



The School Board of Miami-Dade County, Florida
PROCUREMENT MANAGEMENT SERVICES
 1450 NE 2nd Avenue, Ste. 650, Miami, Florida 33132
 305-995-4288
Bidder Qualification Form

INVITATION TO BID (ITB)

DUE DATE: Bids due on or before Tuesday, April 4, 2023 at 1:00 p.m. Eastern Time (ET) via DemandStar.

**PLEASE REFER TO ATTACHMENT 14 FOR
BID OPENING INFORMATION**

Check Addenda for any revised opening dates before submitting your bid. **Bid(s) received after the date and time stated above shall not be considered for award.** Hard copy, faxed and/or emailed bids are not allowed and will not be considered for award.

ITB NO.:

ITB-22-021-TA

RELEASE DATE:

March 7, 2023

PURCHASING AGENT:

Tosha Alice

BID TITLE:

Emergency Debris and Hazardous Tree Removal

SECTION 1 - BIDDER ACKNOWLEDGEMENT

THIS SECTION MUST BE COMPLETED IN ITS ENTIRETY INCLUDING THE SIGNATURE OF AN AUTHORIZED REPRESENTATIVE WHERE INDICATED BELOW AND SUBMITTED WITH THE BID. FAILURE TO PROVIDE THIS DOCUMENT, WITH THE BID, WILL RESULT IN BID BEING CONSIDERED NON-RESPONSIVE.

Bidder's Name and state "Doing Business As", where applicable:

"REMIT TO" ADDRESS FOR PAYMENT: If payment(s) is/are to be mailed to address other than as stated on left, please complete section below.
☐ Check this box if address is the same as stated on the left.

Address:

P.O. Box:

City:

City:

State:

Zip Code:

State:

Zip Code:

Telephone Number:

Sales Contact:

Sales E-Mail Address:

E-mail Address to Send Purchase Orders:

Federal Tax Identification Number:

A. I hereby certify that I am submitting the following information as my firm's (Bidder) bid and I am authorized by Bidder to do so. Bidder agrees to complete an unconditional acceptance of the contents of all pages in this Invitation to Bid (ITB), and all appendices and the contents of any Addenda released hereto; Bidder agrees to be bound to any and all specifications, terms and conditions contained in the ITB, and any released Addenda and understand that the following are requirements of this ITB and failure to comply will result in disqualification of bid submitted; Bidder has not divulged, discussed, or compared the bid with other Bidders and has not colluded with any other Bidder or party to any other bid.

B. I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, or person submitting a bid for the same materials, supplies, or equipment, and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of this bid; and I certify that I am authorized to sign this bid for the bidder.

C. I certify that my Bidder satisfies all necessary legal requirements as an entity to do business with The School Board of Miami-Dade County, Florida.

D. I certify agreement with the School Board of Miami-Dade County Business Code of Ethics and agree to comply with this Code and all applicable School Board contracting and procurement policies and procedures.

E. I certify that neither I, my company, its principals, or any wholly owned subsidiary are currently debarred or in default of any bid, purchase order, or contract with the School Board or any other private or governmental entity.

F. I agree that this bid cannot be withdrawn within **90** days from date due.

Signature of Authorized Representative (Manual)

Name of Authorized Representative (Typed or Printed)

Title of Authorized Representative

E-Mail Address of Authorized Representative

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Attachment 2	Statement of “No Bid”
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Attachment 16	Statement of Intent to Perform as a Certified Subcontractor/ Subconsultant
Exhibit A	Federal Emergency Management Agency (FEMA) Contract Provisions

SECTION 3 - CALENDAR

ITB Release Date	Tuesday, March 7, 2023
Pre-Bid Conference*	Tuesday, March 14, 2023 at 10:00 a.m. ET
Pre-Bid Conference Location	Via Zoom at: Meeting ID: 995 9994 0835 Passcode: 081093 One tap mobile +16468769923,,96383258347# US (New York) +13017158592,,96383258347# US (Germantown)
Deadline for Questions	Tuesday, March 14, 2023,, at 5:00 p.m. ET
Bid Due Date/Time	Tuesday, April 4, 2023, at 1:00 p.m. ET
Virtual Bid Opening Meeting:	Tuesday, April 4, 2023, at 2:00 p.m. ET
Bid Opening Location	Via Zoom at: Meeting ID: 963 8325 8347 Passcode: 978824 One tap mobile +16468769923,,96383258347# US (New York) +13017158592,,96383258347# US (Germantown) (See instructions on Attachment 14)
Projected Board Approval of Contract	May 17, 2023
Contact Person for this ITB:	Tosha Alice
Email Address:	Toshabowen@dadeschools.net
Telephone:	(305) 995-7254
Fax:	(305) 995-2307

**Pre-Bid Conference attendance is not required. In compliance with Florida Statutes, Chapter 119, commonly known as the Florida Sunshine law this meeting will be recorded in its entirety.*

SECTION 4 - INSTRUCTIONS TO BIDDERS

Board policies may be accessed at: <http://www.dadeschools.net/schoolboard/rules/>

CONE OF SILENCE

The School Board of Miami-Dade County, Florida ("Board") enacts a Cone of Silence from issuance of a solicitation and shall terminate at the time the item is presented by the Superintendent to the appropriate Board committee immediately prior to the Board meeting at which the Board will award or approve a contract, reject all bids or responses, or take any other action that ends the solicitation and review process. All provisions of School Board Policy 6325 apply.

A. "Cone of silence" means a prohibition on any communication regarding a particular Request for Proposals (RFP), bid, invitation to bid, or other competitive solicitation between:

1. any person who seeks an award, including a potential vendor or vendor's representative, an employee, partner, director, or officer of a potential vendor, or consultant, lobbyist, or actual or potential subcontractor or sub-consultant of a vendor, or any other individual acting through or on behalf of any person seeking an award; and
2. any School Board member or the member's staff, the Superintendent, deputy superintendent and their respective support staff, or any person appointed by the Board to evaluate or recommend selection in the competitive procurement process.

B. A cone of silence shall be applicable to each RFP, bid, invitation to bid, or other competitive solicitation during the solicitation, review, and Board action of bid proposals as appropriate. At the time of issuance of the solicitation, the Superintendent shall provide public notice of the cone of silence and written notice, including electronic communication, to the Board, District staff and any other person involved in the review, evaluation, recommendation, approval, rejection, or award of the responses as appropriate. The Superintendent shall include in any advertisement and public solicitation for goods and services a statement disclosing the requirements of this section.

C. For unsolicited public-private partnership proposals, the cone of silence shall be imposed from the time the proposal is received in accordance with Policy 6327, Public-Private Partnerships and Unsolicited Proposals.

