt Mix Pavement
- P-403 Asphalt Mix Pavement (Base)
- P-304 Cement-Treated Aggregate Base Course (CTB)
- P-306 Lean Concrete
- P-307 Cement Treated Permeable Base Course (CTPB)
- P-209 Crushed Aggregate Base
- P-219 Recycled Concrete Aggregate Base Course
- P-152 Excavation, Subgrade, and Embankment
- P-154 Subbase Course

According to the FAA's design procedures, a stabilized base is required for aircraft traffic having a gross weight greater than 100,000 lbs. The fleet mix data provided for this project includes various aircraft exceeding the minimum gross weight of 100,000 lbs. Therefore, a minimum stabilized base course thickness of five (5) inches is recommended based on FAA's guidelines.

The design flexural strength of the concrete shall be between 650 psi to 700 psi at 90 days. When the 28-day strength of 650 psi is specified for the concrete for construction, the 90-day design strength of 685 psi may be used for PCC thickness computation, assuming a 5% strength gain.

Taxiways may either be P-501 PCC or P-401/P-403 HMA surfaced.

Pavement sections must include a rapid drainage material (RDM) in accordance with AC150/5320-6F, since the pavements will be constructed in non-frost areas constructed on subgrade soils with a coefficient of permeability of less than 20 ft per day. The drainage layer for all options must be a minimum 6" RDM layer placed beneath the PCC section for rigid pavement and beneath the P-403 section for flexible pavement.

## Airfield Lighting and Signage

### Scope Summary

During the duration of the demolition phases, provide temporary light fixtures that will be installed and removed during the respective phasing for both runway and taxiway lighting. Each fixture has a specific location, spacing and circuiting requirements that meets the FAA standards. Signage lighting in this scope is required, which includes circuit requirements for taxiways and runways. The existing airfield's lighting vault is located within the air traffic control tower. The lighting vault is to remain and be utilized for the proposed project lighting.

### Taxiway Lighting

New taxiway edge lights will be LED, as indicated in AC 150/5340-30, the taxiway edge lights will emit blue light. All taxiway edge lights will be Medium Intensity Taxiway Lights (MITL) and will have three (3) brightness steps. Arctic kits will not be installed as they are not necessary for this region. A section of Taxiway D along with taxiway connectors B, C, D and E will be reconstructed. These lights are to be inset and blue in color. For taxiway Inset lights, use L-852T fixtures.

As the LEDs are phased in along the taxiway during construction, the mixing of LED and incandescent edge light fixtures is not allowed per AC 150/5340-30J on taxiway curved and straight segments. For this project, the change from incandescent to LED will transition only on adjacent segments. This design direction was reviewed and clarified with the FAA. Light fixtures should be all in pavement.

### Electrical Circuits

The existing airfield's lighting vault is in the Air traffic control tower. All circuits will consist of L-824 wiring which is to be routed through 2" Schedule 40 PVC conduit throughout the airfield (6.6A

L-824 Type C #8AWG rated for 5kV). All conduits will be concrete encased. Two (2) spare, 4-Inch, concrete encased conduits will be installed at every location where circuits cross airfield pavement. In addition, two (2), 4-Inch, concrete encased spare duct banks will be installed across the new runway and shoulder pavements at a minimum of every 2,500 feet along the centerline of the runway. Installation of equipment shall comply with the NEC and local AHJ. Contractor shall make necessary connections in the vault per AC 150/5370-10.

## Junction Boxes/Cans

All bases will be a L-867 type base. The light fixtures will be mounted on this base, as well as a housing for the transformers and an electrical junction box. The whole base of the fixture must be on the shoulder of the runway. The bases are designed to occasional light vehicular loading but not to any aircraft or other heavy vehicle loading.

## Temporary Lighting and Temporary Signage

Designer shall determine the need and extent of temporary lighting and signage. Temporary lighting will be used in the phasing throughout the scope. For taxiway edge lighting, the type of lighting system used will be MITL, use inset L-852C fixtures and connect the fixtures in series. For runway edge lighting, the type of system used will be MIRL, use inset L-852D and connect the fixtures in series. Temporary signage will be used in the phasing throughout the scope. Temporary Signage will be approved by FAA and BQN Airport. All temporary signage must be in accordance with AC 150/5370-2.

## Signage

Per AC 150/5340-30J, guidance signs are to be installed at runway-taxiway intersections to define where the taxi interactions route is. Power these signs from the series circuits. The style type that these signs need to meet is a "Style 2, Class 1, Mode 1". The reason for these requirements is because the signs must be visible from 800 feet away. All lighted signs must have a disconnect required and a cable terminated with a Type 2 plug in accordance with AC 150/5345-26. The Designer shall determine all signage changes that are required throughout the airport to accommodate the proposed construction and Taxiway/Runway naming changes associated with the project. A complete Airport Signage Plan must be provided for approval as part of the proposal.

# Drainage and stormwater design

## Drainage Design

Drainage design must be in accordance with AC 150/5320-5 – *Airport Drainage Design*. Design storm runoff must be efficiently removed to avoid interruption of operations during or following storms and to prevent temporary or permanent damage to pavement subgrades. Proper grading is an extremely important factor contributing to the success of the drainage system; grading and drainage plans must be fully coordinated.

An underdrain system for proposed Runway 8-26 and Taxiway I will be required and must tie into the overall drainage system. The design of pavement sections must include a rapid drainage material (RDM) in accordance with AC 150/5320-6 (current version), see Pavement Design section.

The Designer's Geotechnical Investigation shall verify existing soil and site conditions.

## Drainage Design Criteria

1. Minimum times of concentration (t) of 5 minutes shall be used.
2. Manholes and/or junction boxes shall be provided at points of change in conduit grade, size, or horizontal alignment. Distances between points of entry shall not exceed 300 feet for conduits smaller than 30-inches diameter.
3. Pipe discharge velocities must not be less than 2.5fps to provide for adequate pipe cleansing.
4. Minimum pipe size shall be 12-inch for closed drainage systems and 18-inch for individual culverts, unless unusual or special design considerations warrant using smaller pipe.
5. Storm drainage systems shall be constructed in accordance with AC 150/5370-10H.
6. Plastic pipe, if used, shall be HDPE double wall.

## Layout

The drainage system layout shall be designed to best meet the drainage requirements of the facility. All low points in grade have an inlet as to avoid ponding water. The system shall take into consideration topography, ultimate development of drainage area, possible future extension,

outfall locations, and coordination with existing drainage systems and other existing or future underground utilities. Unless structural stabilization is provided, maximum slopes for pervious surfaces is 3 horizontal : 1 vertical.

## Stormwater Manholes

Stormwater manholes shall be provided at junctions of gravity pipes and at each change in pipe direction, size, or slope. Manholes shall be in areas that are readily accessible for operation and maintenance purposes. Manhole covers shall be level with pavement or 2-inches above grade in grassy areas and shall be cast iron and have the word "STORM" marked on them. Manhole structure, frames, and covers shall meet anticipated aircraft loadings. The Designer shall provide detail to PRPA's representative for approval.

## Underground Systems

Profiles shall be required for the underground storm drainage system(s). Profiles of pipes shall show all existing and new underground utility crossings, pertinent surface features, hydraulic grade lines (HGL), flowrates, slope, pipe size, and invert elevations.

## Sizing of inlets

The design of inlets shall be in accordance with AC 150/5320-5 and local standards, whichever is more stringent.

## Sizing of Pipes

New underground storm drainage pipes shall be in accordance with AC 150/5320-5D. The Designer shall verify that pipes are properly sized for all piping materials included in the project specifications taking into account the coefficient of friction ( $n$ ) that varies with material type. Separate backwater computations should be performed for each pipe material to ensure that pipe sizes are compatible with material options. Variations in pipe sizes required by such computations shall be indicated on the plans.

## Stormwater Management

The Designer shall design and construct the new storm water sewer system to the FAA, local, and EISA 438 standards. These systems shall be designed and constructed to, but may not

necessarily be limited to, the items listed within this section. The Designer is responsible for final layout and design of stormwater system.

The stormwater design shall meet all local design criteria and requirements in addition to the following:

1. The Designer shall meet all requirements and complete the National Pollutant Discharge Elimination System (NPDES) Permit.
2. The Designer shall meet all requirements of the 2016 Puerto Rico General Permit for stormwater discharges from small MS4s
  - a. The permit requires, if practicable, the program to include a process to require the implementation of low impact development practices that infiltrate, evapotranspire, or capture for reuse the first 1 inch of rainfall from a 24-hour storm preceded by 48 hours of no measurable precipitation. See Part 2.4.6.5.

# Environmental Considerations

The Designer shall prevent environmental pollution and damage as the result of construction operations under this contract. Environmental pollution and damage is defined as the presence of chemical, physical, or biological elements or agents which adversely affect human health or welfare; unfavorably alter ecological balances of importance to human life; affect other species of importance to man; or degrade the utility of the environment for aesthetic, cultural and/or historical purposes. The control of environmental pollution and damage requires consideration of air, water, and land resources; and includes management of visual aesthetics; noise; solid, chemical, and liquid waste; radiant energy and radioactive materials; as well as other pollutants.

In September 2020, an environmental assessment was performed by AECOM at Rafael Hernandez Airport for the Runway 8-26 construction. Sections of the affected environment and environmental consequences studied include:

- Air Quality
- Climate
- Coastal Resources
- DOT Section 4(f) Resources
- Hazardous Materials, Pollution Prevention, and Solid Waste
- Historical, Architectural, Archaeological and Cultures Resources
- Natural Resources and energy supply
- Noise and Noise Compatible Land Use
- Socioeconomics, Environmental Justice, and Children's Health and Safety Risks
- Water Resources (Including Surface Water and Groundwater)

There are no known environmental hazards on site. Soil on site is assumed to be suitable for reuse.

## Permits

The Designer shall identify all environmental permits required for the project. The Sponsor will secure construction permits/plans required by federal and local regulations, including but not limited to a Karst Zone Special Planning Area Permit, Multi-Sector General Permit for stormwater associated with industrial activities, Stormwater Pollution Prevention Plans, and National Pollutant

Discharge Elimination System Permits. All environmental permit applications and construction completion certificates shall be prepared by an engineer registered in Puerto Rico. All environmental permit applications and accompanying drawings and calculations shall be furnished using English units.

### National Pollutant Discharge Elimination System (NPDES) Permit

The Designer shall indicate all requirements for the National Pollutant Discharge Elimination System (NPDES) stormwater permit. All fees and permits for review shall be paid by the Contractor.

The Designer shall indicate the requirements for a Storm Water Pollution Prevention Plan (SWPPP) to be in compliance with the permit. The SWPPP shall be prepared in accordance with the Commonwealth of Puerto Rico and meet the intent of the latest version of the National Pollutant Discharge Elimination Systems Permit (NPDES). The Contractor will submit a notice of intent to use the Generic Permit for stormwater discharge under the NPDES program prior to project initiation. Best management practices (BMPs) such as erosion and sediment controls and stormwater management measures will be required to minimize erosion and stormwater runoff, and to regulate sediment control.

### Lead and Asbestos

If found, the Designer shall follow all EPA and OSHA requirements as related to work practices to prevent lead contamination and asbestos containing materials (ACM) contamination during demolition. The Designer shall also be aware that these may appear in pavement markings on the site. The Designer is responsible for outlining requirements for proper disposal of all contaminated materials. Disposal of hazardous materials shall be in accordance with all local, State, and Federal rules and regulations.

Designer must not indicate demolition or removal of structures related to historic, architectural, archaeological, or cultural resources prior to receipt of the applicable environmental permitting (permits under separate contract).

## Utility Lines in Work Area

All existing utilities in the project area must be identified and accounted for in the design.

### Utility Service Interruption

No utility services shall be interrupted by the design to make connections, to relocate, or for any purpose without approval of the PRPA's authorized representative.

Request for Permission to shut down services shall be submitted in writing to the PRPA's authorized representative not less than seventeen (17) days before date of proposed interruption.

The request shall give the following information:

- a. Nature of Utility. (Gas, L.P. or H.P., Water, etc.)
- b. Size of line and location of shutoff.
- c. Buildings and services affected.
- d. Hours and date of shutoff.
- e. Estimated length of time services will be interrupted.

Services shall not be shut off until receipt of approval of the proposed hours and date from the PRPA's representative.

Shutoffs which will cause interruption of Airport work operations as determined by the PRPA's representative shall be accomplished during off-peak hours without any additional cost to the PRPA.

Operation of valves on water mains will be by PRPA personnel. Where shutoff of water lines interrupts service to fire hydrants or fire sprinkler systems, the Designer shall indicate the need for the Contractor to arrange his operations and have sufficient material and personnel available to complete the Work without undue delay or to restore service without delay in event of emergency.

Flow in gas mains which have been shut off shall not be restored until the PRPA inspector has determined that all items serviced by the gas line have been shut off.

## Utility Layout

The Designer shall design and size all new utility systems in accordance with all governing regulations so that they are fully functional with existing systems. All utilities shall be installed underground. New underground utility lines, including appurtenant structures such as valve boxes, manholes, vaults, etc., should not be located under pavement, road shoulders, or drainage ditches to the maximum extent practicable.

All water supply system design and construction shall be C900/905 PVC or ductile iron and shall comply with PRPA and local standards.

All electrical design and construction shall comply with FAA and local requirements. See Chapter 6 for additional information.

All communication system design and construction shall comply with FAA and local requirements.

Utility structures shall be designed to accommodate the traffic loadings for the area in which the structures are placed.

No physical connections shall exist between sewer and water supply systems.

Unless otherwise required by the local codes/regulations:

Sewer and water lines shall be at least ten (10) feet apart horizontally, except where the bottom of the water pipe is at least 12-inches above the top of the sewer; the horizontal spacing may be a minimum of six (6) feet.

Where conditions require a sewer to cross above a water line, the sewer pipe shall be concrete encased for ten (10) feet each side of the crossing.

The cover for pipes will be at least three (3) feet deep where possible to protect the pipe from superimposed live loads of ordinary traffic. Depth may be greater if required by local codes and agencies and/or for water and fire mains.

## Utility Connections

All utility connections shall be coordinated through and approved by the PRPA's authorized representative. Coordinate the disconnection of utilities through the PRPA's authorized representative. The Designer shall review all available as-built data and determine if additional outages and abandonment is required. Demolition shall not begin until written base approval is received. All existing utilities are to be terminated at their point of connection to the mains. Where connections of new utilities to existing utilities are planned, the Designer shall expose the existing lines at the proposed connections to verify the locations and depths prior to excavation for the new lines.

## Marking of Utility Lines

Every linear foot of underground metallic piping shall be identified with plastic marking tape specifying the type of pipe buried under it. Every linear foot of underground non-metallic piping shall be identified with metallic tape manufactured specifically for warning and identification of underground utilities. The metallic tape shall be detectable by electronic detection instruments and shall indicate the type of pipe buried under it. The tape shall be buried 12-inches above the pipe.

Tape color shall be as follows:

- Electric – Red
- Telephone / Communications – Orange
- Water Systems – Blue
- Sewer Systems – Green
- Gas or other dangerous materials – Yellow

# Miscellaneous Work Items

## Grading

Finish grade contours at 6-inch intervals and spot elevations shall be provided by the Designer to construct all site development features to elevations within the above grading criteria and tolerances as specified. Spot elevations on the Designer's drawings should be sufficient so that interpolation between contours is not required for structures, grading or paved areas; some examples are: Corners of paved areas, low points, high points, flow lines of swells or ditches, changes in degree of slope and grading at corners of the facility to ensure positive drainage away from the facility. The use of cut or fill symbols in lieu of finished grade contours is not permitted.

## Adjustment of Existing Structures

All manholes, valve boxes, or inlets of any nature within the project that do not conform to the new finish grade in either surfaced or unsurfaced areas shall be adjusted to the new finish grade. The structure shall be adjusted as needed to fit the new conditions. All structures shall be of a type suitable for the intended use, aircraft rated, and shall conform to the requirements of the applicable section of these specifications.

## Erosion and Sediment Control

Erosion and sediment control Best Management Practices (BMPs) shall be indicated in Design and Bid Documents and meet all local requirements and be approved by the PRPA's authorized representative prior to initiating any work. The Puerto Rico Erosion and Sediment Control Handbook for Developing Areas must be followed. The Designer shall indicate the necessary permit(s) for any groundwater discharge off site. Dewatering projects that discharge to surface waters or storm water systems are required to operate under the coverage of National Pollutant Discharge Elimination System (NPDES) and/or similar local permits.

## Seeding, Sodding, and Mulching

All surfaces newly graded and disturbed by construction will require seeding and mulching. Sodding is proposed to be utilized along pavement edges for the first 25 feet in the disturbed areas to provide immediate erosion control from pavement surface runoff.

