

Additional Terms and Conditions for Federal Grant Funded Purchases

Washington State University ("WSU") has received a Federal award from a Federal Awarding Agency. This Contract is entered into with the Contractor to purchase property or services needed to carry out the project or program under the Federal award. When interpreting applicable provisions of 2 CFR Part 200 and its appendices: "Federal Agency" or "Federal Awarding Agency" shall refer to the agency of the United States Government from whom WSU has received Federal award funds to be expended under this Contract; "Non-Federal Entity" shall refer to WSU; "Contractor" shall refer to the contractor with whom WSU has entered into this contract; and "Contract" shall refer to the contract between the Washington State University and Contractor to which these terms and conditions are incorporated.

By accepting this order or by entering into this Contract, a Contract between WSU and the Contractor is formed. Contractor agrees to furnish the subject matter required by this order or Contract and agrees to all terms and conditions included by WSU, including the terms and conditions specified below. Any other applicable provisions of 2 CFR Part 200 are hereby incorporated by reference and shall have full force and effect.

Breach, Default, Termination: WSU reserves the right to pursue all available legal, administrative, contractual or equitable remedies in the event of Contractor's breach of contract or violation of any term of this contract. WSU shall have the right to terminate this contract for cause and shall retain all rights and remedies against Contractor. WSU shall also have the right to terminate this Contract for convenience upon thirty (30) days' notice to Contractor. Breach and/or Termination of this Contract shall be addressed in the manner prescribed in the General Terms and Conditions.

Equal Employment Opportunity: Except as otherwise provided in 41 CFR Part 60, all "federally assisted construction contracts," as defined in 41 CFR Part 60-1.3 are subject to the Equal Opportunity clause contained in 41 CFR 60-1.4(b), incorporated by reference, in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." Furthermore, the Equal Opportunity clause contained in 41 CFR 60-1.4(b) applies to all nonexempt subcontracts entered into by Contractor under this Contract, and Contractor agrees to include the Equal Opportunity clause contained in 41 CFR 60- 1.4(b) in all nonexempt subcontracts.

Davis-Bacon Act, as amended (40 U.S.C. 3141-3148): Where applicable, all prime construction contracts in excess of \$2,000 shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the Davis-Bacon Act, contractors must pay wages to laborers and mechanics at a rate not less than prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must pay wages not less than once per week. If the Davis-Bacon Act applies to this Contract award of this Contract is conditioned upon the acceptance of the wage determination. In addition to any reporting requirements it may otherwise have, Contractor must report all suspected or reporting violations of the Davis-Bacon Act to WSU; WSU will report all suspected or reported violations of the Davis-Bacon Act to the Federal Awarding Agency.

Copeland “Anti-Kickback” Act (40 U.S.C. 3145): Where applicable, all prime construction contracts over \$2,000 are subject to the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). WSU will report all suspected or reported violations to the Federal Awarding Agency. The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to WSU and the Federal awarding agency.

Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708): Where applicable, all contracts over \$100,000 which will involve the use of mechanics or laborers shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each Contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 apply to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Rights to Inventions Made Under a Contract or Agreement: For Contracts awarded by WSU under a “funding agreement,” as defined in 37 CFR 401.2(a) between a Federal Awarding Agency and WSU, if WSU or Contractor wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under the “funding agreement,” the Washington State University or Contractor must comply with the requirements of 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 the awarding agency.

Clean Air Act (42 U.S.C. 7401-7671q): For Contracts and subgrants over \$150,000, WSU and Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q). WSU shall report violations to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).

Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended: For Contracts and subgrants over \$150,000, WSU and Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). WSU shall report violations to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).

Energy Policy and Conservation Act (42 U.S.C. 6201): The Contractor shall comply with all mandatory standards and policies relating to energy efficiency contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

Debarment and Suspension (Executive Orders 12549 and 12689): WSU’s award of this Contract is conditioned upon the Contractor’s current and continued eligibility. Contractor is eligible unless Contractor is listed on the government-wide Excluded Parties List System in the System for Award

Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), "Debarment and Suspension." The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. If a contractor is listed on the Excluded Parties List System in SAM, Contractor shall have the obligation to promptly inform a WSU contract manager, and this Contract shall be immediately terminated without liability on the part of WSU or the Federal Awarding Agency.

Byrd Anti-Lobbying Amendment (31 U.S.C. 1352): For Contracts over \$150,000, Contractor warrants it filed the required certification prior to Contract award and payment. Contractor certifies that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Contractor shall require such certification and disclosure from any subcontractors used. Any further subcontractors must certify and disclose to the subcontractor awarding the subcontract. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures under this Contract shall be forwarded up from tier to tier up to WSU.

Solid Waste Disposal Act (42 USC 6901-6992k): Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, 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; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

Prohibition on certain telecommunications and video surveillance services or equipment: Contractor must comply with 2 C.F.R. § 200.216, which implements Section 889 of the Fiscal Year (FY) 2019 NDAA (Pub. L. 115-232) and forbids Federal award recipients from using government funds to enter into contracts (or extend or renew them) with entities utilizing covered telecommunications equipment or services. 2 CFR 200.216 prohibits federal award recipients from using government funds to enter into contracts (or extend or renew contracts) with entities that use "covered telecommunications equipment or services," even if the contract is not for the purchase of such equipment or services. Covered telecommunications equipment or services is defined as telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities). For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, "covered telecommunications equipment or services" includes video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities), and any telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

Never contract with the enemy (2 CFR § 200.215): Contractor is subject to the regulations implementing Never Contract with the Enemy in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered contracts, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

Domestic preference for procurements (2 CFR § 200.322): As appropriate and to the extent consistent with law, the Contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum, plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Build America, Buy America (P.L. 117-58 sections 70911-70917): When using Federal funds for the purchase of goods, products, and materials on any form of construction, alteration, maintenance, or repair of infrastructure in the United States, the Contractor is subject to the Buy America Sourcing requirements under the Build America, Buy America Provisions of the Infrastructure Investment and Jobs Act. These sourcing requirements require that all iron, steel, manufactured products, and construction materials used in Federally funded infrastructure projects must be produced in the United States. Non-compliant purchases must not be made until a waiver is obtained from the Federal funding agency.