D. The cone of silence shall terminate at the time the item is presented by the Superintendent to the appropriate Board committee immediately prior to the Board meeting at which the Board will award or approve a contract, reject all bids or responses, or take any other action that ends the solicitation and review process

I. PREPARATION OF BIDS

A. **BIDDER QUALIFICATION FORM** qualifies the Bidder and the bid and must be completed and submitted as page 1 of the bid.

1. **PERFORMANCE SECURITY** shall not be submitted with the bid. The form of performance security the Bidder will submit when required to do so, must be furnished and shall be made to The School Board of Miami-Dade County, Florida.

2. **BIDDER CERTIFICATION AND IDENTIFICATION:** Bid must contain an original manual signature from an authorized representative. An unsigned bid will be considered non-responsive.

B. **INSTRUCTIONS TO BIDDERS:** Defines conditions of the bid.

1. **ORDER OF PRECEDENCE:** Any inconsistency in this bid shall be resolved by giving precedence in the following order:

- A. Specifications
- B. Special Conditions
- C. Instructions to Bidders

C. **BID PROPOSAL FORM:** Defines requirement of items to be purchased and must be completed and submitted. The Bidder

should indicate his/her name in the appropriate space on each page.

1. **ITEM SPECIFICATIONS:** Describes technical, performance, and packaging requirements for every bid line item. Specifying a certain brand, make or manufacturer is to denote the quality, type, and standard of the article desired. Articles offered must be new merchandise only, of equal or superior grade. On blank lines provided, the Bidder is requested to insert the brand name, manufacturer's number and other information necessary to sufficiently identify article offered. Failure to do so may prevent consideration of the item. Also, refer to paragraph X. Packaging.

2. **PRICES** are requested in units of quantity specified in the bid specifications. In case of a discrepancy in computing the total amount of bid, UNIT PRICE quoted will govern. All prices bid shall include delivery F.O.B. destination, freight prepaid (Bidder pays and freight charges. Bidder own goods in transit and files any claims) and shall include all cartage, drayage, packing, etc., delivered to and unloaded at the receiving station at the site designated in bid and there received by the designated agent of the Board.

3. **TAXES:** The Board does not pay Federal Excise and State taxes on direct purchases of tangible personal property. The applicable tax exemption number is shown on the purchase order. This exemption does not apply to purchases of tangible personal property made by Bidder who use the tangible personal property in the performance of contracts for the improvement of Board-owned real property as defined in Chapter 192 of the Florida Statutes.

II.

SUBMITTING OF BIDS

A. Bids must be submitted on forms furnished by the Board, in compliance with the bid submission requirements set forth under Section 5.4. Bid submissions must be clearly marked with bid number, bid title and bid opening date.

B. **ERASURES OR CORRECTIONS:** When filling out the bid proposal form, Bidders are required to complete bid proposal in ink.

1. Use of pencil is prohibited.
2. All changes must be crossed out and initialed in ink.

Those bids for individual items that do not comply with items 1 and 2 above will be considered non-responsive for that item(s).

C. **PLACE, DATE AND HOUR:** Electronic submission ONLY, in accordance with the bid submittal requirements set forth under Section 5.4 and Attachment 14. Bids received after the date and hour specified in the BIDDER QUALIFICATION FORM will not be considered.

D. **PUBLIC ENTITY CRIMES:** Section 287.133(2)(a) Florida Statute, as currently enacted or as amended from time to time, states that a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO [currently \$25,000] for a period of 36 months from the date of being placed on the convicted vendor list.

E. **SUBMITTING A "NO BID":** If not submitting a bid at this time, return the form entitled statement of "No Bid". Failure to respond, either by submitting a bid or the statement of "No Bid" form for three

consecutive times, may result in the company being removed from the School Board's bid list.

- F. **AVAILABILITY OF BID INFORMATION:** Immediately following the public opening, bids may be read, upon request, and then compiled in a tabular form, a copy of which will be available for examination in Procurement Management Services.
- G. **TYPE OF BUSINESS ORGANIZATION AND AUTHORITY OF SIGNATORY:** Indicate type of business organization: For example, Partnership, Limited Partnership, Limited Liability Company, Corporation, etc. If a bid is submitted by a corporation, provide documentation that the corporation is active and authorized to do business in the State of Florida, and that its corporate status shall remain active and unchanged at the time of award of bid. As to other types of business organizations, please provide any and all documentation relating thereto, including without limitation, verification that the party signing this Bid is fully authorized and empowered to do so on behalf of Bidder. In addition, set forth name(s) and title of any and all parties who are authorized to contract on behalf of Bidder. If Bidder is not registered to transact business in the State of Florida, Bidder must provide a copy of Bidder's current registration in their state of incorporation/organization, along with the applicable exemption to this requirement as set forth in Section 607.1501, Florida Statutes.
- H. **MISSING INFORMATION.** Respondents who do not meet all the documentation requirements for the ITB may be contacted to submit the missing information within 2 business days. If the District requests missing documentation and does not receive the documents within the stated deadline, incomplete or noncompliant bids may be disqualified.

III. CANCELLATION OF BIDS OR REQUEST FOR PROPOSALS

An invitation for bids may be canceled, in whole or in part, as may be specified in the solicitation, when it is in the best interest of the Board. The reasons shall be made a part of the master bid file.

- A. Prior to opening, a solicitation may be canceled in whole or in part, prior to the date and hour specified in the Bidder Qualification Form for receipt of bids, when the Chief Procurement Officer, Procurement Management Services, determines in writing, that such action is in the best interest of the Board for reasons including, but not limited to:
1. The Board no longer requires the supplies, services, or construction;
 2. The Board no longer can reasonably expect to fund the procurement;
 3. A review of a valid protest filed by a Bidder as may be determined by the administrative staff; or
 4. Proposed amendments to the solicitation would be of such magnitude that a new solicitation is desirable.
- B. When a solicitation is canceled prior to opening, notice of cancellation shall be posted on the Board's website. Any bids or proposals received for the canceled solicitation shall be returned to the Bidder unopened.

The notice of cancellation shall:

1. Identify the solicitation;
2. Briefly explain the reason for cancellation; and
3. Where appropriate, explain that an opportunity will be given to compete on any future re-solicitation for procurements of similar supplies, services, or construction.

IV. CHANGE OR WITHDRAWAL OF BIDS

- A. **PRIOR TO BID OPENING:** Should the Bidder desire to change or withdraw his/her bid, he/she shall do so in writing. This communication is to be received by the District Director, of Procurement Management, Room 650, School Board Administration Building, prior to date and hour of bid opening. The

Bidders name, the bid number, the bid title and the date the bid is due must appear on the envelope.