Sod and seed mix shall meet the approved local mix per the Puerto Rico Erosion and Sediment Control Handbook for Developing Areas. The Designer shall water new seed and sod daily for thirty (30) days after beneficial occupancy. Ground cover and sod shall require a one (1) year warranty. Sod shall be no higher than 4-inches in height and shall be well established prior to acceptance by the PRPA. Turf and plant bed preparation shall include eradication of unwanted vegetation with Roundup and the use of a pre-emergent granular herbicide.

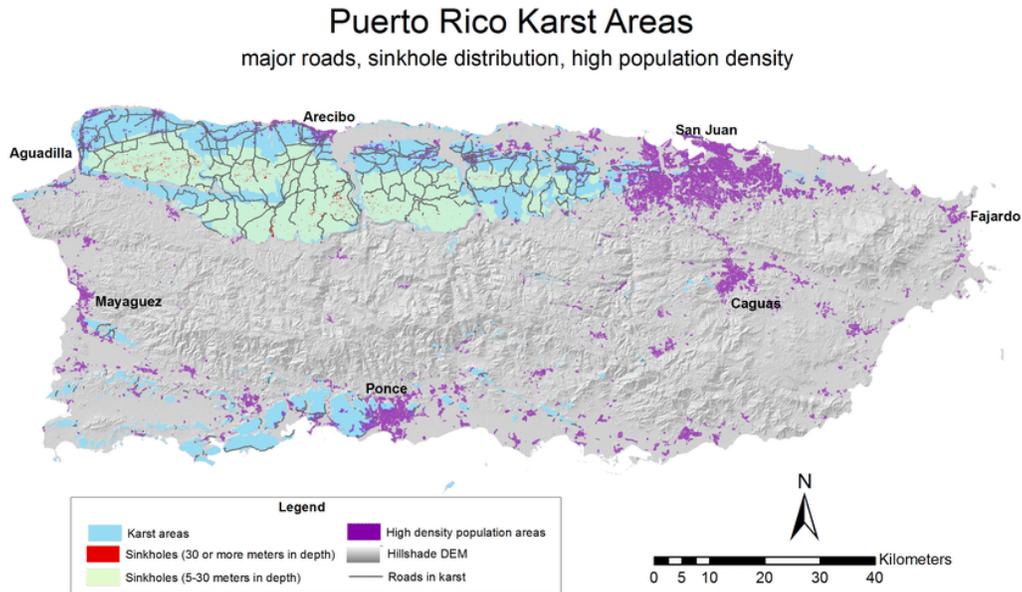
Provide for a soil test that includes pH, potassium, phosphorus, calcium, magnesium, nematode count, and soil amendment recommendations (N-P-K). Fertilizer and other soil amendments shall be applied as recommended in the soil test to provide healthy seed and sod. The area within the limits of construction shall present a neat and finished appearance. The Designer shall provide temporary winter grass cover in areas where sod is delayed because of the season. Artificial turf shall not be permitted.

Designer should refer to AC 150/5200-33C, Hazardous Wildlife Attractants on or near Airports to develop a landscaping plan. The FAA recommends guidance from this AC for land uses that have the potential to attract hazardous wildlife on or near public-use airports. Turf grass areas on airports have the potential to be highly attractive to a variety of hazardous wildlife species. In many situations, an intermediate height, monoculture turf grass might be most favorable. A Qualified Airport Wildlife Biologist can determine the most adequate landscaping plan depending on the airport's geographic location, watering needs, and hazardous wildlife presence. Disturbed areas or areas in need of revegetating should follow the specific recommendations for grass management and seed and plant selection made by the State University Cooperative Extension Service, the local office of Wildlife Services, or a Qualified Airport Wildlife Biologist.

## Sinkhole Mitigation

Karst landscapes cover nearly 30% of Puerto Rico, with the north coast being the most extensive karst area. The map below shows Rafael Hernandez Airport lies within a highly karst landscape. There is currently an existing known depression at BQN located approximately 700 feet northeast of Taxiway M. This depression was observed in the aerial photographs from 1936 and 2006 and shown on the geological map (see Environmental Analysis Appendix F). The depression has a diameter of approximately 150-feet. The depression falls within the Runway Safety Area (RSA) for the proposed runway design, and therefore mitigation will be required. According to FAA AC

150/5300-13B, the RSA length beyond the departure end for a D-V category runway is 1,000 feet and it must be cleared and graded and have no potentially hazardous ruts, humps, depressions, or other surface variations.



**Figure 11-1: Puerto Rico Karst Areas**

There are several different processes to mitigate and treat existing sinkholes. The appropriate process shall be identified on the design documents of each area of potential Karst mitigation.

## Waste Disposal

All waste shall be disposed of off airport owned lands in State-approved landfills per all local, state, and Federal requirements. Quantities, by weight, of recycled materials shall be reported to the PRPA on a quarterly basis.

## Field Office

A field office will be included in the design documents to be provided by the successful bidder. The facility shall be provided for authorized personal to utilize throughout the duration of construction.





**FAA Airports**

**Contract Provision Guidelines for Obligated Sponsors and Airport Improvement Program Projects** (Issued on December 29, 2025)

**Contents**

Current Changes..... 3

Contract Guidance..... 4

    1. Purpose of this Document ..... 4

    2. Sponsor Actions ..... 4

    3. Typical Procurement Steps ..... 5

    4. Applicability Matrix for Contract Provisions ..... 6

Appendix A - CONTRACT PROVISIONS..... 9

    A1 ACCESS TO RECORDS AND REPORTS..... 9

    A2 BREACH OF CONTRACT TERMS ..... 10

    A3 BUY AMERICAN PREFERENCE ..... 11

    A4 CIVIL RIGHTS - GENERAL ..... 22

    A5 CIVIL RIGHTS – TITLE VI ASSURANCE ..... 24

    A6 CLEAN AIR AND WATER POLLUTION CONTROL ..... 34

    A7 CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS ..... 35

    A8 COPELAND “ANTI-KICKBACK” ACT ..... 37

    A9 DAVIS-BACON REQUIREMENTS ..... 39

    A10 DEBARMENT AND SUSPENSION ..... 46

    A11 DISADVANTAGED BUSINESS ENTERPRISE..... 48

    A12 DISTRACTED DRIVING ..... 53

    A13 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE  
SERVICES OR EQUIPMENT..... 54

    A14 DRUG FREE WORKPLACE REQUIREMENTS ..... 55

A15 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)..... 56

A16 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES ..... 57

A17 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 ..... 59

A18 PROCUREMENT OF RECOVERED MATERIALS ..... 60

A19 RIGHT TO INVENTIONS..... 62

A20 SEISMIC SAFETY..... 63

A21 TAX DELINQUENCY AND FELONY CONVICTIONS ..... 65

A22 TERMINATION OF CONTRACT ..... 67

A23 TRADE RESTRICTION CERTIFICATION ..... 71

A24 VETERAN’S PREFERENCE..... 73

A25 DOMESTIC PREFERENCES FOR PROCUREMENTS..... 74

A26 PROHIBITION OF COVERED UNMANNED AIRCRAFT SYSTEMS (UAS)..... 75

## CURRENT CHANGES

Item	Changes
<p>Editorial updates made to the May 24, 2023 version (effective December 29, 2025)</p>	<p>Updates were made mainly to address:</p> <ul style="list-style-type: none"> <li>-2024 FAA Reauthorization Act provisions</li> <li>-2 CFR Part 200 – <i>Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards</i></li> <li>-Recently issued Executive Orders, some of which rescinded prior Executive Orders</li> </ul> <p>Provisions removed are:</p> <ul style="list-style-type: none"> <li>-A2: Affirmative Action Requirement</li> <li>-A16: Equal Employment Opportunity (EEO)</li> <li>-A19: Prohibition of Segregated Facilities</li> </ul> <p>Title VI section updated            DBE section updated            Buy American Preference section updated</p> <p>Provision added (A26): Prohibition of Covered Unmanned Aircraft Systems (UAS)</p>
<p>Editorial update made to the January 23, 2023 version (effective May 24, 2023)</p>	<p>The link on page 35 was updated to reflect changes to the Department of Labor website.</p>
<p>Editorial updates made to the November 17, 2022 version (effective January 23, 2023)</p>	<p>Pages 7, 16, 19, 20, 25, and 42 of Appendix A were edited to correct grammatical mistakes, update internal document links, and correct the name of the Title VI List of Pertinent Nondiscrimination Acts and Authorities.</p>

## CONTRACT GUIDANCE

### 1. Purpose of this Document

- a) The purpose of this document is to establish a convenient resource for Sponsors that consolidates Federal contract provisions and clauses into one document that includes an applicability matrix. This document itself does not create, revise or delete requirements for participation in the Airport Improvement Program (AIP) and Infrastructure Investment and Jobs Act (IIJA) grant programs. The source of requirements addressed within this document are identified within the section for each individual clause.
- b) **While this document is intended to assist Sponsors with their compliance efforts, it does not alter or modify the terms of any applicable statute or regulation, is not a substitute for reading the regulation and the applicability matrix, and each corresponding document section, nor does it constitute legal advice.**
- c) Federal laws and regulations require that a Sponsor (a recipient of federal assistance) include specific clauses in certain contracts, solicitations, or specifications regardless of whether or not the project is federally funded.
- d) For purposes of remaining compliant with its obligations, a Sponsor must incorporate applicable contract provisions in all its procurements and contract documents. Unless otherwise stated, these provisions flow down to subcontracts and sub-tier agreements.
- e) Terminology:
  - i. The term **“Sponsor”** is used in this document to mean either an obligated Sponsor on a project that is not federally funded, or a Sponsor on an AIP funded project. A Sponsor is a “recipient” of federal assistance when receiving AIP or other FAA grant funds.
  - ii. The term **“Owner”** of a public use airport is generally used in the solicitation or contract clauses because of its common use in public contracts. An Owner becomes an obligated Sponsor upon acceptance of the AIP grant assurances associated with current or prior AIP grant funded projects.
  - iii. For purposes of determining requirements for contract provisions, the term **“contract”** includes professional services, and subcontracts and supplier contracts such as purchase orders.
  - iv. The term **“contractor”** is understood to mean a contractor, subcontractor, or consultant; and means one who participates, through a contract or subcontract (at any tier).
  - v. The term **“bid”** is understood to mean a bid, an offer, or a proposal.
  - vi. The term **“applicant”** means a bidder, offeror, or proposer for a contract.

### 2. Sponsor Actions

In general, Sponsor’s actions consistent with obligations:

- a) Include in its procurements the provisions that are applicable to its project.
- b) Not incorporate the entire contract provisions guidelines in its solicitation or contract documents, whether by reference or by inclusion in whole. Incorporation of this entire guidance document creates potential for ambiguous interpretation and may lead to improper application that unnecessarily increases price. A Sponsor that fails to properly incorporate applicable contract clauses may place themselves at risk for audit findings or denial of Federal funding.
- c) Incorporate applicable contract provisions using mandatory language as required. The subheading entitled *Applicability* advises whether a particular clause or provision has mandatory language that a Sponsor must use.
  - i. Mandatory Language – Whenever a clause or provision has mandatory text, the Sponsor must incorporate the text of the provision without change, except where specific adaptive input is necessary (e.g., such as the Sponsor’s name).
  - ii. No Mandatory Language – For provisions without mandatory language, this guidance provides model language acceptable to the FAA. Some Sponsors may have standard procurement language that is equivalent to those federal provisions. In these cases, Sponsors may use their existing standard procurement provision language provided the text meets the intent and purpose of the Federal law or regulation.
- d) Require the contractor (including all subcontractors) to insert these contract provisions in each lower tier contract (e.g., subcontract or sub-agreement).
- e) Require the contractor (including all subcontractors) to incorporate the requirements of these contract provisions by reference for work done under any purchase orders, rental agreements, and other agreements for supplies or services.
- f) Require that the prime contractor be responsible for compliance with these contract provisions by any subcontractor, lower-tier subcontractor, or service provider.
- g) Verify that any required local or State provision does not conflict with or alter a Federal law or regulation.

### **3. Typical Procurement Steps**

The typical procurement steps in a project are:

- 1) Solicitation, Request for Bids, or Request for Proposals – This step is also called the Advertisement or Notice to Bidders.
- 2) Bidding or Accepting Proposals – In this stage, the bidders receive a complete set of the procurement documents, also known as the project manual. The project manual will typically include a copy of the solicitation, instructions-to-bidders, bid forms, certifications and representations, general provisions, contract conditions, copy of contract, project drawings, technical specifications, and related project documents.
- 3) Bid/Proposal Evaluation – Period when Sponsor tabulates, reviews, and evaluates all proposals for bid responsiveness and bidder responsibility.

- 4) Award – Point when the Sponsor formally awards the contract to the successful bidder.
- 5) Execution of Contract – Point at which the Sponsor formally enters into a legally binding agreement with bidder to perform services or provide goods.

#### **4. Applicability Matrix for Contract Provisions**

[Table 1](#) Matrix summarizes the applicability of contract provisions based upon the type of contract or agreement. The dollar threshold represents the value at which, when equal to or exceeded, the Sponsor must incorporate the provision in the contract or agreement.

Supplemental information addressing applicability and use for each provision is located in Appendix A. Appendix A and the Matrix include notes indicating when the Sponsor may incorporate references in the solicitation in lieu of including the entire text.

**Sponsors are responsible for reviewing both the Matrix and each corresponding section to determine applicability of specific contract provisions.**

#### **Meaning of cell values in table below:**

- Info – Sponsor has discretion on whether to include clause in its contracts.
- Limited – Provision with limited applicability depending on circumstances of the procurement.
- n/a – Provision that is not applicable for that procurement type.
- NIS – Provision that does not need to be included or referenced in the solicitation document
- REF – Provision to be incorporated into the solicitation by reference.
- REQD – Provision the Sponsor must incorporate into procurement documents.

**Table 1 – Applicability of Provisions**

Provisions/Clauses	Dollar Threshold	Solicitation	Professional Services	Construction	Equipment	Property (Land)	Non-AIP Contracts
<a href="#">Access to Records and Reports</a>	\$ 0	NIS	REQD	REQD	REQD	REQD	n/a
<a href="#">Breach of Contract</a>	\$350,000	NIS	REQD	REQD	REQD	REQD	n/a
<a href="#">Buy American Preferences</a>	\$ 0	REF	Limited	REQD	REQD	Limited	n/a
(1) <a href="#">Buy American Statement</a>	\$ 0	NIS	Limited	REQD	REQD	Limited	n/a
(2) <a href="#">Construction</a>	\$ 0	NIS	Limited	REQD	REQD	Limited	n/a
(3) <a href="#">Equipment/Building Projects</a>	\$ 0	NIS	Limited	REQD	REQD	Limited	n/a
<a href="#">Civil Rights – General</a>	\$ 0	NIS	REQD	REQD	REQD	REQD	REQD
<a href="#">Civil Rights - Title VI Assurances</a>	\$ 0	REF	REQD	REQD	REQD	REQD	REQD
(1) <a href="#">Notice - Solicitation</a>	\$ 0	REQD	REQD	REQD	REQD	REQD	REQD
(2) <a href="#">Clause - Contracts</a>	\$ 0	NIS	REQD	REQD	REQD	REQD	REQD
(3) <a href="#">Clause – Transfer of U.S. Property</a>	\$ 0	NIS	n/a	n/a	n/a	Limited	REQD
(4) <a href="#">Clause – Transfer of Real Property</a>	\$ 0	NIS	n/a	n/a	n/a	REQD	REQD
(5) <a href="#">Clause - Construct/Use/Access to Real Property</a>	\$ 0	NIS	n/a	n/a	n/a	REQD	REQD
(6) <a href="#">List – Pertinent Authorities</a>	\$0	NIS	REQD	REQD	REQD	REQD	REQD
<a href="#">Clean Air/Water Pollution Control</a>	\$150,000	NIS	REQD	REQD	REQD	REQD	n/a
<a href="#">Contract Work Hours and Safety Standards</a>	\$100,000	NIS	Limited	REQD	Limited	Limited	n/a
<a href="#">Copeland Anti-Kickback</a>	\$ 2,000	NIS	Limited	REQD	Limited	Limited	n/a
<a href="#">Davis Bacon Requirements</a>	\$ 2,000	REF	Limited	REQD	Limited	Limited	n/a
<a href="#">Debarment and Suspension</a>	\$25,000	REF	REQD	REQD	REQD	Limited	n/a
<a href="#">Disadvantaged Business Enterprise</a>	\$0 <sup>1</sup>	REQD	REQD	REQD	REQD	REQD	n/a
<a href="#">Distracted Driving</a>	\$15,000	NIS	REQD	REQD	REQD	REQD	n/a
<a href="#">Domestic Preferences for Procurements</a>	\$0	NIS	REQD	REQD	REQD	REQD	Info
<a href="#">Federal Fair Labor Standards Act</a>	\$ 0	REQD	REQD	REQD	REQD	REQD	Info
<a href="#">Foreign Trade Restriction</a>	\$ 0	REQD	REQD	REQD	REQD	REQD	n/a
<a href="#">Lobbying Federal Employees</a>	\$ 100,000	REF	REQD	REQD	REQD	REQD	n/a
<a href="#">Occupational Safety and Health Act</a>	\$ 0	NIS	REQD	REQD	REQD	REQD	Info
<a href="#">Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment</a>	\$0	NIS	REQD	REQD	REQD	REQD	Info
<a href="#">Prohibition of Covered Unmanned Aircraft Systems (UAS)</a>	\$0	REQD	REQD	REQD	REQD	REQD	n/a
<a href="#">Recovered Materials</a>	\$10,000	REF	Limited	REQD	REQD	Limited	n/a
<a href="#">Right to Inventions</a>	\$ 0	NIS	Limited	Limited	Limited	n/a	n/a
<a href="#">Seismic Safety</a>	\$ 0	NIS	Limited	Limited	Limited	n/a	n/a
<a href="#">Tax Delinquency and Felony Conviction</a>	\$ 0	NIS	REQD	REQD	REQD	REQD	n/a
<a href="#">Termination of Contract</a>	\$10,000	NIS	REQD	REQD	REQD	REQD	n/a
<a href="#">Veteran’s Preference</a>	\$ 0	NIS	REQD	REQD	REQD	REQD	n/a

**Airport Concessions Notes:**

<sup>1</sup> Under 49 CFR §§ 26.13(b) and 26.21, any sponsor with more than \$250,000 in total contracting opportunities in 1 year must incorporate required language in each contract, regardless of the particular contract’s dollar value.