- B. **AFTER BID OPENING:** After bids are opened, they may not be changed, nor withdrawn, for 90 days after the determined opening date, unless otherwise specified on the "BIDDER QUALIFICATION FORM."

V. PROTESTS

A Bidder, who wishes to file a bid protest, must file such notice and follow procedures prescribed by F.S. 120.57(3) and Bylaw 0133, for resolution.

Protest of Specifications

Any notice of protest of the specifications contained in an Invitation to Bid (ITB) or Request for Proposal (RFP) or Invitation to Negotiate (ITN) shall be filed accordance with Board Rule 6320, Bylaw 0133 and/or F.S. 120.57.

For a protest of the specifications contained in an Invitation to Bid (ITB) or in a Request for Proposals (RFP) or Invitation to Negotiate (ITN), the Notice of Protest shall be filed in writing within seventy-two (72) hours after the posting of a solicitation. The Formal Written Protest shall be filed within ten (10) calendar days after the date the notice of protest is filed. Failure to file a Notice of Protest or failure to file a Formal Written Protest shall constitute a waiver of proceedings under this rule. The Formal Written Protest shall state with particularity the facts and law upon which the protest is based. Saturdays, Sundays, and legal holidays shall be excluded in the computation of the seventy-two (72) hour time period provided by this paragraph.

Posting the Bond

The protesting party shall post a bond in a form consistent with F.A.C. Rule 28-110.005(2). A notice of decision or intended decision shall contain this statement: "Failure to file a protest within the time prescribed in F.S. 120.57(3), or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceeding under F.S. Chapter 120."

- A. **Bond:** Commodities (Other than Lease of Space) and Contractual Services (Including Professional Services and Insurance) – Pursuant to F.S. 287.042(2)(c), any person who files an action protesting a decision or intended decision pertaining to a solicitation or contract award shall post with the Board, at the time of filing the formal written protest, a bond secured by an acceptable surety company in Florida, payable to The School Board of Miami-Dade County, Florida, in an amount equal to one percent (1%) of the Board's estimate of the dollar value of the proposed contract.

1. The Board shall provide the estimated contract amount to the protestor within seventy-two (72) hours (excluding Saturdays, Sundays, and holidays when the Board administrative office is closed) after the filing of the Notice of Protest. The estimated contract amount is not subject to protest under this policy or F.S. 120.57(3). In lieu of a bond, the Board may accept a cashier's check or money order in the amount of the bond.
2. The bond shall be conditioned upon the payment of all costs and charges which may be levied against the protestor in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding.
3. Pursuant to F.S. 287.042(2)(c), if, the Board prevails in the administrative hearing process and any appellate court proceedings, it shall be entitled to recover all costs and charges which are included in the final order or judgment, excluding attorneys' fees. Upon payment of such costs and charges by the person protesting the decision or intended decision or contract award, the bond, cashier's check, or money order shall be returned to the protestor. If the protestor prevails, the protestor may recover from the Board the costs and charges which are included in the final order or judgment, excluding attorneys' fees.

- B. Bond:** Competitive Bids for Lease of Space -- Pursuant to F.S. 255.25(3)(c), any person who files an action protesting a decision or intended decision pertaining to a competitive bid for space to be leased by the Board shall post with the Board, at the time of filing the formal written protest, a bond payable to the Board in an amount equal to one percent (1%) of the estimated total rental of the basic lease period or \$5,000, whichever is greater. The bond shall be conditioned upon the payment of all costs which may be levied against him/her in the administrative hearing in which the action is brought and in any subsequent appellate court proceeding. If the Board prevails in the administrative hearing process and any appellate court proceedings, it shall recover all costs and charges, which are included in the final order or judgment, excluding attorneys' fees. Upon payment of such costs and charges by the person protesting the award, the bond shall be returned to him/her. If the person protesting the award prevails, the bond shall be returned to that person and she/he shall recover from the Board the costs and charges which are included in the final order or judgment, excluding attorneys' fees.
- C. Bond:** Construction Purchasing -- Construction purchasing is separately governed by Board policy, and persons protesting competitive procurement related to educational facilities shall be required to post a bond in the amount specified in F.S. 255.0516, which also governs recovery of fees and costs including attorneys' fees.
- D. Staying the Procurement Process --** Upon timely receipt of the formal written protest petition, and posting of the bond, the solicitation or contract award process shall be stayed until the protest is resolved by final agency action, unless the Board sets forth, in writing, particular facts and circumstances which require the continuance of the solicitation or contract award process in order to avoid an immediate and serious danger to the public health, safety, and welfare.

Protest of Bid Award

Any person who is adversely affected by the Board's decision or intended decision, shall file a Notice of Protest in writing with the Clerk of the Board, who shall maintain an office in the Board Administration building, within seventy-two (72) hours after the posting of the Board's decision or intended decision/action and shall file a Formal Written Protest within ten (10) calendar days after filing the Notice of Protest. The protesting Bidder shall also be required to post a bond, consistent with this rule. Failure to file a Notice of Protest or failure to file a Formal Written Protest shall constitute a waiver of proceedings under F.S. Chapter 120.57. The formal written protest shall state with particularity the facts and law upon which the protest is based. Saturdays, Sundays, and legal holidays shall be excluded in the computation of the seventy-two (72) hour time period provided by this paragraph.

The Board's notice of intended action shall be posted the Friday preceding the Board's Fiscal Accountability & Government Relations Committee meeting immediately prior to the Board meeting at which the contract will be awarded or approved. The notice of intended action can be found on the Procurement Management Services' website at: http://procurement.dadeschools.net/bidsol/asp/bid_portal.htm, under the NOTICES section located on the top left hand side of the page. The Board's monthly Committee meetings are posted on the District's Master Calendar page, which can be accessed via the following link: <https://www3.dadeschools.net/Meetings/home>. To find the Board Committee meeting for the current month, search under the "School Board and School Board Committee Meetings" category from the drop down menu, which can be found under the MEETINGS LISTING section of the page.

Parties interested in obtaining records related to any items noted in the notice of intended action shall submit a public records request to the District at pr@dadeschools.net. Such public records requests shall be addressed in accordance with Chapter 119 of the Florida Statute. If a public records request is related to an intent to protest, parties may wish to include a notation of such intent in their request.