1. Language relative to solicitation for airport concessions does not need to be included in AIP funded solicitations, since in no case are concessions activities funded with federal funds.
2. Sponsors must include the appropriate Civil Rights – Title VI language in their solicitation notices when they seek proposals for concessions, and in the resulting contracts.
3. For concessions agreements, use the column for Non-AIP contracts. See 49 CFR Part 23 for definitions, requirements, and clauses related to concessions and the Airport Concessions Disadvantaged Business Enterprise (ACDBE) program.

## **APPENDIX A – CONTRACT PROVISIONS**

### **A1 ACCESS TO RECORDS AND REPORTS**

#### **A1.1 SOURCE**

2 CFR § 200.334

2 CFR § 200.337

FAA Order 5100.38

#### **A1.2 APPLICABILITY**

2 CFR § 200.334 requires a Sponsor to retain records pertinent to a Federal award for a period of three years from submission of final closure documents. 2 CFR § 200.337 establishes that Sponsors must provide Federal entities the right to access records pertinent to the Federal award. FAA policy applies these requirements to the Sponsor's contracts and subcontracts of AIP funded projects.

**Contract Types** – The Sponsor must include this provision in all contracts and subcontracts of AIP funded projects.

**Use of Provision** – No mandatory language provided. The following language is acceptable to the FAA with meeting the intent of this requirement. If the Sponsor prefers to use different language, the Sponsor's language must fully satisfy the requirements of 2 CFR §§ 200.334 and 200.337.

#### **A1.3 MODEL CONTRACT CLAUSE**

##### **ACCESS TO RECORDS AND REPORTS**

The Contractor must maintain an acceptable cost accounting system. The Contractor agrees to provide the Owner, the Federal Aviation Administration and the Comptroller General of the United States or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audit, examination, excerpts and transcriptions. The Contractor agrees to maintain all books, records and reports required under this contract for a period of not less than three years after final payment is made and all pending matters are closed.

## **A2 BREACH OF CONTRACT TERMS**

### **A2.1 SOURCE**

2 CFR Part 200, Appendix II(A)

### **A2.2 APPLICABILITY**

This provision requires Sponsors to incorporate administrative, contractual or legal remedies in the event that a contractor violates or breaches contract terms. The Sponsor must also include appropriate sanctions and penalties.

**Contract Types** – This provision is required for all contracts that exceed the simplified acquisition threshold as stated in 2 CFR Part 200, Appendix II (A). This threshold is occasionally adjusted for inflation and is \$350,000.

**Use of Provision** – No mandatory language provided. The following language is acceptable to the FAA as meeting the intent of this requirement. If the Sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of 2 CFR Part 200. Select either “contractor” or “consultant” as applicable.

### **A2.3 MODEL CONTRACT CLAUSE**

#### **BREACH OF CONTRACT TERMS**

Any violation or breach of terms of this contract on the part of the **[Contractor / Consultant]** or its subcontractors may result in the suspension or termination of this contract or such other action that may be necessary to enforce the rights of the parties of this agreement.

Owner will provide **[Contractor / Consultant]** written notice that describes the nature of the breach and corrective actions the **[Contractor / Consultant]** must undertake in order to avoid termination of the contract. Owner reserves the right to withhold payments to Contractor until such time the Contractor corrects the breach or the Owner elects to terminate the contract. The Owner’s notice will identify a specific date by which the **[Contractor / Consultant]** must correct the breach. Owner may proceed with termination of the contract if the **[Contractor / Consultant]** fails to correct the breach by the deadline indicated in the Owner’s notice.

The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

## **A3 BUY AMERICAN PREFERENCE**

### **A3.1 SOURCE**

Title 49 U.S.C. § 50101

Executive Order 14005, *Ensuring the Future is Made in All of America by All of America's Workers*  
Infrastructure Investment and Jobs Act (IIJA) (P.L. No. 117-58), Build America, Buy America (BABA)

### **A3.2 APPLICABILITY**

The Buy American Preference incorporates statutory requirements and policies outlined in the in 49 U.S.C. § 50101, Executive Order 14005, and BABA.

Section 50101 of 49 U.S.C. requires that all steel and manufactured goods used on AIP projects be produced in the United States. This section also gives the FAA the ability to issue a waiver to a Sponsor to use non-domestic material on an AIP funded project subject to meeting certain conditions. A Sponsor may request that the FAA issue a waiver from the Buy American Preference requirements if the FAA finds that:

- 1) Applying the provision is not in the public interest.
- 2) The steel or manufactured goods are not available in sufficient quantity or quality in the United States.
- 3) The cost of components and subcomponents produced in the United States is more than 60 percent of the total components of a facility or equipment procured, and final assembly has taken place in the United States. Items that have an FAA standard specification item number (such as specific airport lighting equipment) are considered the equipment.
- 4) Applying this provision would increase the cost of the overall project by more than 25 percent.

Executive Order 14005 advances the Administration's priority to use terms and conditions of Federal financial assistance awards to maximize the use of goods, products, and materials produced in, and services offered in, the United States. The Order directs, to the extent appropriate and consistent with applicable law, agencies shall partner with the Hollings Manufacturing Extension Partnership (MEP) to conduct supplier scouting in order to identify American companies that are able to produce goods, products, and materials in the United States that meet Federal procurement needs, prior to consideration of using non-domestic products.

The Infrastructure Investment and Jobs Act (IIJA), Build America, Buy America (BABA) Act strengthens Made in America Laws and bolsters America's industrial base, protects national security, and supports high-paying jobs. Under BABA, iron, steel and certain construction materials are required to be 100% produced in the United States.

Under the Infrastructure Investment and Jobs Act (IIJA) (P. L. No. 117-58), BABA three waivers are available for iron and steel, manufactured products, and construction materials when a Federal agency finds that –

- 1) Applying the domestic content procurement preference would be inconsistent with the public interest (a “public interest waiver”);
- 2) Types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality (a “nonavailability waiver”); or
- 3) The inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent (an “unreasonable cost waiver”).

BABA defines construction materials, items that are or consists primarily of non-ferrous metals, plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables), glass (including optic glass), lumber or drywall.

Items that consist of two or more of the aforementioned materials that have been combined through a manufacturing process, and items that include at least one of the listed materials combined with a material that is not listed through a manufacturing process should be treated as manufactured products, rather than as construction materials. For example, a plastic framed sliding window should be treated as a manufactured product while plate glass should be treated as a construction material.

The Buy America Preference requirements flow down from the Sponsor to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are also in compliance.

**Note:** The Buy American Preference does not apply to temporary equipment a contractor uses as a tool of its trade, and which does not remain as part of the project.

Note: Section 768 of the FAA Reauthorization Act of 2024 (Public Law 118-63), which became effective on May 16, 2024, establishes specific requirements for the procurement of certain rolling stock using FAA grant funds. The provision prohibits airports from using Federal financial assistance to procure buses or rail car vehicles rolling stock from covered entities.

### **Required Documentation**

**The FAA Buy American Requests.** All applications (requests) for an FAA Buy American Preference Waiver includes, at minimum, a completed Content Percentage Worksheet and Final Assembly Questionnaire. Additional information may be requested from the applicant by the FAA. Airport Sponsors, consultants, construction contractors, or equipment manufacturers are responsible for completing and submitting waiver applications. The FAA is unable to make a determination on waiver requests with incomplete information. Sponsors must confirm with the bidder or offeror to assess the adequacy of the waiver request and associated information prior to forwarding a waiver request to the FAA for action. All FAA waivers forms are available from the FAA Buy American Requirements webpage.

**Proprietary Confidentiality.** Exemption 4 of the Freedom of Information Act protects "trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential. Proprietary manufacturing and design information submitted to the Federal Aviation Administration for the purposes of receiving a Buy American Waiver shall not be disclosed outside the FAA. The FAA will provide a written notification to the Airport Sponsor, manufacturer(s), contractor(s) or supplier(s) when a waiver determination is complete.

**Timing of Waiver Requests.** Sponsors desiring a Type 2 waiver should submit their waiver request, with justification, *before* issuing a solicitation for bids or a request for proposal for a project.

The Sponsor must submit a Type 2, Type 3, or Type 4 waiver request *prior* to executing the contract. The FAA will generally not consider waiver requests after execution of the contract except where extraordinary and extenuating circumstances exist.

**The Buy American Notice of Determination (NOD) Process.** The FAA Reauthorization Act of 2024 requires that all approved waivers must be posted to the FAA’s website and remain posted for public comment for 10 days, before becoming effective. All FAA waivers must complete the NOD process. Sponsors are encouraged to wait until approved waivers become effective before executing AIP projects.

**Buy American Conformance Lists.** The FAA Office of Airports maintains listings of projects and products that have received a waiver from the Buy American Preference requirements for project specific and nationwide use. Each of these conformance lists is available online at [www.faa.gov/airports/aip/buy\\_american/](http://www.faa.gov/airports/aip/buy_american/). Products listed on the FAA Nationwide Buy American Conformance list do not require additional submittal of domestic content information. Nationwide waivers expire five years from the date issued, unless revoked earlier by the FAA.

**Facility Waiver Requests.** For construction of a facility, the Sponsor may submit the waiver request after bid opening, but prior to contract execution. Examples of facility construction include terminal buildings, terminal renovation, and snow removal equipment buildings.

#### **Contract Types –**

*Construction and Equipment* – The Sponsor must meet the Buy American Preference requirements of 49 USC § 50101 and BABA for all AIP funded projects that require materials that are or consists primarily of iron, steel or manufactured goods and construction materials.

*Professional Services* – Professional service agreements (PSAs) do not normally result in a deliverable that meets the definition of a manufactured product. However, the emergence of various project delivery methods has created situations where task deliverables under a PSA may include a manufactured product. If a PSA includes providing a manufactured good as a deliverable under the contract, the Sponsor must include the Buy American Preference provision in the agreement.

*Property* – Most land transactions do not involve acquiring a manufactured product. However, under certain circumstances, a property acquisition project could result in the installation of a manufactured product. For example, the installation of property fencing, gates, doors and locks, etc. represent manufactured products acquired under an AIP funded land project that must comply with Buy American Preferences.

**Use of Provisions** – No mandatory language provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s revised language must fully comply with 49 U.S.C. § 50101 and BABA.

There are two types of FAA Buy American certifications. The Sponsor must incorporate the appropriate certifications of compliance with FAA Buy American Preference in the solicitation:

- **Construction Projects** involving the replacement, rehabilitation, reconstruction of airfield surfaces such as on runways, taxiways, taxilanes, aprons, roadways, parking lots, etc. – Insert the Certificate of compliance to FAA Buy American Preference based on Construction Projects.
- **Equipment and Buildings Projects** involving and including the acquisition of equipment such as snow removal equipment, navigational aids, wind cones, and the construction of buildings such as hangars, terminal development, lighting vaults, aircraft rescue & firefighting buildings, etc. - Insert the Certificate of Compliance with FAA Buy American Preference Based on Equipment/Building Projects.

### **A3.3 MODEL SOLICITATION CLAUSES**

#### **A3.3.1 Certification of Compliance with FAA Buy American Preference Statement**

##### **FAA BUY AMERICAN PREFERENCE**

The Contractor certifies that its bid/offer is in compliance with 49 U.S.C. § 50101, BABA and other related Made in America Laws,<sup>2</sup> U.S. statutes, guidance, and FAA policies, which provide that Federal funds may not be obligated unless all iron, steel and manufactured goods used in AIP funded projects are produced in the United States, unless the Federal Aviation Administration has issued a waiver for the product; the product is listed as an Excepted Article, Material Or Supply in Federal Acquisition Regulation subpart 25.108; or is included in the FAA Nationwide Buy American Waivers Issued list.

The bidder or offeror must complete and submit the certification of compliance with FAA’s Buy American Preference, BABA and Made in America laws included herein with their bid or offer. The Airport Sponsor/Owner will reject as nonresponsive any bid or offer that does not include a completed certification of compliance with FAA’s Buy American Preference and BABA.

The bidder or offeror certifies that all constructions materials, defined to mean an article, material, or supply other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of: non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber; or drywall used in the project are manufactured in the U.S.

---

<sup>2</sup> Per Executive Order 14005 “Made in America Laws” means all statutes, regulations, rules, and Executive Orders relating to federal financial assistance awards or federal procurement, including those that refer to “Buy America” or “Buy American,” that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, and manufactured products offered in the United States.

The bidder or offeror certifies procurement of certain rolling stock using FAA grant funds will prohibit airports from using Federal financial assistance to procure buses or rail car vehicle rolling stock from covered entities.

### **A3.3.2 Certification of Compliance with FAA Buy American Preference – Construction Projects**

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with its proposal. The bidder or offeror must indicate how it intends to comply with 49 U.S.C. § 50101, BABA and other related Made in America Laws, U.S. statutes, guidance, and FAA policies, by selecting one of the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (i.e., not both) by inserting a checkmark (ü) or the letter “X”.

- Bidder or offeror hereby certifies that it will comply with 49 U.S.C. § 50101, BABA and other related U.S. statutes, guidance, and policies of the FAA by:
  - a) Only installing iron, steel and manufactured products produced in the United States;
  - b) Only installing construction materials defined as: an article, material, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
  - c) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - d) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- a) To provide to the Airport Sponsor or the FAA evidence that documents the source and origin of the iron, steel, and/or manufactured product.
  - b) To faithfully comply with providing U.S. domestic products.
  - c) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
  - d) Certify that all construction materials used in the project are manufactured in the U.S.
  
- The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 U.S.C. § 50101(a) but may qualify for a Type 3 or Type 4 waiver under 49 USC § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
  - a) To the submit to the Airport Sponsor or FAA within 15 calendar days of being selected as the responsive bidder, a formal waiver request and required documentation that supports the type of waiver being requested.

- b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.
- c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
- d) To furnish U.S. domestic product for any waiver request that the FAA rejects.
- e) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

### **Required Documentation**

**Type 2 Waiver (Nonavailability)** - The iron, steel, manufactured goods or construction materials or manufactured goods are not available in sufficient quantity or quality in the United States. The required documentation for the Nonavailability waiver is

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire
- b) Record of thorough market research, consideration where appropriate of qualifying alternate items, products, or materials including;
- c) A description of the market research activities and methods used to identify domestically manufactured items capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of sources.

**Type 3 Waiver** – The cost of components and subcomponents produced in the United States is more than 60 percent of the cost of all components and subcomponents of the “facility/project.” The required documentation for a Type 3 waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire including;
- b) Listing of all manufactured products that are not comprised of 100 percent U.S. domestic content (excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108; products of unknown origin must be considered as non-domestic products in their entirety).
- c) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly and installation at project location.
- d) Percentage of non-domestic component and subcomponent cost as compared to total “facility” component and subcomponent costs, excluding labor costs associated with final assembly and installation at project location.

**Type 4 Waiver (Unreasonable Costs)** - Applying this provision for iron, steel, manufactured goods or construction materials would increase the cost of the overall project by more than 25 percent. The required documentation for this waiver is:

- a) A completed Content Percentage Worksheet and Final Assembly Questionnaire from
- b) At minimum two comparable equal bids and/or offers;
- c) Receipt or record that demonstrates that supplier scouting called for in Executive Order 14005, indicates that no domestic source exists for the project and/or component;
- d) Completed waiver applications for each comparable bid and/or offer.

**False Statements:** Per 49 USC § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

\_\_\_\_\_

Date

\_\_\_\_\_

Signature

\_\_\_\_\_

Company Name

\_\_\_\_\_

Title

### **A3.3.3 Certification of Compliance with FAA Buy American Preference – Equipment/Building Projects**

As a matter of bid responsiveness, the bidder or offeror must complete, sign, date, and submit this certification statement with their proposal. The bidder or offeror must indicate how they intend to comply with 49 U.S.C. § 50101, and other Made in America Laws, U.S. statutes, guidance, and FAA policies by selecting one on the following certification statements. These statements are mutually exclusive. Bidder must select one or the other (not both) by inserting a checkmark (ü) or the letter “X”.

- Bidder or offeror hereby certifies that it will comply with 49 U.S.C. § 50101, BABA and other related U.S. statutes, guidance, and policies of the FAA by:
  - a) Only installing steel and manufactured products produced in the United States;
  - b) Only installing construction materials defined as: an article, material, or supply – other than an item of primarily iron or steel; a manufactured product; cement and cementitious materials; aggregates such as stone, sand, or gravel; or aggregate binding agents or additives that are or consist primarily of non-ferrous metals; plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables); glass (including optic glass); lumber or drywall that have been manufactured in the United States.
  - c) Installing manufactured products for which the Federal Aviation Administration (FAA) has issued a waiver as indicated by inclusion on the current FAA Nationwide Buy American Waivers Issued listing; or
  - d) Installing products listed as an Excepted Article, Material or Supply in Federal Acquisition Regulation Subpart 25.108.

By selecting this certification statement, the bidder or offeror agrees:

- a) To provide to the Airport Sponsor or FAA evidence that documents the source and origin of the steel and manufactured product.
  - b) To faithfully comply with providing U.S. domestic product.
  - c) To furnish U.S. domestic product for any waiver request that the FAA rejects.
  - d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.
- The bidder or offeror hereby certifies it cannot comply with the 100 percent Buy American Preferences of 49 U.S.C. § 50101(a) but may qualify for a Type 3 waiver under 49 U.S.C. § 50101(b). By selecting this certification statement, the apparent bidder or offeror with the apparent low bid agrees:
  - a) To submit to the Airport Sponsor or FAA within 15 calendar days of being selected as the responsive bidder, a formal waiver request and required documentation that supports the type of waiver being requested.
  - b) That failure to submit the required documentation within the specified timeframe is cause for a non-responsive determination that may result in rejection of the proposal.

- c) To faithfully comply with providing U.S. domestic products at or above the approved U.S. domestic content percentage as approved by the FAA.
- d) To refrain from seeking a waiver request after establishment of the contract, unless extenuating circumstances emerge that the FAA determines justified.

### **Required Documentation**

**Type 2 Waiver (Nonavailability)** - The iron, steel, manufactured goods or construction materials are not available in sufficient quantity or quality in the United States. The required documentation for the Nonavailability waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire
- b) Record of thorough market research, consideration where appropriate of qualifying alternate items, products, or materials including;
- c) A description of the market research activities and methods used to identify domestically manufactured items capable of satisfying the requirement, including the timing of the research and conclusions reached on the availability of sources.

**Type 3 Waiver** – The cost of the item components and subcomponents produced in the United States is more than 60 percent of the cost of all components and subcomponents of the “item”. The required documentation for a Type 3 waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire including;
- b) Listing of all product components and subcomponents that are not comprised of 100 percent U.S. domestic content (Excludes products listed on the FAA Nationwide Buy American Waivers Issued listing and products excluded by Federal Acquisition Regulation Subpart 25.108 (products of unknown origin must be considered as non-domestic products in their entirety).
- c) Cost of non-domestic components and subcomponents, excluding labor costs associated with final assembly at place of manufacture.
- d) Percentage of non-domestic component and subcomponent cost as compared to total “item” component and subcomponent costs, excluding labor costs associated with final assembly at place of manufacture.

**Type 4 Waiver (Unreasonable Costs)** - Applying this provision for iron, steel, manufactured goods or construction materials, would increase the cost of the overall project by more than 25 percent. The required documentation for this waiver is:

- a) Completed Content Percentage Worksheet and Final Assembly Questionnaire from
- b) At minimum two comparable equal bidders and/or offerors;
- c) Receipt or record that demonstrates that supplier scouting called for in Executive Order 14005, indicates that no domestic source exists for the project and/or component;
- d) Completed waiver applications for each comparable bid and/or offer.

**False Statements:** Per 49 U.S.C. § 47126, this certification concerns a matter within the jurisdiction of the Federal Aviation Administration and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Title

## A4 CIVIL RIGHTS - GENERAL

### A4.1 SOURCE

49 U.S.C. § 47123

### A4.2 APPLICABILITY

There are two separate civil rights provisions that apply to projects:

1. FAA General Civil Rights Provision and,
2. Title VI provisions, which are addressed in Appendix A6.

**Contract Types** – The General Civil Rights Provisions found in 49 U.S.C. § 47123, derived from the Airport and Airway Improvement Act of 1982, Section 520, apply to all Sponsor contracts *regardless* of funding source.

**Use of Provision – MANDATORY TEXT.** Each contract must include two civil rights provisions. The first general clause must be included in all contracts, lease agreements, or transfer agreements. An additional specific provision must be included; the applicable text is based on whether the contract is a general contract or whether the contract is a lease or transfer agreement. The Sponsor must incorporate the text of the General Clause and the appropriate Specific Clause without modification into the contract, lease, or transfer agreement.

The required clauses for each type of contact are summarized in the table below:

<b>Contract Clause</b>	<b>The Sponsor must include the contract clause in:</b>	<b>Clause Text is Included in Paragraph</b>
General Clause that is used for all contracts, lease agreements and transfer agreements	Every contract or agreement <b>regardless of funding source.</b>	A4.3.1
Specific Clause that is used for general contract agreements	This applies to all contracts that do not involve property agreements. It applies to all contracts not covered by A5.3.3 <b>regardless of funding source.</b>	A4.3.2
Specific Clause that is used for lease agreements and transfer agreements	This applies to all property agreements such leases of concession space in a terminal and leases where a physical portion of the airport is transferred for use. It applies to all contracts not covered by A5.3.2 <b>regardless of funding source.</b>	A4.3.3

## **A4.3 MANDATORY CONTRACT CLAUSES**

### **A4.3.1 General Clause that is used for Contracts, Lease Agreements, and Transfer Agreements**

#### **GENERAL CIVIL RIGHTS PROVISIONS**

In all its activities within the scope of its airport program, the Contractor agrees to comply with pertinent statutes, Executive Orders, and such rules as identified in Title VI List of Pertinent Nondiscrimination Acts and Authorities to ensure that no person shall, on the grounds of race, color, national origin, creed, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

This provision is in addition to that required by Title VI of the Civil Rights Act of 1964.

### **A4.3.2 Specific Clause that is used for General Contract Agreements**

The above provision binds the Contractor and subcontractors from the bid solicitation period through the completion of the contract.

### **A4.3.3 Specific Clause that is used for Lease Agreements or Transfer Agreements**

If the Contractor transfers its obligation to another, the transferee is obligated in the same manner as the Contractor.

The above provision obligates the Contractor for the period during which the property is owned, used or possessed by the Contractor and the airport remains obligated to the Federal Aviation Administration.

## A5 CIVIL RIGHTS – TITLE VI ASSURANCE

### A5.1 SOURCE

49 U.S.C. § 47123

FAA Order 1400.11

### A5.2 APPLICABILITY

Title VI of the Civil Rights Act of 1964, as amended, (Title VI) prohibits discrimination on the grounds of race, color, or national origin under any program or activity receiving Federal financial assistance. Sponsors must include appropriate clauses from the Standard DOT Title VI Assurances in all contracts and solicitations.

The text of each individual clause comes from the U.S. Department of Transportation Order DOT 1050.2, *Standard Title VI Assurances and Nondiscrimination Provisions*, effective April 24, 2013. These assurances require that the Recipient (the Sponsor) insert the appropriate clauses in the form provided by the DOT. Where the clause refers to the applicable activity, project, or program, it means the AIP project.

The clauses are as follows:

#### A5.2.1 Applicability of Title VI Solicitation Notice

Contract Clause	The Sponsor must include the contract clause in:	Clause Text is Included in Paragraph
Title VI Solicitation Notice – <ul style="list-style-type: none"><li>Assurance 2 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses</li><li>Assurance 30(d) of the Airport Sponsors Assurances</li></ul>	<ol style="list-style-type: none"><li>All AIP funded solicitations for bids, requests for proposals, or any work subject to Title VI regulations <b>regardless of funding source</b>; and</li><li>All Sponsor proposals for negotiated agreements <b>regardless of funding source</b>.</li></ol>	A5.3.1

Contract Clause	The Sponsor must include the contract clause in:	Clause Text is Included in Paragraph
<p>Title VI List of Pertinent Nondiscrimination Acts and Authorities</p> <ul style="list-style-type: none"> <li>Assurance 3 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses</li> <li>Assurance 30(e)(2) of the Airport Sponsor Assurances</li> </ul>	<p>Insert this list in <b>every contract or agreement</b>, unless the Sponsor has determined, and the FAA concurs, that the contract or agreement is not subject to the Nondiscrimination Acts and Authorities, which is a rare occurrence.</p> <p><b>This list can only be omitted if the FAA has determined that the contractor or company is already subject to substantively identical nondiscrimination requirements.</b></p>	<p>A5.4.1</p> <p><b>List must be included in all applicable contracts.</b></p>
<p>Title VI Clauses for Compliance with Nondiscrimination Requirements</p> <ul style="list-style-type: none"> <li>Assurance 3 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses</li> </ul> <p>Assurance 30(e)(1) of the Airport Sponsor Assurances</p>	<p>Insert this clause in <b>every contract or agreement</b>, unless the Sponsor has determined, and the FAA concurs, that the contract or agreement is not subject to the Nondiscrimination Acts and Authorities, which is a rare occurrence.</p> <p>It has been determined that service contracts with utility companies that are not already subject to substantively identical nondiscrimination requirements must include this clause.</p>	<p>A5.4.2</p> <p><b>Clause must be included in all applicable contracts.</b></p>
<p>Title VI Required Clause for Property Interests Transferred from the United States</p> <ul style="list-style-type: none"> <li>Assurance 4 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses</li> <li>Assurance 30e.3 of the Airport Sponsor Assurances</li> </ul>	<p>As a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Sponsor.</p> <p>This is a rare occurrence, and it will be the responsibility of the United States government to include the clause in the contract.</p>	<p>A5.4.3</p>

Contract Clause	The Sponsor must include the contract clause in:	Clause Text is Included in Paragraph
<p>Title VI Required Clause for Transfer of Real Property Acquired or Improved Under the Activity, Facility or Program –</p> <ul style="list-style-type: none"> <li>Assurance 5 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses</li> <li>Assurance 30(e)(4)(a) of the Airport Sponsor Assurances</li> </ul>	<p>As a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Sponsor with other parties for all transfers of real property acquired or improved under Airport Improvement Program</p> <p>This applies to agreements such as leases where a physical portion of the airport is transferred for use, for example a fuel farm, apron space, or a parking facility. It applies to agreements not covered by A6.4.4.</p>	<p>A5.4.4</p>
<p>Clause for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program</p> <ul style="list-style-type: none"> <li>Assurance 6 of the DOT Standard Title VI Assurances and Nondiscrimination Clauses</li> <li>Assurance 30(e)(4)(b) of the Airport Sponsor Assurances</li> </ul>	<p>In any future (deeds, leases, licenses, permits, or similar instruments) entered into by the Sponsor with other parties for the construction or use of, or access to, space on, over, or under real property acquired or improved under Airport Improvement Program</p> <p>This applies to agreements such as leases of concession space in a terminal not covered by A6.4.3.</p>	<p>A5.4.5</p>
<ul style="list-style-type: none"> <li></li> </ul>		

**A5.3 MANDATORY SOLICITATION CLAUSE**

The Sponsor must include this clause in:

- 1) All AIP funded solicitations for bids, requests for proposals, or any work subject to Title VI regulations **regardless of funding source**; and
- 2) All Sponsor proposals for negotiated agreements **regardless of funding source**.

**A5.3.1 Title VI Solicitation Notice**

**Title VI Solicitation Notice:**

As a condition of a grant award, the Sponsor shall demonstrate that it complies with the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq) and implementing regulations (49 CFR part 21) including amendments thereto, the Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, et seq.), U.S. Department of Transportation and Federal Aviation Administration (FAA) Assurances, and other relevant civil rights statutes, regulations, or authorities, including any amendments or updates thereto.

This may include, as applicable, providing a current Title VI Program Plan to the FAA for approval, in the format and according to the timeline required by the FAA, and other information about the communities that will be benefited and impacted by the project. A completed FAA Title VI Pre-Grant Award Checklist is required for every grant application, unless excused by the FAA. The Sponsor shall affirmatively ensure that when carrying out any project supported by this grant that it complies with all federal nondiscrimination and civil rights laws based on race, color, national origin, sex, creed, age, disability, genetic information, in consideration for federal financial assistance. The Department's and FAA's Office of Civil Rights may provide resources and technical assistance to recipients to ensure full and sustainable compliance with Federal civil rights requirements. Failure to comply with civil rights requirements will be considered a violation of the agreement or contract and be subject to any enforcement action as authorized by law.

## **A5.4 MANDATORY CONTRACT CLAUSES**

### **A5.4.1 Title VI List of Pertinent Nondiscrimination Acts and Authorities**

Insert this list in every contract or agreement, unless the Sponsor has determined and the FAA concurs, that the contract or agreement is not subject to the Nondiscrimination Acts and Authorities. This list can be omitted if the FAA has determined that the contractor or company is already subject to nondiscrimination requirements, which is a rare occurrence.

#### **Title VI List of Pertinent Nondiscrimination Acts and Authorities**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252) (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR Part 21 (Non-discrimination in Federally-Assisted programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964) including amendments thereto;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601) (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 *et seq.*), as amended (prohibits discrimination on the basis of disability); and 49 CFR part 27 (Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance);
- The Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et seq.*) (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982 (49 U.S.C. § 47123), as amended (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987 (P.L. 100-259) (broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients,

sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, et seq) (prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities) as implemented by U.S. Department of Transportation regulations at 49 CFR Parts 37 and 38;
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. § 1681, et seq).

#### **A5.4.2 Nondiscrimination Requirements/Title VI Clauses for Compliance**

The Sponsor must include this contract clause in:

- 1) Every contract or agreement (unless the Sponsor has determined, and the FAA concurs, that the contract or agreement is not subject to the Nondiscrimination Acts and Authorities); and
- 2) Service contracts with utility companies that are not already subject to substantively identical nondiscrimination requirements.
- 3) Other types of contracts with utility companies involving property covered by A6.4.2, A6.4.3, or A6.4.4.

#### **Compliance with Nondiscrimination Requirements:**

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “Contractor”), agrees as follows:

1. **Compliance with Regulations:** The Contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, national origin), creed, sex, age, or disability in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21 including amendments thereto.
3. **Solicitations for Subcontracts, including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the Contractor of the contractor’s obligations under this contract and the Nondiscrimination Acts and Authorities on the grounds of race, color, or national origin.

4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the Contractor will so certify to the Sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a Contractor's noncompliance with the non-discrimination provisions of this contract, the Sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
  - a. Withholding payments to the Contractor under the contract until the Contractor complies; and/or
  - b. Cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations, and directives issued pursuant thereto. The Contractor will take action with respect to any subcontract or procurement as the Sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the Contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the Contractor may request the Sponsor to enter into any litigation to protect the interests of the Sponsor. In addition, the Contractor may request the United States to enter into the litigation to protect the interests of the United States.

### **A5.4.3 Title VI Clauses for Deeds Transferring United States Property**

This is a rare occurrence, and it will be the responsibility of the United States government to include the clause in the contract. It will be included as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Sponsor.

#### **CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY**

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of the Airport Improvement Program grant assurances:

**NOW, THEREFORE,** the Federal Aviation Administration as authorized by law and upon the condition that the *(Title of Sponsor)* will accept title to the lands and maintain the project constructed thereon in accordance with *(Name of Appropriate Legislative Authority)*, for the **(Airport Improvement Program or other program for which land is transferred)**, and the policies and procedures prescribed by the Federal Aviation Administration of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department

of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 USC §§ 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the (***Title of Sponsor***) all the right, title and interest of the U.S. Department of Transportation/Federal Aviation Administration in and to said lands described in (***Exhibit A attached hereto or other exhibit describing the transferred property***) and made a part hereof.

**(HABENDUM CLAUSE)**

**TO HAVE AND TO HOLD** said lands and interests therein unto (*Title of Sponsor*) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the (*Title of Sponsor*), its successors and assigns.

The (*Title of Sponsor*), in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the (*Title of Sponsor*) will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned nondiscrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the Federal Aviation Administration and its assigns as such interest existed prior to this instruction].\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

**A5.4.4 Title VI Clauses for Transfer of Real Property Acquired or Improved Under the Activity, Facility, or Program**

This applies to agreements such as leases where a physical portion of the airport is transferred for use—for example a fuel farm, apron space, or a parking facility—and will be included as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Sponsor with other parties for all transfers of real property acquired or improved under the Airport Improvement Program.

**CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE AIRPORT IMPROVEMENT PROGRAM**

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the Sponsor pursuant to the provisions of the Airport Improvement Program grant assurances:

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
  - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which

a Federal Aviation Administration activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Nondiscrimination Acts and Regulations listed in the Title VI List of Pertinent Nondiscrimination Acts and Authorities (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Nondiscrimination covenants, (*Title of Sponsor*) will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.\*
- C. With respect to a deed, in the event of breach of any of the above Nondiscrimination covenants, the (*Title of Sponsor*) will have the right to enter or re-enter the lands and facilities thereon, and the above-described lands and facilities will there upon revert to and vest in and become the absolute property of the (*Title of Sponsor*) and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

#### **A5.4.5 Title VI Clauses for Construction/Use/Access to Real Property Acquired Under the Activity, Facility or Program**

This applies to agreements such as leases of concession space in a terminal and any future deeds, leases, licenses, permits, or similar instruments entered into by the Sponsor with other parties for the construction or use of, or access to, space on, over, or under real property acquired or improved under the Airport Improvement Program.

#### **CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM**

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by (*Title of Sponsor*) pursuant to the provisions of the Airport Improvement Program grant assurances.

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other

requirements imposed by or pursuant to the Title VI List of Pertinent Nondiscrimination Acts and Authorities.

- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, (***Title of Sponsor***) will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.\*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, (***Title of Sponsor***) will there upon revert to and vest in and become the absolute property of (***Title of Sponsor***) and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

## **A6 CLEAN AIR AND WATER POLLUTION CONTROL**

### **A6.1 SOURCE**

2 CFR Part 200, Appendix II(G)

42 U.S.C. § 7401, et seq

33 U.S.C. § 1251, et seq

### **A6.2 APPLICABILITY**

**Contract Types** – This provision is required for all contracts and lower tier contracts that exceed \$150,000.

**Use of Provision** – No mandatory language provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of Appendix II to 2 CFR Part 200.

### **A6.3 MODEL CONTRACT CLAUSE**

#### **CLEAN AIR AND WATER POLLUTION CONTROL**

Contractor agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). The Contractor agrees to report any violation to the Owner immediately upon discovery. The Owner assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Contractor must include this requirement in all subcontracts that exceed \$150,000.

## **A7 CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

### **A7.1 SOURCE**

2 CFR Part 200, Appendix II(E)

29 CFR § 5.5(b)

40 U.S.C. § 3702

40 U.S.C. § 3704

### **A7.2 APPLICABILITY**

Contract Work Hours and Safety Standards Act Requirements (CWHSSA) (40 U.S.C. §§ 3702 & 3704) requires contractors and subcontractors on covered contracts to pay laborers and mechanics employed in the performance of the contracts not less than one and one-half times their basic rate of pay for all hours worked over 40 in a workweek. CWHSSA prohibits unsanitary, hazardous, or dangerous working conditions on federally-assisted projects. The Wage and Hour Division (WHD) within the U.S. Department of Labor (DOL) enforces the compensation requirements of this Act, while DOL's Occupational Safety and Health Administration (OSHA) enforces the safety and health requirements.

#### **Contract Types –**

*Construction* – This provision applies to all contracts and lower tier contracts that exceed \$100,000, and employ laborers, mechanics, watchmen, and guards.

*Equipment* – This provision applies to any equipment project exceeding \$100,000 that involves installation of equipment onsite (e.g., electrical vault equipment). This provision does not apply to equipment acquisition projects where the manufacture of the equipment takes place offsite at the vendor plant (e.g., ARFF and SRE vehicles).

*Professional Services* – This provision applies to professional service agreements that exceed \$100,000 and employs laborers, mechanics, watchmen, and guards. This includes members of survey crews and exploratory drilling operations.

*Property* – While most land transactions do not involve employment of laborers, mechanics, watchmen, and guards, under certain circumstances, a property acquisition project could require such employment. Examples include the installation of property fencing or testing for environmental contamination

**Use of Provision – MANDATORY TEXT.** Sponsors must incorporate this text without modification.

## **A7.3 MANDATORY CONTRACT CLAUSE**

### **CONTRACT WORKHOURS AND SAFETY STANDARDS ACT REQUIREMENTS**

#### **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, including watchmen and guards, 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 clause, 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 clause, in the sum of \$29 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 clause.

#### **3. Withholding for Unpaid Wages and Liquidated Damages.**

The Federal Aviation Administration (FAA) or the Owner 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 clause.

#### **4. Subcontractors.**

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) and also a clause requiring the subcontractor 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 clause.

## **A8 COPELAND “ANTI-KICKBACK” ACT**

### **A8.1 SOURCE**

2 CFR Part 200, Appendix II(D)

29 CFR Parts 3 and 5

### **A8.2 APPLICABILITY and PURPOSE**

The Copeland (Anti-Kickback) Act (18 U.S.C. § 874 and 40 U.S.C. § 3145) makes it unlawful to induce by force, intimidation, threat of dismissal from employment, or by any other manner, any person employed in the construction or repair of public buildings or public works, financed in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment. The Copeland Act also requires each contractor and subcontractor to furnish weekly a statement of compliance with respect to the wages paid each employee during the preceding week.

#### **Contract Types –**

*Construction* – This provision applies to all construction contracts and subcontracts financed under the AIP that exceed \$2,000.

*Equipment* – This provision applies to all equipment installation projects (e.g., electrical vault improvements) financed under the AIP that exceed \$2,000. This provision does not apply to equipment acquisitions where the equipment is manufactured at the vendor’s plant (e.g., SRE and ARFF vehicles).

*Professional Services* –The emergence of different project delivery methods has created situations where Professional Service Agreements (PSAs) include tasks that meet the definition of construction, alteration, or repair as defined in 29 CFR Part 5. If such tasks result in work that qualifies as construction, alteration, or repair and it exceeds \$2,000, the PSA must incorporate the Copeland Anti-kickback provision.

*Property* –Ordinarily, land acquisition projects would not involve employment of laborers or mechanics and thus the Copeland Anti-Kickback provision would not apply. However, land projects that involve installation of boundary fencing and demolition of structures would involve laborers and mechanics. The Sponsor must include this provision if the land acquisition project involves employment of laborers or mechanics for a contract exceeding \$2,000.

**Use of Provision** – No mandatory language provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of 29 CFR Part 5.

### **A8.3 MODEL CONTRACT CLAUSE**

#### **COPELAND “ANTI-KICKBACK” ACT**

Contractor must comply with the requirements of the Copeland “Anti-Kickback” Act (18 USC 874 and 40 USC 3145), as supplemented by Department of Labor regulation 29 CFR part 3. Contractor and subcontractors are prohibited from inducing, by any means, any person employed on the project to give up any part of the compensation to which the employee is entitled. The Contractor and each Subcontractor must submit to the Owner, a weekly statement on the wages paid to each employee performing on covered work during the prior week. Owner must report any violations of the Act to the Federal Aviation Administration.

## **A9 DAVIS-BACON REQUIREMENTS**

### **A9.1 SOURCE**

2 CFR Part 200, Appendix II(D)

29 CFR Part 5

49 USC § 47112(b)

40 USC §§ 3141-3144, 3146, and 3147

### **A9.2 APPLICABILITY**

The Davis-Bacon Act (40 USC §§ 3141-3144, 3146, and 3147) ensures that laborers and mechanics employed under the contract receive pay no less than the locally prevailing wages and fringe benefits as determined by the Department of Labor.

#### **Contract Types –**

*Construction* – Incorporate into all construction contracts and subcontracts that exceed \$2,000 and include funding from the AIP.

*Equipment* – This provision applies to all equipment installation projects (e.g., electrical vault improvements) financed under the AIP that exceed \$ 2,000. This provision does not apply to equipment acquisitions where the equipment is manufactured at the vendor’s plant (e.g., SRE and ARFF vehicles)

*Professional Services* – The emergence of different project delivery methods has created situations where Professional Service Agreements (PSAs) includes tasks that meet the definition of construction, alteration, or repair as defined in 29 CFR Part 5. If such tasks result in work that qualifies as construction, alteration, or repair and it exceeds \$2,000, the PSA must incorporate this clause.

*Property* – Ordinarily, land acquisition projects would not involve employment of laborers or mechanics and thus the provision would not apply. However, land projects that involve installation of boundary fencing and demolition of structures would involve laborers and mechanics. The Sponsor must include this provision if the land acquisition project involves employment of laborers or mechanics for a contract exceeding \$2,000.

*Fencing Projects* – Fencing projects that exceed \$2,000 must include this provision.

**Use of Provision – MANDATORY TEXT.** 29 CFR Part 5 establishes specific language a Sponsor must use. The Sponsor may not make any modification to the standard language. A/E firms that employ laborers and mechanics on a task that meets the definition of construction, alteration, or repair are acting as a contractor. The Sponsor may not substitute the term “Contractor” for “Consultant” in such instances.

## **A9.3 MANDATORY CONTRACT CLAUSE**

### **DAVIS-BACON REQUIREMENTS**

#### **1. Minimum Wages.**

(i) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Secretary of Labor under regulations implementing the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalent thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can easily be seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination;
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including

the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers, or mechanics to be employed in the classification, or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii) (B) or (C) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, that the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding. The Federal Aviation Administration or the Sponsor 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 the Contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the Federal Aviation Administration may, after written notice to the Contractor, Sponsor, Applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

### 3. Payrolls and Basic Records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker; his or her correct classification; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in 1(b)(2)(B) of the Davis-Bacon Act); daily and weekly number of hours worked; deductions made; and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records that show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual costs incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR § 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead, the payrolls shall only need to include an individually identifying number for each employee (*e.g.*, the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/agencies/whd/government-contracts/construction/payroll-certification> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker and shall provide them upon request to the Federal Aviation Administration if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit them to the applicant, Sponsor, or Owner, as the case may be, for transmission to the Federal Aviation Administration, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, Sponsor, or Owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR § 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR § 5.5 (a)(3)(i), and that such information is correct and complete;

(2) That each laborer and mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Sponsor, the Federal Aviation Administration, or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, Sponsor, applicant, or Owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR § 5.12.

#### 4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the

job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR § 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at no less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination that provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

#### 5. Compliance with Copeland Act Requirements.

The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

#### 6. Subcontracts.

The Contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR §§ 5.5(a)(1) through (10) and such other clauses as the Federal Aviation Administration 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 compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR § 5.5.

#### 7. Contract Termination: Debarment.

A breach of the contract clauses in paragraph 1 through 10 of this section may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR § 5.12.

#### 8. Compliance with Davis-Bacon and Related Act Requirements.

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

#### 9. Disputes Concerning Labor Standards.

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

#### 10. Certification of Eligibility.

(i) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR § 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 USC § 1001.

## **A10 DEBARMENT AND SUSPENSION**

### **A10.1 SOURCE**

2 CFR Part 180 (Subpart B)

2 CFR Part 200, Appendix II(H)

2 CFR Part 1200

DOT Order 4200.5

Executive Orders 12549 and 12689

### **A10.2 APPLICABILITY**

The Sponsor must verify that the firm or individual that it is entering into a contract with is not presently suspended, excluded, or debarred by any Federal department or agency from participating in federally -assisted projects. The Sponsor accomplishes this by:

- 1) Checking the System for Award Management (SAM.gov) to verify that the firm or individual is not listed in SAM.gov as being suspended, debarred, or excluded;
- 2) Collecting a certification from the firm or individual that it is not suspended, debarred, or excluded; and
- 3) Incorporating a clause in the contract that requires lower tier contracts to verify that no suspended, debarred, or excluded firm or individual is included in the project.

**Contract Types** – This requirement applies to *covered transactions*, which are defined in 2 CFR part 180 (Subpart B). AIP funded contracts are non-procurement transactions, as defined by 2 CFR § 180.970. Covered transactions include any AIP-funded contract, regardless of tier, that is awarded by a contractor, subcontractor, supplier, consultant, or its agent or representative in any transaction, if the amount of the contract is expected to equal or exceed \$25,000. This includes contracts associated with land acquisition projects.

**Use of Provision** – No mandatory language provided. The following language is acceptable to the FAA in meeting the intent of this requirement. If the Sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of 2 CFR part 180. For professional service agreements, Sponsor may substitute “bidder/offeror” with “consultant.”

### **A10.3 MODEL BID/PROPOSAL CERTIFICATION CLAUSES**

#### **A10.3.1 Bidder or Offeror Certification**

##### **CERTIFICATION OF OFFEROR/BIDDER REGARDING DEBARMENT**

By submitting a bid/proposal under this solicitation, the bidder or offeror certifies that neither it nor its principals are presently debarred or suspended by any Federal department or agency from participation in this transaction.

### **A10.3.2 Lower Tier Contract Certification**

#### **CERTIFICATION OF LOWER TIER CONTRACTORS REGARDING DEBARMENT**

The successful bidder, by administering each lower tier subcontract that exceeds \$25,000 as a “covered transaction”, must confirm each lower tier participant of a “covered transaction” under the project is not presently debarred or otherwise disqualified from participation in this federally-assisted project. The successful bidder will accomplish this by:

1. Checking the System for Award Management at website: <http://www.sam.gov>.
2. Collecting a certification statement similar to the Certification of Offeror /Bidder Regarding Debarment, above.
3. Inserting a clause or condition in the covered transaction with the lower tier contract.

If the Federal Aviation Administration later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

## **A11 DISADVANTAGED BUSINESS ENTERPRISE**

### **A11.1 SOURCE**

49 CFR Part 26

49 U.S.C. § 47113

### **A11.2 APPLICABILITY**

A Sponsor that anticipates awarding prime contracts totaling \$250,000 or more in Federal financial assistance in a federal fiscal year must have an approved Disadvantaged Business Enterprise (DBE) program on file with the FAA Office of Civil Rights (49 CFR § 26.21). The Sponsor will also identify a 3-year overall program goal that the Sponsor bases on the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on the project (49 CFR § 26.45).

**Contract Types** – Sponsors with a DBE program on file with the FAA must include the following provisions, if applicable:

- 1) Clause in all solicitations for proposals for which a contract goal has been established,
- 2) Clause in each prime contract, and
- 3) Clause in solicitations that seek to obtain DBE participation.

#### **Use of Provision –**

1. *Solicitations with a DBE Contract Goal* – No mandatory language provided. 49 CFR §26.53 requires a Sponsor’s solicitation to address what a contractor must submit on proposed DBE participation. The language of A11.3.1 is acceptable to the FAA in meeting the intent of this requirement. If the Sponsor uses different language, the Sponsor’s revised language must fully satisfy these requirements. The Sponsor may require the contractor’s submittal on proposed DBE participation either at bid opening as a matter of responsiveness or within five days of bid opening as a matter of responsibility. The Sponsor’s election regarding responsiveness vs. responsibility is recorded in its approved DBE program. Special consideration and procedures apply to negotiated procurements and to projects solicited using the Design-Build approach.
2. *Solicitations without a DBE Contract Goal* – No mandatory language provided. The language of A11.3.2 is acceptable to the FAA in meeting the intent of this requirement. If the Sponsor uses different language, the Sponsor’s revised language must fully satisfy requirements for a Sponsor that is not applying a project specific contract goal but is covered by a DBE program on file with the FAA.
3. *Assurance for Contracts Covered by DBE Program* – **MANDATORY TEXT PROVIDED.** Sponsors must incorporate this language if they have a DBE program on file with the FAA. This language must be included regardless of whether there is a DBE contract goal for the project. Section 26.13 of 49 CFR establishes mandatory language for contractor assurance.

The Sponsor must not modify the language. Part 26 of 49 CFR requires Sponsors ensure this clause also flows down into subcontracts (i.e., must be included verbatim in subcontracts).

4. *Prompt Payment for Contracts Covered by DBE Program* – No mandatory language provided. 49 CFR § 26.29 requires Sponsors to include a contract clause requiring prompt payment to subcontractors no later than thirty (30) days after the prime contractor receives payment from the Sponsor. The requirement applies to all subcontractors, not just DBEs. The prompt payment language of A12.3.3 is acceptable to the FAA in meeting the intent of this requirement. If the Sponsor uses different language, such as a specific clause identified in the Sponsor’s approved DBE program plan, the Sponsor’s revised language must fully satisfy these requirements.
5. *Termination of DBE Subcontractors on Contracts with a DBE Contract Goal* - No mandatory language provided. 49 CFR § 26.53 prohibits unauthorized removal or replacement of DBE firms listed in response to a solicitation that had a DBE contract goal and sets forth the specific enforcement mechanism recipients must include in prime contracts. The language of A12.3.3 is acceptable to the FAA in meeting the intent of this requirement.
6. Sponsors that are not required to have a DBE program on file with the FAA are not required to include DBE provisions and clauses.