The Formal Written Protest will be reviewed by Procurement Management Services, who will offer the protesting Bidder the

opportunity to meet and discuss the merits of the protest. If the protest is not resolved, the matter may be referred for proceedings, pursuant to F.S. 120.569 and 120.57. Petitions for hearing on protests pursuant to F.S. 120.569 and 120.57 must be filed in accordance with Board Bylaw 0133 on quasi-judicial proceedings.

The "Notice of and/or formal written Protest" shall be filed with:

The Office of the School Board Clerk Miami-Dade County Public Schools
1450 N.E. Second Avenue, Suite #311 Miami, Florida 33132
Phone: (305) 995-1440
Fax: (305) 995-1448
E-Mail: Dllopiz@dadeschools.net
celiarubio@dadeschools.net

VI.

AWARDS

- A. RESERVATION FOR REJECTION OR AWARD:** The Board reserves the right to reject any or all bids, to waive irregularities or technicalities, and to request rebids. The Board reserves the right to award on an individual item basis, any combination of items, total low bid or, if an alternate bid is accepted, on such terms as are specified for the alternate bid, whichever manner is in the best interest of the Board.

The Board reserves the right to utilize other governmental contracts, if in the best interest of the Board.

- B. NOTIFICATION OF INTENDED ACTION** will be posted on the Board's website no later than the Friday preceding a regularly scheduled Board meeting.

- C. OFFICIAL AWARD DATE:** Awards become official upon the Board's formal approval of the award.

- D. TERMINATION FOR CONVENIENCE:** The Board reserves the right to terminate this Agreement at any time and for any reason upon giving thirty (30) days' notice to the other party. If said Agreement should be terminated for convenience as provided herein, the Board will be relieved of all obligations under said Agreement. The Board will only be required to pay that amount of the Agreement actually performed to the date of termination. Upon such payment, both parties shall be relieved of any further obligations under this Agreement.

- E. TERMINATION OF AGREEMENT:** In addition to the above, the Board may terminate this Agreement upon thirty (30) days advance written notice to the Awarded Bidder, for default of Awarded Bidder, or due to lack of, or cancellation of, grant funds made available to the Board by a Federal grantor agency. Upon receipt of a notice of termination, the Awarded Bidder shall cease incurring additional obligations under this Agreement. However, the Board shall allow the Awarded Bidder to incur all necessary and proper costs, which the Awarded Bidder cannot reasonably avoid during the termination process. Each payment obligation of the Board created by this Agreement is conditioned upon the availability of funds that are appropriate or allocated for the payment of services or goods. If such funds are not allocated and available, this Agreement may be terminated by the Board at the end of the period for which funds are available. The Board shall notify the Awarded Bidder at the earliest possible time before such termination. No penalty shall accrue to the Board in the event this provision is exercised, and the Board shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section. Any individual or corporation or other entity that attempts to meet its contractual obligations with the Board through fraud, misrepresentation or material misstatement, shall have its Agreement with the Board terminated upon receiving notice of the attempted fraud as determined by the Board.

- F. PURCHASE ORDERS** sent to Awarded Bidders are the official notification to deliver materials described therein; and the time allowed for delivery begins with the date of the purchase order. In the event that the Awarded Bidder fails to deliver the materials in accordance with the terms and conditions of the bid and purchase

order, the Bidder shall be considered to be in default of the Agreement and subject to the default provisions stated in Section VI. G.

- G. **DEFAULT:** A Bidder who fails to perform according to the terms of the Agreement (bid) shall be considered in default. In the event of default, which may include, but is not limited to poor performance and/or non-performance, the contractor Disciplinary Review Committee may recommend disbarment or suspension pursuant to Board Policy 6320.04.
- H. **BID DOCUMENTS:** The intent of the bid documents is to include only the written requirements for materials, equipment, systems, standards and workmanship necessary for the proper execution and completion of the work by the Bidder. The bid documents shall not be construed to create an entitlement to any other scope of work except as specified herein.
- I. **DEBARMENT:** Pursuant to Board Policy 6320.04 Contractor Debarment Procedures – Debarred contractors are excluded from conducting business with the Board as agents, representatives, partners, and associates of other contractors, subcontractors or individual sureties.
- J. **IDENTICAL PRICES:** When identical prices are received from two or more Bidders and all other factors are equal, priority for award shall be given to the vendor that has preference for businesses implementing a drug-free workplace in accordance with School Board Policy 6320.

VII. PERFORMANCE SECURITY (FOR SUCCESSFUL BIDDERS ONLY)

- A. **PURPOSE:** A performance bond or check may be required to guarantee performance.
- B. **BONDING COMPANY:** Performance Bonds shall be written through a reputable and responsible surety bond agency licensed to do business in the State of Florida and with a surety company or corporation and shall be made to The School Board of Miami-Dade County, Florida, meeting both of the following specifications:

1. Awards Greater than \$500,000

A minimum rating in the latest revision of Best's Insurance Reports of:

<u>Contract Amount</u>	<u>Minimum Rating by A.M. Best</u>
\$500,000.01 to \$2,500,000	None
\$2,500,000.01 to \$5,000,000	B+ or NA-3
No Minimum Class	
\$5,000,000.01 to \$10,000,000	A- Class IV
\$10,000,000.01 or more	A- Class V

Current certificate of authority as acceptable surety on Federal Bonds in accordance with the latest edition of the United States Treasury Department Circular 570 entitled "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" shall be accepted for an amount not exceeding the underwriting limitation thereon.

2. Awards of \$500,000 or Less

Bonds shall be written with a surety company or corporation meeting the qualifications as set forth in Paragraph VII.B. above or the qualifications set forth in section 287.0935, Florida Statutes.

- C. **AMOUNT:** When required as defined herein, the firm or individual(s) to whom an award has been made shall execute and deliver to The School Board of Miami-Dade County, Florida, a Performance Bond, Cashier's/Certified Check, or equal.

- 1. Awards less than \$200,000 shall be exempt from performance security.
- 2. Performance security shall not be required, unless otherwise defined in the bid specifications. If performance security is required, it shall equal 100% of the award amount.

- D. **RELEASE OF PERFORMANCE SECURITY:** Return to the Awarded Bidder of his/her cash security, or notification to the Awarded Bidder and the bonding company to cancel the performance bond, will be made when all goods/services have been accepted and invoices have been approved for payment.

VIII. SAMPLES TESTING AND EVALUATION

In order to be considered for award, brands bid "As Equal" or "Equivalent" to the specified brands need to be tested/evaluated to determine compliance with bid specifications.