### **A11.3 REQUIRED PROVISIONS**

#### **A11.3.1 Solicitation Language (Solicitations with a DBE Contract Goal)**

For traditional design-bid-build projects, the decision on whether DBE information is a matter of responsiveness or responsibility is laid out in the Sponsor’s approved DBE program and the Sponsor should incorporate the applicable solicitation language accordingly. Special procedures apply in the case of negotiated procurements and for projects that follow the Design-Build method of procurement. In all cases, Sponsors should include only the applicable solicitation language from the examples below.

Bid Information Submitted as a matter of **responsiveness**:

The Owner’s award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR § 26.53.

As a condition of responsiveness, the Bidder or Offeror must submit the following information with its proposal on the forms provided herein:

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1);
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner’s project goal

- 5) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; and
- 6) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR part 26 including any amendments thereto. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

**Bid Information submitted as a matter of responsibility:**

The Owner's award of this contract is conditioned upon Bidder or Offeror satisfying the good faith effort requirements of 49 CFR § 26.53.

As a condition of responsibility, every Bidder or Offeror must submit the following information on the forms provided herein within five days after bid opening.

- 1) The names and addresses of Disadvantaged Business Enterprise (DBE) firms that will participate in the contract;
- 2) A description of the work that each DBE firm will perform;
- 3) The dollar amount of the participation of each DBE firm listed under (1);
- 4) Written statement from Bidder or Offeror that attests their commitment to use the DBE firm(s) listed under (1) to meet the Owner's project goal;
- 5) Written confirmation from each listed DBE firm that it is participating in the contract in the kind and amount of work provided in the prime contractor's commitment; and
- 6) If Bidder or Offeror cannot meet the advertised project DBE goal, evidence of good faith efforts undertaken by the Bidder or Offeror as described in appendix A to 49 CFR Part 26 including any amendments thereto. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.

**Bid Information requirements for negotiated procurements:**

In a negotiated procurement, such as a procurement for professional services, the Sponsor may allow the bidder/offeror to make a contractually binding commitment to meet the goal at the time of bid submission or the presentation of initial proposals but provide the information required under the above *responsiveness* or *responsibility* procedures before the final selection for the contract is made by the recipient.

**Bid Information submitted for Design-Build projects:**

In a design-build contracting situation, in which the Sponsor solicits proposals to design and build a project with minimal-project details at time of letting, the Sponsor may set a DBE goal that proposers must meet by submitting a DBE Open-Ended DBE Performance Plan (OEPP) with the proposal. The OEPP replaces the requirement to provide the information required in paragraph (b) of 49 CFR § 26.53 that

applies to design-bid-build contracts. To be considered responsive, the OEPP must include a commitment to meet the goal and provide details of the types of subcontracting work or services (with projected dollar amount) that the proposer will solicit DBEs to perform. The OEPP must include an estimated time frame in which actual DBE subcontracts would be executed. Once the design-build contract is awarded, the recipient must provide ongoing monitoring and oversight to evaluate whether the design-builder is using good faith efforts to comply with the OEPP and schedule. The recipient and the design-builder may agree to make written revisions of the OEPP throughout the life of the project, *e.g.*, replacing the type of work items the design-builder will solicit DBEs to perform and/or adjusting the proposed schedule, as long as the design-builder continues to use good faith efforts to meet the goal.

### **A11.3.2 Solicitation Language (Solicitations with No DBE Contract Goal)**

The requirements of 49 CFR Part 26 including any amendments thereto apply to this contract. It is the policy of the [Insert Name of Owner] to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. The Owner encourages participation by all firms qualifying under this solicitation regardless of business size or ownership.

### **A11.3.3 Prime Contracts (Contracts Covered by a DBE Program)**

#### **Contract Assurance (49 CFR § 26.13; mandatory text provided) –**

The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26, including any amendments thereto, in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the Contractor from future bidding as non-responsible.

#### **Prompt Payment (49 CFR § 26.29; acceptable/sample text provided) –**

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than [specify number of days, not to exceed 30] days from the receipt of each payment the prime contractor receives from [Name of recipient]. The prime contractor agrees further to return retainage payments to each subcontractor within [specify number of days, not to exceed 30] days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause

following written approval of the [Name of Recipient]. This clause applies to both DBE and non-DBE subcontractors.

**Termination of DBE Subcontracts (49 CFR § 26.53(f); acceptable/sample text provided) –**

The prime contractor must not terminate a DBE subcontractor listed in response to [include Solicitation paragraph number where paragraph 12.3.1, Solicitation Language appears] (or an approved substitute DBE firm) without prior written consent of [Name of Recipient]. This includes, but is not limited to, instances in which the prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.

The prime contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains written consent [Name of Recipient]. Unless [Name of Recipient] consent is provided, the prime contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

[Name of Recipient] may provide such written consent only if [Name of Recipient] agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the circumstances listed in 49 CFR § 26.53.

Before transmitting to [Name of Recipient] its request to terminate and/or substitute a DBE subcontractor, the prime contractor must give notice in writing to the DBE subcontractor, with a copy to [Name of Recipient], of its intent to request to terminate and/or substitute, and the reason for the request.

The prime contractor must give the DBE five days to respond to the prime contractor's notice and advise [Name of Recipient] and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why [Name of Recipient] should not approve the prime contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), [Name of Recipient] may provide a response period shorter than five days.

In addition to post-award terminations, the provisions of this section apply to pre-award deletions of or substitutions for DBE firms put forward by offerors in negotiated procurements.

## **A12 DISTRACTED DRIVING**

### **A12.1 SOURCE**

Executive Order 13513

DOT Order 3902.10

### **A12.2 APPLICABILITY**

The FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

**Contract Types** – Sponsors must insert this provision in all AIP funded contracts that exceed the micro-purchase threshold of 2 CFR § 200.320 (currently set at \$15,000).

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA in meeting the intent of this requirement. If the Sponsor uses different language, the Sponsor’s revised language must fully satisfy these requirements.

### **A12.3 MODEL CONTRACT CLAUSE**

#### **TEXTING WHEN DRIVING**

In accordance with Executive Order 13513, “Federal Leadership on Reducing Text Messaging While Driving”, (10/1/2009) and DOT Order 3902.10, “Text Messaging While Driving”, (12/30/2009), the Federal Aviation Administration encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or subgrant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$15,000 that involve driving a motor vehicle in performance of work activities associated with the project.

## **A13 PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

### **A13.1 SOURCE**

2 CFR § 200, Appendix II(K)

2 CFR § 200.216

### **A13.2 APPLICABILITY**

Sponsors and subgrant recipients are prohibited from using AIP grant funds to:

- a) Procure or obtain,
- b) Extend or renew a contract to procure or obtain, or
- c) Enter into a contract to procure or obtain certain covered telecommunications equipment.

These restrictions apply to telecommunication equipment, services, or systems 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. Covered telecommunications equipment is equipment produced or provided by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of either).

**Contract Types** – The Sponsor must include this provision in all AIP funded contracts and lower-tier contracts.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s revised language must fully satisfy these requirements. Sponsor may substitute “Contractor and subcontractor” with “Consultant and sub-consultant” for professional service agreements.

### **A13.3 MODEL CERTIFICATION CLAUSE**

#### **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT**

Contractor and Subcontractor agree to comply with mandatory standards and policies relating to use and procurement of certain telecommunications and video surveillance services or equipment in compliance with the National Defense Authorization Act P.L. 115-232, § 889(f)(1)).

## **A14 DRUG FREE WORKPLACE REQUIREMENTS**

### **A14.1 SOURCE**

49 CFR Part 32

Drug-Free Workplace Act of 1988 (41 U.S.C. § 8101-8106, as amended)

### **A14.2 APPLICABILITY**

The Drug-Free Workplace Act of 1988 requires some Federal contractors and *all* Federal grantees to agree that they will provide drug-free workplaces as a condition of receiving a contract or grant from a Federal agency. The Act does **not** apply to contractors, subcontractors, or subgrantees, although the Federal grantees workplace may be where the contractors, subcontractors, or subgrantees are working.

**Contract Types** – This provision applies to all AIP funded projects, but not to the contracts between the grantee (the Sponsor) and a contractor, subcontractors, suppliers, or subgrantees.

**Use of Provision** – No mandatory or recommended text provided because the requirements do not extend beyond the Sponsor level.

### **A14.3 CONTRACT CLAUSE**

None.

## **A15 FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

### **A15.1 SOURCE**

29 USC § 201, et seq

2 CFR § 200.430

### **A15.2 APPLICABILITY**

The U.S. Department of Labor (DOL) Wage and Hour Division administers the Fair Labor Standards Act (FLSA). This act prescribes federal standards for basic minimum wage, overtime pay, record keeping, and child labor standards.

**Contract Types** – Per the Department of Labor, all employees of certain enterprises having workers engaged in interstate commerce; producing goods for interstate commerce; or handling, selling, or otherwise working on goods or materials that have been moved in or produced for such commerce by any person are covered by the FLSA.

All consultants, sub-consultants, contractors, and subcontractors employed under this federally assisted project must comply with the FLSA.

*Professional Services* – 29 CFR § 213 exempts employees in a bona fide executive, administrative or professional capacity. Because professional firms employ individuals that are not covered by this exemption, the Sponsor’s agreement with a professional services firm must include the FLSA provision.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of 29 USC § 201, et seq. The Sponsor must select *contractor* or *consultant*, as appropriate for the contract.

### **A15.3 MODEL SOLICITATION CLAUSE**

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR Part 201, et seq, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part-time workers.

The [**Contractor | Consultant**] has full responsibility to monitor compliance to the referenced statute or regulation. The [**Contractor | Consultant**] must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

## **A16 LOBBYING AND INFLUENCING FEDERAL EMPLOYEES**

### **A16.1 SOURCE**

31 USC § 1352 – Byrd Anti-Lobbying Amendment

2 CFR Part 200, Appendix II(I)

49 CFR Part 20, Appendix A

### **A16.2 APPLICABILITY**

Consultants and contractors that apply or bid for an award of \$100,000 or more must certify 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 another award covered by 31 USC § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

**Contract Types** – The Sponsor must incorporate this provision into all contracts exceeding \$100,000.

**Use of Provision – MANDATORY TEXT.** Appendix A to 49 CFR Part 20 prescribes language the Sponsor must use. The Sponsor must incorporate this provision without modification.

### **A16.3 MANDATORY CERTIFICATION CLAUSE**

#### **CERTIFICATION REGARDING LOBBYING**

The Bidder or Offeror certifies by signing and submitting this bid or proposal, 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 Bidder or Offeror, 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 sub-awards at all tiers (including subcontracts, subgrants, and contracts

under grants, loans, and cooperative agreements) and that all sub-recipients 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 31 U.S.C. § 1352. 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.

## **A17 OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

### **A17.1 SOURCE**

29 CFR Part 1910

### **A17.2 APPLICABILITY**

**Contract Types** – All contracts and subcontracts must comply with the Occupational Safety and Health Act of 1970 (OSH). The U.S. Department of Labor Occupational Safety and Health Administration (OSHA) oversees the workplace health and safety standards wage provisions from OSH.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of 29 CFR Part 1910.

### **A17.3 MODEL CONTRACT CLAUSE**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. The employer must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The employer retains full responsibility to monitor its compliance and their subcontractor’s compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910). The employer must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

## **A18 PROCUREMENT OF RECOVERED MATERIALS**

### **A18.1 SOURCE**

2 CFR § 200.323

2 CFR Part 200, Appendix II(J)

40 CFR Part 247

42 USC § 6901, et seq (Resource Conservation and Recovery Act (RCRA))

### **A18.2 APPLICABILITY**

Sponsors of AIP funded development and equipment projects must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. Section 6002 emphasizes maximizing energy and resource recovery through use of affirmative procurement actions for recovered materials identified in the Environmental Protection Agency (EPA) guidelines codified at 40 CFR Part 247. When acquiring items designated in the guidelines, the Sponsor must procure items that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

**Contract Types** – This provision applies to any contracts that include procurement of products designated in subpart B of 40 CFR Part 247 where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000.

*Construction and Equipment* – Include this provision in all construction and equipment projects.

*Professional Services and Property* – Include this provision if the agreement includes procurement of a product that exceeds \$10,000.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor's language must fully satisfy the requirements of 2 CFR Part 200.

### **A18.3 MODEL CONTRACT CLAUSE**

#### **PROCUREMENT OF RECOVERED MATERIALS**

Contractor and subcontractor agree to comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, and the regulatory provisions of 40 CFR Part 247. In the performance of this contract and to the extent practicable, the Contractor and subcontractors are to use products containing the highest percentage of recovered materials for items designated by the Environmental Protection Agency (EPA) under 40 CFR Part 247 whenever:

- 1) The contract requires procurement of \$10,000 or more of a designated item during the fiscal year; or

- 2) The contractor has procured \$10,000 or more of a designated item using Federal funding during the previous fiscal year.

The list of EPA-designated items is available at [www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products](http://www.epa.gov/smm/comprehensive-procurement-guidelines-construction-products).

Section 6002(c) establishes exceptions to the preference for recovery of EPA-designated products if the contractor can demonstrate the item is:

- a) Not reasonably available within a timeframe providing for compliance with the contract performance schedule;
- b) Fails to meet reasonable contract performance requirements; or
- c) Is only available at an unreasonable price.

## **A19 RIGHT TO INVENTIONS**

### **A19.1 SOURCE**

2 CFR Part 200, Appendix II(F)

37 CFR Part 401

### **A19.2 APPLICABILITY**

**Contract Types** – This provision applies to all contracts and subcontracts with small business firms or nonprofit organizations that include performance of *experimental, developmental, or research work*. This clause is not applicable to construction, equipment, or professional service contracts unless the contract includes *experimental, developmental, or research work*.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of 2 CFR Part 200, Appendix II.

### **A19.3 MODEL CONTRACT CLAUSE**

#### **RIGHTS TO INVENTIONS**

Contracts or agreements that include the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the Owner in any resulting invention as established by 37 CFR part 401, Rights to Inventions Made by Non-profit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements. This contract incorporates by reference the patent and inventions rights as specified within 37 CFR § 401.14. Contractor must include this requirement in all sub-tier contracts involving experimental, developmental, or research work.

## **A20 SEISMIC SAFETY**

### **A20.1 SOURCE**

49 CFR Part 41

### **A20.2 APPLICABILITY**

**Contract Types** – This provision applies to construction of new buildings and additions to existing buildings financed in whole or in part through the Airport Improvement Program.

*Professional Services*– Sponsor must incorporate this clause in any contract involved in the construction of new buildings or structural addition to existing buildings.

*Construction* – Sponsor must incorporate this clause in any contract involved in the construction of new buildings or structural addition to existing buildings.

*Equipment* – Sponsor must include the construction provision if the project involves construction or structural addition to a building such as an electrical vault project to accommodate or install equipment.

*Land* – This provision will not typically apply to a property/land project.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of 49 CFR part 41.

### **A20.3 MODEL CONTRACT CLAUSE**

#### **A20.3.1 Professional Service Agreements for Design**

##### **SEISMIC SAFETY**

In the performance of design services, the Consultant agrees to furnish a building design and associated construction specification that conform to a building code standard that provides a level of seismic safety substantially equivalent to standards as established by the National Earthquake Hazards Reduction Program (NEHRP). Local building codes that model their building code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety. At the conclusion of the design services, the Consultant agrees to furnish the Owner a “certification of compliance” that attests conformance of the building design and the construction specifications with the seismic standards of NEHRP or an equivalent building code.

#### **A20.3.2 Construction Contracts**

##### **SEISMIC SAFETY**

The Contractor agrees to ensure that all work performed under this contract, including work performed by subcontractors, conforms to a building code standard that provides a level of seismic safety substantially equivalent to standards established by the National Earthquake Hazards Reduction

Program (NEHRP). Local building codes that model their code after the current version of the International Building Code (IBC) meet the NEHRP equivalency level for seismic safety.

## **A21 TAX DELINQUENCY AND FELONY CONVICTIONS**

### **A21.1 SOURCE**

Section 8113 of the Consolidated Appropriations Act, 2022 (P.L. 117-103) and similar provisions in subsequent appropriations acts.

DOT Order 4200.6 – Appropriations Act Requirements for Procurement and Non-Procurement Regarding Tax Delinquency and Felony Convictions

### **A21.2 APPLICABILITY**

The Sponsor must ensure that no funding goes to any contractor who:

- Has been convicted of a Federal felony within the last 24 months; or
- Has any outstanding tax liability for which all judicial and administrative remedies have lapsed or been exhausted.

**Contract Types** – This provision applies to all contracts funded in whole or part with AIP.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of DOT Order 4200.6.

### **A21.3 MODEL CERTIFICATION CLAUSE**

#### **CERTIFICATION OF OFFEROR/BIDDER REGARDING TAX DELINQUENCY AND FELONY CONVICTIONS**

The applicant must complete the following two certification statements. The applicant must indicate its current status as it relates to tax delinquency and felony conviction by inserting a checkmark (ü) in the space following the applicable response. The applicant agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification in all lower tier subcontracts.