When bid samples are required, the Board will notify Bidder to submit samples of the items bid in accordance with the following procedures:

- A. All samples must be identified with the Bidder's name, bid number, item number, and manufacturer's product name and number. When non-compliance with this requirement is noted, said item may be considered as being unidentifiable and may not be eligible for consideration in the award recommendation.
- B. Samples, product technical specification sheets and all required supporting documentation, are to be delivered to the Materials Testing and Evaluation Department within 48 hours of request from the Miami-Dade County Public Schools ("M-DCPS") Procurement Management Services department between 8:30 a.m. and 3:00 p.m. Monday through Friday, unless otherwise stated in the Special Conditions of the bid. If the Bidder does not submit samples and associated documents by the indicated date and time, the bid submitted for that item will not be considered for award.
- C. The Materials Testing and Evaluation Department is located at:

MIAMI-DADE COUNTY PUBLIC SCHOOLS
MATERIALS TESTING AND EVALUATION
7040 West Flagler Street
Miami, Florida 33144
Telephone Number: 786-275-0780

Board will not be responsible for samples sent to a location other than the location mentioned in the bid.

- D. Bidder must obtain, from Materials Testing and Evaluation, a signed receipt acknowledging delivery of samples. Bidder shall include a self-addressed, stamped envelope for return of sample receipt when submitting samples by mail or delivery service. The Bidder will receive the original copy of the receipt and the duplicate copy will remain with the Board receiving department as the file copy. Bidder shall be solely responsible for delivery of samples and for retaining sample delivery receipts, which must be presented in any dispute regarding receipt of bid samples.
- E. **PAYMENT FOR SAMPLES:** The Board will buy no samples and will assume no cost incidental thereto.
- F. **RETURN OF SAMPLES:** Samples not destroyed in testing may be claimed by unsuccessful bidders 14 days after bid award date and by Awarded Bidders 14 days after final payment; but the Board will assume no responsibility for samples not claimed within the time specified, and it will pay for no samples damaged in testing. No perishable samples submitted for testing and evaluation will be returned.
- G. **TESTING AND EVALUATION RESULTS:** The Materials Testing and Evaluation Department will report to the Board the bid specification compliance evaluation results corresponding to submitted samples of brands bid "As Equal" or "Equivalent" to the listed specified brands.

IX. SUBSTITUTIONS

Should the Bidder find it necessary to use a material, equipment, product or system other than specified, the Bidder shall secure from the Board, through Procurement Management Services, written approval for the use of the alternate materials, equipment, product or system. The Board is not obligated to approve requests for substitutions and has the discretion to require the Bidder to provide the materials as specified in the bid documents. In no case shall the Bidder be entitled to additional time and/or money arising out of the Board's failure to approve requests for substitutions.

X. PACKAGING

- A. If packaging is different from that specified, the Bidder must note the manner and amounts in which packaging is to be made; otherwise the Awarded Bidder shall furnish packaging as specified. All packaging, wrapping and bundling shall be adequate to ensure that materials will be received in undamaged condition. The Board assumes no responsibility for damages of any kind incurred in transit.
- B. The following identification shall be printed, stenciled or legibly written in a conspicuous location on each shipping container:
 1. Bid Number and/or Purchase Order Number
 2. Bidder's Name and/or Trademark
 3. Name(s) of Item(s) Contained
 4. Item Number (s) With Quantity(ies)

XI. PURCHASES BY OTHER PUBLIC AGENCIES

With the consent and agreement of the Awarded Bidder(s), purchases may be made under this bid by Miami-Dade County, Florida, and other governmental agencies or political subdivisions within the State of Florida. Such purchases shall be governed by the same terms and conditions stated herein. This agreement in no way restricts or interferes with the right of any State of Florida Agency or political subdivision to rebid any or all of these items.

XII. RECYCLING REQUIREMENTS

Board supports recycling and recommends the use of recycled products where possible upon notification by the Board. Bidders are requested to submit a letter, along with their bid, indicating whether each item bid and/or its packaging contains pre-consumer or post-consumer waste, and if the product and/or packaging may be recycled.

XIII. ENVIRONMENTAL PRODUCTS

Board encourages the use of environmentally safe products.

XIV. DELIVERY AND BILLING

- A. **DELIVERY:** Saturdays, Sundays, and holidays excepted, deliveries shall be made as follows: Schools and Departments – 8:00 A.M. to 3:00 P.M. Merchandise shall be unloaded at the receiving station of the designated delivery point and received there by a designated agent of the Board. A delivery ticket, or one copy of the invoice, prepared as indicated below, shall accompany each delivery.
- B. **RECEIVING INSPECTION AND TESTING:** Delivered items which do not fulfill all requirements will be rejected. Rejected items shall be removed and replaced promptly by the Bidder, at no cost to the Board.
- C. **INVOICES:** Each invoice shall be issued by the Awarded Bidder and shall be submitted in DUPLICATE to the Accounts Payable Section, P.O. Box 01-2570, Miami, Florida 33101. Invoice delivery may also be via a PDF or WORD document email to: mdcpsvendorsstatements@dadeschools.net. To be considered for payment, each invoice must show the following information, which appears on the Purchase Order:
 1. Purchase Order Number
 2. Item Descriptions

3. Quantities and Units
4. Price Extensions
5. Total price of all items on invoice

- D. **PAYMENT:** Unless otherwise specified by Board, payment will be made only after delivery, authorized inspection, and acceptance. Payment will be made only to the Awarded Bidder, unless otherwise requested, in writing, by the Awarded Bidder and accepted by Board Administration. The Bidder expressly agrees that it will properly invoice for any goods or services within one year and that the failure to do so shall constitute a waiver of any right to payment.

XV. NO GRATUITY POLICY

It is the policy of Procurement Management Services not to accept gifts, gratuities, or favors of any kind, or of any value whatsoever, from vendors, members of their staffs, or families.

XVI. COMPLIANCE WITH STATE/FEDERAL REGULATIONS

- A. All Agreements involving federal funds will contain certain provisions required by applicable sections of CFR 34, Part 80.36(l) and Part 85.510, Florida Statute 257.36, or Florida Administrative Code Chapter 1B. The Bidder certifies by signing the bid that the Bidder and his/her principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in federally funded transactions and may, in certain instances, be required to provide a separate written certification to this effect.
- B. By signing the bid, the Bidder shall comply with all applicable laws, ordinances, codes, rules and regulations of federal, state and local governments, if required, for performance of any work under this Bid. Bidders awarded contracts involving Federal Funds and are cost reimbursable must be in compliance with 7 CFR 210.21. Bidders awarded contracts involving Federal Funds must be in compliance with the Energy and Policy Conservation Act (42 USC 6201). Bidders awarded contracts involving the employment of mechanics, laborers, or construction work must be in compliance with 40 USC Chapter 37.
- C. During the term of any Agreement with the Board, in the event of debarment, suspension, proposed debarment, declared ineligible or voluntarily excluded from participation in federally funded transactions, the Bidder shall immediately notify the Chief Procurement Officer, Procurement Management Services, in writing. Bidders will also be required to provide access to records, which are directly pertinent to the Agreement and retain all required records for three years after the Board, makes final payment.
- D. For all contracts involving Federal funds in excess of \$10,000, the Board reserves the right to terminate the contract for cause, as well as for convenience, by issuing a certified notice to the Bidder.
- E. **CERTIFY REGISTRATION AND USE OF EMPLOYMENT "STATUS VERIFICATION SYSTEM":** The Status Verification System, also referred to as "E-verify", only applies to construction and Professional Service Contracts using federal funds.

STATUS VERIFICATION SYSTEM

1. Each Bidder and each person signing on behalf of any Bidder certifies as to its own entity, under penalty of perjury, that the named Bidder has registered and is participating in the Status Verification System to verify the work eligibility status of the contractor's new employees that are employed in the State of Florida in accordance with Executive Order 13465.
2. The Bidder shall require that the following provision be placed in each subcontract at every tier: "The subcontractor shall certify to the main (prime or general) contractor by affidavit that the subcontractor has verified through the Status Verification System the employment status of each new employee of the respective subcontractor, all in accordance with and to comply with all applicable employee status verification laws. Such

affidavit must be provided prior to the notice to proceed for the subcontractor to perform the work.”

3. The Board will not consider a proposal for award, nor will it make any award where there has not been compliance with this Section.

4. Manually or electronically signing the Proposal is deemed the Bidder's certification of compliance with all provisions of this employment status verification certification required by all applicable status verification laws.

XVII. COMPLIANCE WITH LAWS

Bidders shall comply with all federal, State of Florida and local laws applicable to it and the performance of its obligations under this bid.

XVIII. BACKGROUND SCREENING REQUIREMENTS

In accordance with the requirements of Sections, 1012.465, 1012.32, and 1012.467, Florida Statutes, School Board Policies 6320 and 8475 as amended from time to time Bidder agrees that, if Bidder receives remuneration for services, Bidder and all of its employees who provide or may provide services under this Agreement will complete criminal history checks, and all background screening requirements, including level 2 screening requirements as outlined in the above-referenced statutes and School Board Policies prior to providing services to the School Board of Miami-Dade County.

Additionally, Bidder agrees that each of its employees, representatives, agents, subcontractors or suppliers who are permitted access on school grounds when students are present, who have direct contact with students or who have access to or control of school funds must meet level 2 screening requirements as described in the above-referenced statutes, and School Board Policies.

Pursuant to the 2007 amendments to the JLA enacted by the Florida Legislature, requirements for certain fingerprinting and criminal history checks shall be inapplicable to non-instructional contracted personnel who qualify for exemption from level 2 screening requirements as provided under §1012.468, Fla. Stat. (2007). In addition, the provisions of §1012.467, Fla. Stat. (2007) are incorporated herein by reference, and any provisions of this section that may be inconsistent with, contrary to, or determined to be in conflict with §1012.467, will be superseded by said statute.

A noninstructional contractor who is exempt from the screening requirements set forth in §1012.465, §1012.468 or §1012.467, Florida Statutes, is subject to a search of his or her name or other identifying information against the registration information regarding sexual predators and sexual offenders maintained by the Department of Law Enforcement under § 943.043 and the national sex offender public registry maintained by the United States Department of Justice. Bidder will not be charged for this search. Further, upon obtaining clearance by Board, if Board deems necessary, Board will issue a Florida Public Schools Contractor Badge which shall be worn by the individual at all times while on Board property when students are present.

Bidder agrees to bear any and all costs associated with acquiring the required background screening – including any costs associated with fingerprinting and obtaining the required photo identification badge. Bidder agrees to require all its affected employees to sign a statement, as a condition of employment with Bidder in relation to performance under this Bid/RFP, agreeing that the employee will abide by the heretofore described background screening requirements, and also agreeing that the employee will notify the Contractor/Employer of any arrest(s) or conviction(s) of any offense enumerated in School Board Policies 6320 and 8475 within 48 hours of its occurrence. Bidder agrees to provide the Board with a list of all of its employees who have completed background screening as required by the above-referenced statutes and who meet the statutory requirements contained therein. Bidder agrees that it has an ongoing duty to maintain and update these lists as new employees are hired and in the event that any previously screened employee fails to meet the statutory standards. Bidder further agrees to notify the Board immediately upon becoming aware that one of its employees who were previously certified as completing the background check and meeting the

statutory standards is subsequently arrested or convicted of any disqualifying offense. Failure by Bidder to notify the Board of such arrest or conviction within 48 hours of being put on notice and within 5 business days of the occurrence of qualifying arrest or conviction, shall constitute a material breach of the Agreement entitling the Board to terminate this Agreement immediately with no further responsibility to make payment or perform any other duties under this Agreement.

XIX. COMPLIANCE WITH SCHOOL CODE

Bidder agrees to comply with all sections of the Florida K-20 Education Code, Title XLVIII, Florida Statutes as it presently exists, and further as it may be amended from time to time. Further Bidder agrees that failure to comply with the Florida K-20 Education Code shall constitute a material breach of this Agreement and may result in the termination of this Agreement by the Board.

XX. CHARTER SCHOOLS

Items or Services awarded under this Agreement shall be made available to Charter Schools approved by the Board. Board is not responsible or liable for purchases that may be made by Charter Schools.

XXI. CONFLICT OF INTEREST

Former Miami-Dade County Public Schools employees, classified as Managerial Exempt Personnel, Pay Grade 22 and above, Dade County School Administrators Association, Pay Grade 47 and above, and other equivalent positions, are prohibited from personally representing another person or entity or acting as an agent or attorney for compensation in connection with any matter in which The School Board of Miami-Dade County, Florida, is interested, for two years after the Board employees' service terminates. This provision is pursuant to School Board Policies 1129, 3129, 4129 and Florida Statute § 112.313(9).

XXII. PUBLIC RECORDS LAW

Pursuant to Florida Statute, it is the practice of Board to make available for public inspection 119 and copying any information received in response to an Invitation to Bid or Request for Proposals (RFP). No action on the part of the respondent to a Bid or RFP will create an obligation of confidentiality on the part of the Board, including but not limited to, making a reference in the response to the trade secret statutes. It is recommended that potential suppliers exclude from their response any information that, in their judgment, may be considered a trade secret.