#### **Certifications**

- 1) The applicant represents that it is (  ) is not (  ) a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.
- 2) The applicant represents that it is (  ) is not (  ) a corporation that was convicted of a criminal violation under any Federal law within the preceding 24 months.

#### **Note**

If an applicant responds in the affirmative to either of the above representations, the applicant is ineligible to receive an award unless the Sponsor has received notification from the agency suspension and debarment official (SDO) that the SDO has considered suspension or debarment and determined that further action is not required to protect the Government’s interests. The applicant therefore must provide information to the owner about its tax liability or conviction to the Owner, who will then

notify the FAA Airports District Office, which will then notify the agency's SDO to facilitate completion of the required considerations before award decisions are made.

### **Term Definitions**

**Felony conviction:** Felony conviction means a conviction within the preceding twenty four (24) months of a felony criminal violation under any Federal law and includes conviction of an offense defined in a section of the U.S. Code that specifically classifies the offense as a felony and conviction of an offense that is classified as a felony under 18 USC § 3559.

**Tax Delinquency:** A tax delinquency is any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

## **A22 TERMINATION OF CONTRACT**

### **A22.1 SOURCE**

2 CFR Part 200, Appendix II(B)

FAA Advisory Circular 150/5370-10, Section 80-09

### **A22.2 APPLICABILITY**

**Contract Types** – All contracts and subcontracts in excess of \$10,000 must address *termination for cause* and *termination for convenience* by the Sponsor. The provision must address the manner (i.e., notice, opportunity to cure, and effective date) by which the Sponsor’s contract will be affected and the basis for settlement (e.g., incurred expenses, completed work, profit, etc.).

#### **Use of Provision –**

*Termination for Convenience* – No mandatory text provided. The Sponsor must include a clause for termination for convenience. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of Appendix II to 2 CFR § 200.

*Termination for Cause* – No mandatory text provided. The Sponsor must include a clause for termination for cause (includes default). The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of 2 CFR Part 200, Appendix II.

*Equipment, Professional Services, and Property* – No mandatory text provided. The Sponsor may use their established clause language provided that it adequately addresses the intent of 2 CFR Part 200 Appendix II(B), which addresses termination for cause and for convenience.

### **A22.3 MODEL CONTRACT CLAUSES**

#### **A22.3.1 Termination for Convenience**

##### **TERMINATION FOR CONVENIENCE (CONSTRUCTION & EQUIPMENT CONTRACTS)**

The Owner may terminate this contract in whole or in part at any time by providing written notice to the Contractor. Such action may be without cause and without prejudice to any other right or remedy of Owner. Upon receipt of a written notice of termination, except as explicitly directed by the Owner, the Contractor shall immediately proceed with the following obligations regardless of any delay in determining or adjusting amounts due under this clause:

1. Contractor must immediately discontinue work as specified in the written notice.
2. Terminate all subcontracts to the extent they relate to the work terminated under the notice.
3. Discontinue orders for materials and services except as directed by the written notice.

4. Deliver to the Owner all fabricated and partially fabricated parts, completed and partially completed work, supplies, equipment and materials acquired prior to termination of the work, and as directed in the written notice.
5. Complete performance of the work not terminated by the notice.
6. Take action as directed by the Owner to protect and preserve property and work related to this contract that Owner will take possession.

Owner agrees to pay Contractor for:

1. Completed and acceptable work executed in accordance with the contract documents prior to the effective date of termination;
2. Documented expenses sustained prior to the effective date of termination in performing work and furnishing labor, materials, or equipment as required by the contract documents in connection with uncompleted work;
3. Reasonable and substantiated claims, costs, and damages incurred in settlement of terminated contracts with Subcontractors and Suppliers; and
4. Reasonable and substantiated expenses to the Contractor directly attributable to Owner's termination action.

Owner will not pay Contractor for loss of anticipated profits or revenue or other economic loss arising out of or resulting from the Owner's termination action.

The rights and remedies this clause provides are in addition to any other rights and remedies provided by law or under this contract.

#### **TERMINATION FOR CONVENIENCE (PROFESSIONAL SERVICES)**

The Owner may, by written notice to the Consultant, terminate this Agreement for its convenience and without cause or default on the part of Consultant. Upon receipt of the notice of termination, except as explicitly directed by the Owner, the Contractor must immediately discontinue all services affected.

Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

#### **A22.3.2 Termination for Default**

##### **TERMINATION FOR CAUSE (CONSTRUCTION)**

Section 80-09 of FAA Advisory Circular 150/5370-10 establishes standard language for conditions, rights, and remedies associated with Owner termination of this contract for cause due to default of the Contractor.

#### **TERMINATION FOR CAUSE (EQUIPMENT)**

The Owner may, by written notice of default to the Contractor, terminate all or part of this Contract for cause if the Contractor:

1. Fails to begin the Work under the Contract within the time specified in the Notice- to-Proceed;
2. Fails to make adequate progress as to endanger performance of this Contract in accordance with its terms;
3. Fails to make delivery of the equipment within the time specified in the Contract, including any Owner approved extensions;
4. Fails to comply with material provisions of the Contract;
5. Submits certifications made under the Contract and as part of their proposal that include false or fraudulent statements; or
6. Becomes insolvent or declares bankruptcy.

If one or more of the stated events occur, the Owner will give notice in writing to the Contractor and Surety of its intent to terminate the contract for cause. At the Owner's discretion, the notice may allow the Contractor and Surety an opportunity to cure the breach or default.

If within [10] days of the receipt of notice, the Contractor or Surety fails to remedy the breach or default to the satisfaction of the Owner, the Owner has authority to acquire equipment by other procurement action. The Contractor will be liable to the Owner for any excess costs the Owner incurs for acquiring such similar equipment.

Payment for completed equipment delivered to and accepted by the Owner shall be at the Contract price. The Owner may withhold from amounts otherwise due the Contractor for such completed equipment, such sum as the Owner determines to be necessary to protect the Owner against loss because of Contractor default.

Owner will not terminate the Contractor's right to proceed with the work under this clause if the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such acceptable causes include: acts of God, acts of the Owner, acts of another Contractor in the performance of a contract with the Owner, and severe weather events that substantially exceed normal conditions for the location.

If, after termination of the Contractor's right to proceed, the Owner determines that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the Owner issued the termination for the convenience the Owner.

The rights and remedies of the Owner in this clause are in addition to any other rights and remedies provided by law or under this contract.

## TERMINATION FOR CAUSE (PROFESSIONAL SERVICES)

Either party may terminate this Agreement for cause if the other party fails to fulfill its obligations that are essential to the completion of the work per the terms and conditions of the Agreement. The party initiating the termination action must allow the breaching party an opportunity to dispute or cure the breach.

The terminating party must provide the breaching party [7] days advance written notice of its intent to terminate the Agreement. The notice must specify the nature and extent of the breach, the conditions necessary to cure the breach, and the effective date of the termination action. The rights and remedies in this clause are in addition to any other rights and remedies provided by law or under this agreement.

a) **Termination by Owner:** The Owner may terminate this Agreement for cause in whole or in part, for the failure of the Consultant to:

1. Perform the services within the time specified in this contract or by Owner approved extension;
2. Make adequate progress so as to endanger satisfactory performance of the Project; or
3. Fulfill the obligations of the Agreement that are essential to the completion of the Project.

Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. Upon termination of the Agreement, the Consultant must deliver to the Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and materials prepared by the Engineer under this contract, whether complete or partially complete.

Owner agrees to make just and equitable compensation to the Consultant for satisfactory work completed up through the date the Consultant receives the termination notice. Compensation will not include anticipated profit on non-performed services.

Owner further agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

If, after finalization of the termination action, the Owner determines the Consultant was not in default of the Agreement, the rights and obligations of the parties shall be the same as if the Owner issued the termination for the convenience of the Owner.

b) **Termination by Consultant:** The Consultant may terminate this Agreement for cause in whole or in part, if the Owner:

1. Defaults on its obligations under this Agreement;
2. Fails to make payment to the Consultant in accordance with the terms of this Agreement;
3. Suspends the project for more than [180] days due to reasons beyond the control of the Consultant.

Upon receipt of a notice of termination from the Consultant, Owner agrees to cooperate with Consultant for the purpose of terminating the agreement or portion thereof, by mutual consent. If

Owner and Consultant cannot reach mutual agreement on the termination settlement, the Consultant may, without prejudice to any rights and remedies it may have, proceed with terminating all or parts of this Agreement based upon the Owner's breach of the contract.

In the event of termination due to Owner breach, the Consultant is entitled to invoice Owner and to receive full payment for all services performed or furnished in accordance with this Agreement and all justified reimbursable expenses incurred by the Consultant through the effective date of termination action. Owner agrees to hold Consultant harmless for errors or omissions in documents that are incomplete as a result of the termination action under this clause.

## **A23 TRADE RESTRICTION CERTIFICATION**

### **A23.1 SOURCE**

49 USC § 50104

49 CFR Part 30

### **A23.2 APPLICABILITY**

Unless waived by the Secretary of Transportation, Sponsors may not use AIP funds on a product or service from a foreign country included in the current list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR).

**Contract Types** – The trade restriction certification and clause apply to all AIP funded projects.

**Use of Provision – MANDATORY TEXT.** 49 CFR Part 30 prescribes the language for this model clause. The Sponsor must include this certification language in all contracts and subcontracts without modification.

### **A23.3 MANDATORY SOLICITATION CLAUSE**

#### **TRADE RESTRICTION CERTIFICATION**

By submission of an offer, the Offeror certifies that with respect to this solicitation and any resultant contract, the Offeror –

- 1) is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (USTR);
- 2) has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the USTR; and
- 3) has not entered into any subcontract for any product to be used on the Federal project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR.

This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18 USC § 1001.

The Offeror/Contractor must provide immediate written notice to the Owner if the Offeror/Contractor learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Contractor must require subcontractors provide immediate written notice to the Contractor if at any time it learns that its certification was erroneous by reason of changed circumstances.

Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR § 30.17, no contract shall be awarded to an Offeror or subcontractor:

- 1) who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the USTR; or
- 2) whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such USTR list; or
- 3) who incorporates in the public works project any product of a foreign country on such USTR list.

Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

The Offeror agrees that, if awarded a contract resulting from this solicitation, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Contractor may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by USTR, unless the Offeror has knowledge that the certification is erroneous.

This certification is a material representation of fact upon which reliance was placed when making an award. If it is later determined that the Contractor or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration (FAA) may direct through the Owner cancellation of the contract or subcontract for default at no cost to the Owner or the FAA.

## **A24 VETERAN'S PREFERENCE**

### **A24.1 SOURCE**

49 USC § 47112(c)

### **A24.2 APPLICABILITY**

**Contract Types** – This provision applies to all AIP funded projects that involve labor to carry out the project. This preference, which excludes executive, administrative, and supervisory positions, applies to covered veterans [as defined under § 47112(c)] only when they are readily available and qualified to accomplish the work required by the project.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor's language must fully satisfy the requirements of 49 USC § 47112.

### **A24.3 MODEL CONTRACT CLAUSE**

#### **VETERAN'S PREFERENCE**

In the employment of labor (excluding executive, administrative, and supervisory positions), the Contractor and all sub-tier contractors must give preference to covered veterans as defined within 49 U.S.C. § 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 U.S.C. § 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

## **A25 DOMESTIC PREFERENCES FOR PROCUREMENTS**

### **A25.1 SOURCE**

2 CFR § 200.322

2 CFR Part 200, Appendix II(L)

### **A25.2 APPLICABILITY**

To the greatest extent “practicable,” Sponsors must provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the U.S., including, but not limited to iron, aluminum, steel, cement, or other manufactured products.

**Contract Types** – Must be included in all subawards, including all contracts and purchase orders for work or products under the grant.

**Use of Provision** – No mandatory text provided. The following language is acceptable to the FAA and meets the intent of this requirement. If the Sponsor uses different language, the Sponsor’s language must fully satisfy the requirements of 2 CFR § 200.322.

### **A25.3 MODEL CERTIFICATION CLAUSE**

#### **CERTIFICATION REGARDING DOMESTIC PREFERENCES FOR PROCUREMENTS**

The Bidder or Offeror certifies by signing and submitting this bid or proposal that, to the greatest extent practicable, the Bidder or Offeror has provided a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including, but not limited to, iron, aluminum, steel, cement, and other manufactured products) in compliance with 2 CFR § 200.322.

## **A26 PROHIBITION OF COVERED UNMANNED AIRCRAFT SYSTEMS (UAS)**

### **A26.1 SOURCE**

FAA Reauthorization Act of 2024 (Public Law 118-63), Section 936

49 U.S.C. § 44801 note

Sponsors and subgrant recipients are prohibited from using AIP grant funds to enter into, extend, or renew a contract for:

- 1) The operation, procurement, or contracting action with respect to a covered unmanned aircraft system (UAS); or
- 2) To any entity that operates a covered unmanned aircraft system (UAS) in the performance of such contract.

The term “Covered UAS” means a small unmanned aircraft, an unmanned aircraft, and unmanned aircraft system, or the associated elements of such aircraft and aircraft systems related to the collection and transmission of sensitive information (consisting of communication links and the components that control the unmanned aircraft) that enable the operator to operate the aircraft in the National Airspace System which is manufactured or assembled by a covered foreign entity; and an unmanned aircraft detection system or counter- UAS system that is manufactured or assembled by a covered foreign entity. These covered foreign entities include:

- (a) The People’s Republic of China.
- (b) The Russian Federation.
- (c) The Islamic Republic of Iran.
- (d) The Democratic People’s Republic of Korea.
- (e) The Bolivarian Republic of Venezuela.
- (f) The Republic of Cuba.
- (g) Any other country the Secretary determines necessary.

### **A26.2 APPLICABILITY**

Contract Types – the Sponsor must include this provision in all AIP-funded contracts and lower-tier contracts.

Use of Provision - No mandatory text provided. The Sponsor's language must fully satisfy these requirements. Sponsor may substitute "Contractor and subcontractor" with "Consultant and sub-consultant" for professional service agreements as appropriate.

### **A26.3 MODEL CONTRACT CLAUSE**

The Bidder or Offeror certifies that they are aware of and comply with relevant Federal statutes and regulations, including those from the Federal Aviation Administration (FAA), for operating unmanned aircraft systems (UAS) in accordance, and in compliance with all related requirements in the FAA Reauthorization Act of 2024 (Public Law 118-63), section 936 (49 U.S.C. § 44801 note).

Contractor warrants that all UAS operations will be conducted in full compliance with all applicable Federal Aviation Administration (FAA) regulations, including but not limited to 14 CFR Part 107, and any other applicable local, state, or Federal laws and regulations.

Sponsors and subgrant recipients cannot use AIP grant funds to enter into, extend, or renew a contract related to covered unmanned aircraft systems (UAS). This includes both procurement and operational contracts, as well as contracts with entities that operate such systems.

## **J. FORMS PROVIDED**

The following Forms must be completed and submitted as part of the Respondent's Statement of Qualifications (SOQ). Failure to submit any required form may result in disqualification. Notarization is required only for those forms expressly identified as affidavits.

**EXHIBIT 1** Non-Conflict of Interest Certification

**EXHIBIT 2** Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion

**EXHIBIT 3** Non-Collusive Affidavit

**EXHIBIT 4** Anti-Lobbying Certification

**NON-CONFLICT OF INTEREST CERTIFICATION**  
**[CERTIFICACIÓN DE AUSENCIA DE CONFLICTO DE INTERÉS]**  
**Architectural and Engineering Services**  
**Infrastructure Mitigation Program**  
**Community Development Block Grant – Mitigation**  
**Puerto Rico Ports Authority**

I, \_\_\_\_\_, of legal age, of marital status (married/single), and a resident of \_\_\_\_\_, have been designated as the authorized representative of \_\_\_\_\_ ("the Proposer") for the **Architectural and Engineering Services** procurement process ("Procurement Process"). In such regard, I hereby certify that:

Yo, \_\_\_\_\_, mayor de edad, de estado civil (casado(a)/soltero(a)), y residente de \_\_\_\_\_, he sido designado(a) como el/la representante autorizado(a) de \_\_\_\_\_ (el "Proponente"), para el proceso de adquisición **Servicios de Arquitectura e Ingeniería** ("Proceso de Adquisición"). En virtud de ello, certifico que:

1. No public official or employee of the Procuring Entity possesses any financial interest with any Proposer participating in this Procurement Process, and that likewise, has had no direct or indirect financial interest with these for the past four (4) years.