Bidder understands the broad nature of these laws and agrees to comply with Florida's Public Records Laws and laws relating to records retention. The Bidder shall keep and maintain public records required by the School Board to perform the service. The Bidder shall keep records to show its compliance with program requirements. Bidders and subcontractors must make available, upon request of the School Board, a Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives, any books, documents, papers, and records of the Bidder which are directly pertinent to this specific Agreement for the purpose of making audit, examination, excerpts, and transcriptions. Upon request from the School Board's custodian of public records, provide the School Board with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law. Bidder shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Bidder does not transfer the records to the public agency. The Bidder shall retain all records for five (5) years after final payment is made or received and all pending matters are completed pursuant to Title 34, Sections 80.36(b)(1). Upon completion of the contract, transfer, at no cost, to the School Board all public records in possession of the Bidder or keep and maintain public records required by the School Board to perform the service. If the Bidder transfers all public records to the School Board upon completion of the contract, the Bidder shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure

requirements. If the Bidder keeps and maintains public records upon completion of the contract, the Bidder shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the School Board, upon request from the School Board's custodian of public records, in a format that is compatible with the information technology systems of the School Board.

IF THE BIDDER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROVIDER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-995-1128, prr@dadeschools.net, and 1450 NE 2 Avenue, Miami, Florida 33132.

XXIII. ASSIGNMENT

This Agreement may not be assigned nor may any assignment of monies due, or to become due to Bidder, be assigned without the prior written agreement of Board. If Bidder attempts to make such an assignment, such attempt shall constitute a condition of default.

XXIV. DAVIS-BACON ACT LABOR STANDARDS

This project may be funded in whole or in part under the provisions of the American Recovery and Reinvestment Act of 2009. Therefore, the Bidder shall comply with all applicable provisions of 40 U.S.C. §276a-§276a-7, the Davis-Bacon Act, as supplemented by the Department of Labor regulations (29 C.F.R., PART 5 "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction").

XXV. LOBBYISTS

A. "Lobbyist" means a person, firm or corporation who is employed and receives payment from, or who contracts for economic consideration with, any principal, person or organization for the purpose of lobbying, or a person who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity. For purposes of this rule, the term "Lobbyist" specifically includes the principal as well as any agent, officer, or employee of a principal regardless of whether they are employees of the principal whose normal scope of employment does not include lobbying activities.

B. One who is not an employee of a principal is a "lobbyist" if s/he is retained as an independent contractor or otherwise for payment or economic consideration by a person or governmental entity to lobby an agency on behalf of that person or governmental entity.

If a corporation, partnership, firm, or other business organization is retained for payment or economic consideration to lobby on behalf of another person or governmental entity, only the members, partners, associates, or employees of the entity who personally lobby on behalf of that person or governmental entity are "lobbyists."

C. The terms "payment" or "economic consideration" do not include receiving only reimbursement for actual travel, lodging, and meal expenses.

D. "Lobbying" means any oral or written communication, direct or indirect, with the Board, members of the Board, Board Committees, Board administrative assistants, Board Attorneys, or members of the District administrative staff, including site administrators and instructional staff for the purpose of doing business with the School District, the Board and/or schools, influencing any official action, non-action, or decision or attempting to obtain the good will of a Board member or employee of the School District.

XXVI. LOCAL-AND STATE VENDOR PREFERENCE

A. The School Board of Miami-Dade County, Florida adopted School Board Policy 6320.05 which gives local preference to businesses located in Miami-Dade County, Florida when evaluating the lowest responsible, responsive bid or submittal for the purchase of goods and services, professional and construction-related services, in excess of \$50,000 dollars or the current formal bidding threshold set by statute.

B. Bidders claiming local vendor preference for any bid or submittal must submit an Affidavit of Eligibility for Local Preference and a copy of its business license with their bid, quote, proposal, reply or response. Bids which fail to include the approved affidavit at the time of bid submittal will not be considered for local vendor preference. The preference status does not apply to goods or services exempted by statute, Federal laws, or procurements with funding source restrictions. Exemptions by statute are listed in Board Policy 6320.

XXVII. DISCLOSURE OF CONFLICT OF INTEREST (AFFILIATION DISTRICT COMMITTEES, TASK FORCE, ASSOCIATIONS)

The School Board of Miami-Dade County, Florida approved item H-13 at the July 2013 School Board meeting. This item will ensure that current procurement processes establish a procedure aimed at requiring offices/director of contracted vendors to make full disclosure of their relationship with any Board committees, task force, or associations. The Bidder Qualification Form will now include the clause titled "Disclosure of Conflict of Interest.

Board policies may be accessed at:
<http://www.dadeschools.net/schoolboard/rules/>

XXVIII. UNDERWRITERS' LABORATORIES

Unless otherwise stipulated in the bid, all manufactured items and fabricated assemblies shall be UL listed where such has been established by UL for the item(s) offered and furnished. In lieu of the UL listing, Bidder may substitute a listing by an independent testing laboratory recognized by OSHA under the Nationally Recognized Testing Laboratories (NRTL) Recognition Program.

XXIX. DISPUTES

In case of any doubt or difference of opinion as to the items to be furnished hereunder, the decision of the Board shall be final and binding on both parties.

XXX. PATENTS & ROYALTIES

The Awarded Bidder, without exception, shall indemnify and save harmless The School Board of Miami-Dade County, Florida and its employees from liability of any nature or kind, including cost and expenses for any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the Agreement, including its use by The School Board of Miami-Dade patent, or copyright, it is mutually understood and agreed without exception that the bid prices shall include all royalties or cost arising from the use of such design, device or materials in any way involved in the work.

All books, manuals, films or other materials suitable for copyright or patent, regardless of means of transmission, produced as a result of the work or services performed under or in connection with this Agreement, are hereby reserved as the exclusive property of and sole ownership by The School Board of Miami-Dade County, Florida, unless and to the extent that the parties agree otherwise, as evidenced in writing and included as a part of this Agreement. Bidder shall defend, indemnify and hold the School Board and its successors and assigns harmless from and against all third-party claims, suits and proceedings and any and all damages, liabilities, costs and expenses (including reasonable attorneys' fees and court costs) incurred as a result of (i) infringement by Bidder of any third-party patent, copyright or trademark or (ii) misappropriation by Bidder of any third-party trade secret in connection with any of the foregoing. Bidder will indemnify and hold harmless the School Board from liability of any nature or kind, including costs and expenses for or on account of any copyrighted, service marked, trademarked, patented or unpatented invention, process, article or work manufactured or used in the performance of the Agreement, including its use by the School Board. If Bidder uses any design, device, materials or works covered by letters, service mark, trademark, patent, copyright or any other intellectual property right, it is mutually agreed and understood without exception that the proposal prices will include all royalties or costs arising from the use of such design, device or materials in any way involved in the work. In

addition, Bidders awarded contracts involving Federal Funds are subject Rights to Invention as set forth in 37 CFR 401.