*[Ningún servidor público o empleado de la Entidad Adquirente tiene un interés pecuniario con alguno de los Proponentes que participan en este Proceso de Adquisición, ni lo han tenido -directa o indirectamente- en los últimos cuatro (4) años.]*

2. No public official or employee of the Procuring Entity has solicited or accepted, directly or indirectly, by means of any person or entity with interest in this Procurement Process, including the Proposer, any goods of any value -including, gifts, gratuities, contributions, services, donations, loans, and/or any other item of monetary value- for themselves and/or for any member of their immediate family, and/or relatives, and/or for any person, as a form of compensation for performing the duties and responsibilities of their position in connection with this Procurement Process.

*[Ningún servidor público o empleado de la Entidad Adquirente ha solicitado o aceptado, directa o indirectamente, por parte de cualquier persona o entidad con interés en este Proceso de Adquisición, incluyendo al Proponente, bienes de cualquier valor económico -incluyendo regalos, propinas, favores, servicios, donativos, préstamos y/o cualquier otra cosa de valor monetario- para sí y/o para algún miembro de su familia inmediata y/o familiares y/o para cualquier otra persona, como mecanismo de pago por llevar a cabo los deberes y responsabilidades de su posición relacionado a este Proceso de Adquisición.]*

3. No public official or employee of the Procuring Entity has solicited or accepted, directly or indirectly, by means of any person or entity with interest in this Procurement Process, including the Proposer, any goods of any value -including, gifts, gratuities, contributions, services, donations, loans, and/or any other item of monetary value- for themselves and/or for any member of their immediate family, and/or relatives, and/or for any person, in exchange for their actions being an influence in the end result of this Procurement Process.

*[Ningún servidor público o empleado de la Entidad Adquirente ha solicitado o aceptado, directa o indirectamente, por parte de cualquier persona o entidad, incluyendo al Proponente, bienes de*

---

*cualquier valor económico -incluyendo regalos, propinas, favores, servicios, donativos, préstamos y/o cualquier otra cosa de valor monetario- para sí y/o para algún miembro de su familia inmediata y/o familiares y/o para cualquier otra persona, a cambio de que su actuación influya el resultado final de este Proceso de Adquisición.]*

- I do not have a kindred relationship within the fourth (4<sup>th</sup>) degree of consanguinity and/or second (2<sup>nd</sup>) degree of affinity with public official or employee of the Procuring Entity that participates or influences -or has the capacity to do so- in the institutional decisions of the Procuring Entity.

*[No tengo una relación de parentesco dentro del cuarto (4to) grado de consanguinidad y/o segundo (2do) de afinidad, con algún servidor público o empleado de la Entidad Adquirente que participe o inflencie -o tenga la capacidad para hacerlo- en las decisiones institucionales de la Entidad Adquiriente.]*

The Procuring Entity is highly committed to management excellence and promotes the effective use of the government resources to benefit the people of Puerto Rico. Thus, the Procuring Entity will support and comply with the provisions of Act 2-2018, known as the Anti-Corruption Code for the New Puerto Rico, as amended, including Title III, Code of Ethics for Contractors, Suppliers and Applicants for Economic Incentives of the Government of Puerto Rico.

*[La Entidad Adquirente está altamente comprometida con lograr una administración de excelencia y promover el uso efectivo de los recursos del gobierno en beneficio del pueblo de Puerto Rico. Por tanto, la Entidad Adquiriente está comprometida con apoyar y cumplir con la Ley 2-2018, conocida como el Código Anti Corrupción para el Nuevo Puerto Rico, según enmendada, incluyendo el Título III, Código de Ética para Contratistas, Suplidores y Solicitantes de Incentivos Económicos del Gobierno de Puerto Rico.]*

In light of the above, I, the Proposer's Authorized Representative, also certify that:  
*[En virtud de lo anterior, yo, el/la Representante Autorizado(a) del Proponente, certifico que también:]*

- I agree to comply with the applicable provisions of Act 2-2018, known as the Anti-Corruption Code for the New Puerto Rico, as amended, including Title III, Code of Ethics for Contractors, Suppliers and Applicants for Economic Incentives of the Government of Puerto Rico and recognize that this is an essential requirement in order to execute transactions or to set up agreements with the Procuring Entity.

*[Tengo el compromiso de cumplir con las disposiciones aplicables de la Ley 2-2018, conocida como el Código Anti-Corrupción para el Nuevo Puerto Rico, según enmendada, incluyendo el Título III, Código de Ética para Contratistas, Suplidores y Solicitantes de Incentivos Económicos del Gobierno de Puerto Rico y reconocemos que esta aceptación es una condición esencial e indispensable para que se puedan efectuar transacciones o que se establezcan acuerdos con la Entidad Adquirente.]*

---

Signature of Proposer's Authorized Representative  
*[Firma del/la Representante Autorizado(a) del Proponente]*

---

Date  
*[Fecha]*

---

Printed Name of Proposer's Authorized Representative  
*[Nombre en Letra de Molde del/la Representante Autorizado(a) del Proponente]*

---

## CERTIFICATION BY CONTRACTOR

### CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS

The Contractor \_\_\_\_\_ certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
  
2. Have not within a three year period preceding this proposal been convicted of or has a civil judgment rendered against them for commission of fraud or criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery falsification or destruction of records, making false statements or receiving stolen property;
  
3. Are not presently indicted for or otherwise criminally or civilly charge by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
  
4. Have not within a three-year period preceding this application/proposal had one or more public transaction (Federal, State of Local) terminated for cause of default.

Executed this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

By: \_\_\_\_\_  
*(Signature of Authorized Official)*

\_\_\_\_\_  
*(Title of Authorized Official)*

**NON-COLLUSIVE AFFIDAVIT  
Architectural and Engineering Services  
Infrastructure Mitigation Program  
Community Development Block Grant – Mitigation  
Puerto Rico Ports Authority**

The Offeror certifies that in relation to Architectural and Engineering Services:

1. The prices in the offer have been arrived at independently without directly or indirectly mediating any type of consultation, communication or agreement with any other competitor relating to i) prices, ii) intention to submit an offer, or iii) the methods or factors used to calculate the proceed offered;
2. Prices in the offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening or purchase order/contract award unless otherwise required by law;
3. No attempt has been made or will be made by the offeror to induce any other competitor to/not to submit an offer for the purpose of restricting competition.

The signatory below (select one):

- Is the person in the offeror's organization responsible for determining the prices being offered, and has not participated and will not participate in any action contrary to paragraphs (1) through (3) above.
- Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (1) through (3) above.

Name <sup>1</sup>	Position <sup>2</sup>	Name	Position

As authorized agent, the Signatory does certify that the principals named above have not participated, and will not participate, in any action contrary to paragraphs (1) through (3) above.

---

<sup>1</sup> Insert full name of person(s) in the offeror's organization responsible for determining the prices offered in the quote, bid or proposal.

<sup>2</sup> Insert the title of the person(s) in the offeror's organization responsible for determining the prices offered in the quote, bid or proposal.

---

As an agent, the Signatory has not personally participated, and will not participate, in any action contrary to paragraphs (1) through (3) above.

\_\_\_\_\_  
(Name of Offeror)

**By:**

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name of Signatory)

\_\_\_\_\_  
(Title)

Affidavit No: \_\_\_\_\_

Subscribed and sworn to before me in the city of \_\_\_\_\_, \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ of legal age, \_\_\_\_\_ (civil status), \_\_\_\_\_ (occupation) and resident of \_\_\_\_\_, \_\_\_\_\_, in his/her capacity as \_\_\_\_\_ of Offeror. Who I personally know or have identified by his/her \_\_\_\_\_.

\_\_\_\_\_  
Public Notary

\_\_\_\_\_

**LETTER OF INTENT**  
**Disadvantage Business Enterprise**  
*(This page shall be submitted for each DBE firm)*

**Bidder/Offer** Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**DBE Firm:** DBE Firm: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**DBE Contact Person:** Name: \_\_\_\_\_ Phone: ( ) \_\_\_\_\_

**DBE Certifying Agency:** \_\_\_\_\_ Expiration Date: \_\_\_\_\_

*Each DBE Firm shall submit evidence (such as a photocopy) of their certification status.*

**Classification:**       Prime Contractor       Subcontractor       Joint Venture  
 Manufacturer       Supplier

Work item(s) to be performed by DBE	Description of Work Item	Quantity	Total

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated participation is as follows:

DBE contract amount: \$ \_\_\_\_\_ Percent of total contract: \_\_\_\_\_ %

**AFFIRMATION:**

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By:

\_\_\_\_\_

*(Signature)*

*(Title)*

**Note:** In the event the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

**NON-CONFLICT OF INTEREST CERTIFICATION**  
**[CERTIFICACIÓN DE AUSENCIA DE CONFLICTO DE INTERÉS]**  
**Architectural and Engineering Services**  
**Infrastructure Mitigation Program**  
**Community Development Block Grant – Mitigation**  
**Puerto Rico Ports Authority**

I, \_\_\_\_\_, of legal age, of marital status (married/single), and a resident of \_\_\_\_\_, have been designated as the authorized representative of \_\_\_\_\_ ("the Proposer") for the **Architectural and Engineering Services** procurement process ("Procurement Process"). In such regard, I hereby certify that:

Yo, \_\_\_\_\_, mayor de edad, de estado civil (casado(a)/soltero(a)), y residente de \_\_\_\_\_, he sido designado(a) como el/la representante autorizado(a) de \_\_\_\_\_ (el "Proponente"), para el proceso de adquisición **Servicios de Arquitectura e Ingeniería** ("Proceso de Adquisición"). En virtud de ello, certifico que:

1. No public official or employee of the Procuring Entity possesses any financial interest with any Proposer participating in this Procurement Process, and that likewise, has had no direct or indirect financial interest with these for the past four (4) years.

*[Ningún servidor público o empleado de la Entidad Adquirente tiene un interés pecuniario con alguno de los Proponentes que participan en este Proceso de Adquisición, ni lo han tenido -directa o indirectamente- en los últimos cuatro (4) años.]*

2. No public official or employee of the Procuring Entity has solicited or accepted, directly or indirectly, by means of any person or entity with interest in this Procurement Process, including the Proposer, any goods of any value -including, gifts, gratuities, contributions, services, donations, loans, and/or any other item of monetary value- for themselves and/or for any member of their immediate family, and/or relatives, and/or for any person, as a form of compensation for performing the duties and responsibilities of their position in connection with this Procurement Process.

*[Ningún servidor público o empleado de la Entidad Adquirente ha solicitado o aceptado, directa o indirectamente, por parte de cualquier persona o entidad con interés en este Proceso de Adquisición, incluyendo al Proponente, bienes de cualquier valor económico -incluyendo regalos, propinas, favores, servicios, donativos, préstamos y/o cualquier otra cosa de valor monetario- para sí y/o para algún miembro de su familia inmediata y/o familiares y/o para cualquier otra persona, como mecanismo de pago por llevar a cabo los deberes y responsabilidades de su posición relacionado a este Proceso de Adquisición.]*

3. No public official or employee of the Procuring Entity has solicited or accepted, directly or indirectly, by means of any person or entity with interest in this Procurement Process, including the Proposer, any goods of any value -including, gifts, gratuities, contributions, services, donations, loans, and/or any other item of monetary value- for themselves and/or for any member of their immediate family, and/or relatives, and/or for any person, in exchange for their actions being an influence in the end result of this Procurement Process.

*[Ningún servidor público o empleado de la Entidad Adquirente ha solicitado o aceptado, directa o*

---

*indirectamente, por parte de cualquier persona o entidad, incluyendo al Proponente, bienes de cualquier valor económico -incluyendo regalos, propinas, favores, servicios, donativos, préstamos y/o cualquier otra cosa de valor monetario- para sí y/o para algún miembro de su familia inmediata y/o familiares y/o para cualquier otra persona, a cambio de que su actuación influya el resultado final de este Proceso de Adquisición.]*

- I do not have a kindred relationship within the fourth (4<sup>th</sup>) degree of consanguinity and/or second (2<sup>nd</sup>) degree of affinity with public official or employee of the Procuring Entity that participates or influences -or has the capacity to do so- in the institutional decisions of the Procuring Entity.

*[No tengo una relación de parentesco dentro del cuarto (4to) grado de consanguinidad y/o segundo (2do) de afinidad, con algún servidor público o empleado de la Entidad Adquirente que participe o inflencie -o tenga la capacidad para hacerlo- en las decisiones institucionales de la Entidad Adquiriente.]*

The Procuring Entity is highly committed to management excellence and promotes the effective use of the government resources to benefit the people of Puerto Rico. Thus, the Procuring Entity will support and comply with the provisions of Act 2-2018, known as the Anti-Corruption Code for the New Puerto Rico, as amended, including Title III, Code of Ethics for Contractors, Suppliers and Applicants for Economic Incentives of the Government of Puerto Rico.

*[La Entidad Adquirente está altamente comprometida con lograr una administración de excelencia y promover el uso efectivo de los recursos del gobierno en beneficio del pueblo de Puerto Rico. Por tanto, la Entidad Adquiriente está comprometida con apoyar y cumplir con la Ley 2-2018, conocida como el Código Anti Corrupción para el Nuevo Puerto Rico, según enmendada, incluyendo el Título III, Código de Ética para Contratistas, Suplidores y Solicitantes de Incentivos Económicos del Gobierno de Puerto Rico.]*

In light of the above, I, the Proposer's Authorized Representative, also certify that:  
*[En virtud de lo anterior, yo, el/la Representante Autorizado(a) del Proponente, certifico que también:]*

- I agree to comply with the applicable provisions of Act 2-2018, known as the Anti-Corruption Code for the New Puerto Rico, as amended, including Title III, Code of Ethics for Contractors, Suppliers and Applicants for Economic Incentives of the Government of Puerto Rico and recognize that this is an essential requirement in order to execute transactions or to set up agreements with the Procuring Entity.

*[Tengo el compromiso de cumplir con las disposiciones aplicables de la Ley 2-2018, conocida como el Código Anti-Corrupción para el Nuevo Puerto Rico, según enmendada, incluyendo el Título III, Código de Ética para Contratistas, Suplidores y Solicitantes de Incentivos Económicos del Gobierno de Puerto Rico y reconocemos que esta aceptación es una condición esencial e indispensable para que se puedan efectuar transacciones o que se establezcan acuerdos con la Entidad Adquirente.]*

---

Signature of Proposer's Authorized Representative  
*[Firma del/la Representante Autorizado(a) del Proponente]*

---

Date  
*[Fecha]*

---

Printed Name of Proposer's Authorized Representative  
*[Nombre en Letra de Molde del/la Representante Autorizado(a) del Proponente]*

---

**NON-COLLUSIVE AFFIDAVIT  
Architectural and Engineering Services  
Infrastructure Mitigation Program  
Community Development Block Grant – Mitigation  
Puerto Rico Ports Authority**

The Offeror certifies that in relation to Architectural and Engineering Services:

1. The prices in the offer have been arrived at independently without directly or indirectly mediating any type of consultation, communication or agreement with any other competitor relating to i) prices, ii) intention to submit an offer, or iii) the methods or factors used to calculate the proceed offered;
2. Prices in the offer have not been and will not be knowingly disclosed by the offeror, directly or indirectly, to any other offeror or competitor before bid opening or purchase order/contract award unless otherwise required by law;
3. No attempt has been made or will be made by the offeror to induce any other competitor to/not to submit an offer for the purpose of restricting competition.

The signatory below (select one):

- Is the person in the offeror's organization responsible for determining the prices being offered, and has not participated and will not participate in any action contrary to paragraphs (1) through (3) above.
- Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (1) through (3) above.

Name <sup>1</sup>	Position <sup>2</sup>	Name	Position

As authorized agent, the Signatory does certify that the principals named above have not participated, and will not participate, in any action contrary to paragraphs (1) through (3) above.

---

<sup>1</sup> Insert full name of person(s) in the offeror's organization responsible for determining the prices offered in the quote, bid or proposal.

<sup>2</sup> Insert the title of the person(s) in the offeror's organization responsible for determining the prices offered in the quote, bid or proposal.

---

As an agent, the Signatory has not personally participated, and will not participate, in any action contrary to paragraphs (1) through (3) above.

\_\_\_\_\_  
(Name of Offeror)

**By:** \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name of Signatory)

\_\_\_\_\_  
(Title)

Affidavit No: \_\_\_\_\_

Subscribed and sworn to before me in the city of \_\_\_\_\_, \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ of legal age, \_\_\_\_\_ (civil status), \_\_\_\_\_ (occupation) and resident of \_\_\_\_\_, \_\_\_\_\_, in his/her capacity as \_\_\_\_\_ of Offeror. Who I personally know or have identified by his/her \_\_\_\_\_.

\_\_\_\_\_  
Public Notary

\_\_\_\_\_

**REGARDING LOBBYING**  
**APPENDIX A, 49 CFR PART 20 CERTIFICATION**  
Certification for Contracts, Grants, Loans, and Cooperative  
Agreements  
(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] 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 making lobbying contacts to 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 [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(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 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Official Signature of Contractor's Authorized

\_\_\_\_\_  
Authorized Official Name and Title of Contractor's

\_\_\_\_\_  
Date