XXXI. OSHA

The Awarded Bidder warrants that the product supplied to The School Board of Miami-Dade County, Florida shall conform in all respects to the standards set forth in the Occupational Safety and Health Act of 1970, as amended, and the failure to comply with this condition will be considered as a breach of contract.

XXXII. QUALITY

All materials used for the manufacture or construction of any supplies, materials or equipment covered by this bid shall be new unless otherwise specified. The items bid must be new, the latest model, of the best quality and highest workmanship.

XXXIII. FACILITIES

Board reserves the right to inspect the Awarded Bidder's facilities at any time with prior notice", Board may use the information obtained from this in determining whether a Bidder is a responsible Bidder.

XXXIV. ASBESTOS AND FORMALDEHYDE STATEMENT

All building materials, pressed boards, and furniture supplied to Board shall be 100% asbestos free. It is desirous that all building materials, pressed boards and furniture supplied to the School Board also be 100% formaldehyde free. Bidder, by virtue of bidding, certifies by signing bid that, if awarded this bid, only building materials, pressed boards, and/or furniture that is 100% asbestos free will be supplied.

XXXV. EXTENSION

In addition to any extension options contained herein, Board is granted the right to extend any award resulting from this bid. The extension period shall not be in excess of 90 days from (a) the termination date of an Agreement entered into as a result of this bid or (b) the termination date under any applicable period of extension under an Agreement entered into as a result of this bid. Such extension shall be upon the same price, terms and conditions as existing at the time of Board's exercise of this extension right.

XXXVI. OMISSION FROM THE SPECIFICATIONS

The apparent silence of this specification and any Addendum regarding any details or the omission from the specification of a detailed description concerning any point shall be regarded as meaning that only the best available units shall be provided and the best commercial practices are to prevail, and that only materials and workmanship of first quality are to be used. All interpretations of this specification shall be made upon the basis of this agreement.

XXXVII. PURCHASE AGREEMENT

This bid, and the corresponding Purchase Orders, will constitute the complete agreement. Board will not accept proposed terms and conditions that are different than those contained in this Invitation to Bid, including pre-printed text contained on catalogs, price lists, other descriptive information submitted or any other materials. By virtue of submitting a bid, vendor agrees to not submit to any Board employee, for signature, any document that contains terms and conditions that are different than those contained herein and that in the event any document containing any term or condition that differs from those contained herein is executed, said document shall not be binding on Board.

XXXVIII. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY OR VOLUNTARY EXCLUSION; Lower Tier Covered Transactions

Executive Order 12549, as currently enacted or as amended from time to time, provides that, to the extent permitted by law, Executive departments and agencies shall participate in a government-wide system for non-

procurement debarment and suspension. A person who is debarred or suspended shall be excluded from Federal financial and non-financial assistance and benefits under Federal programs and activities. Except as provided in 85.200, Debarment or Suspension, 85.201, Treatment of Title IVHEA participation, and 85.215, Exception Provision, debarment or suspension of a participant in a program by one agency shall have government-wide effect. A lower tier covered transaction is, in part, any transaction between a participant [Board] and a person other than a procurement contract for goods or service, regardless of type, under a primary covered transaction; and any procurement contract for goods or services between a participant and a person, regardless of type, expected to equal or exceed the Federal procurement small purchase threshold fixed at 10 U.S.C.23049g) and 41 U.S.C.253(g) (currently \$100,000) under a primary covered transaction; or any procurement contract for goods or services between a participant and a person under a covered transaction, regardless of amount, under which that person will have a critical influence on or substantive control over that covered transaction. (The Board) may rely upon the certification of a prospective participant in a tier covered transaction that it and its principals are not debarred, suspended, for debarment under 48 CFR part 9, subpart 9.4, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. The Board shall require participants in lower tier covered transactions, to include the certification for it and its principals in any bid submitted in connection with such lower tier covered transactions.

CERTIFICATION

- a) The prospective lower tier participant certifies, by submission of this bid, that neither it nor its principals is presently debarred, Suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- b) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participants shall attach an explanation to this bid.

XXXIX. SEVERABILITY

In case of any one or more of the provisions contained in this Bid shall be for any reason be held to be invalid; illegal, unlawful, unenforceable or void in any respect; the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not affect any other provision of this Bid shall be considered as if such invalid, unlawful, unenforceable or valid provision had herein.

XL. DISTRIBUTION

. It is the responsibility of all interested parties to assure they have received all necessary documents, including Addenda and have included all necessary information within their response. Board is not responsible for Bidder's failure to obtain complete bidding documents. Board reserves the right to reject any bid as non-responsive for failure to include all necessary documents or required Addenda. For information regarding the above referenced solicitation, contact the designated Purchasing Agent as stated herein.

XLI. CONFIDENTIAL RECORDS

Notwithstanding any provision to the contrary within this Agreement, any party contracting with Board under this Agreement shall fully comply with the requirements of Sections 1002.22 and 1002.221, Florida Statutes; Family Educational Rights and Privacy Act (FERPA), and any other state or federal law or regulation regarding the confidentiality of student information and records. Each such party agrees, for itself, its officers, employees, agents, representatives, contractors or subcontractors, to fully indemnify and hold harmless Board and its officers and employees for any violation of this section, including, without limitation, defending Board and its officers and employees against any complaint, administrative or judicial proceeding, payment of any penalty imposed upon Board, or payment of any and all costs, damages, judgments or losses incurred by or imposed upon Board arising out of a breach of this covenant by the party, or an officer, employee, agent, representative, contractor, or sub-contractor of the party to the extent that the party or an officer, employee, agent, representative, contractor, or sub-contractor of

the party shall either intentionally or negligently violate the provisions of this section or of Sections 1002.22 and/or 1002.221, Florida Statutes.

Awarded Bidder agrees that it may create, receive from or on behalf of Board, or have access to, records or record systems that are subject to FERPA and/or HIPAA (collectively, the "Confidential Records"). Awarded Bidder represents, warrants, and agrees that it shall: (1) hold the Confidential Records in strict confidence and shall not use or disclose the Confidential Records except as (a) permitted or required by this Agreement, (b) required by law, or (c) otherwise authorized by the Board in writing; (2) safeguard the Confidential Records according to commercially reasonable administrative, physical and technical standards as required by law; and (3) continually monitor its operations and take any and all action necessary to assure that the Confidential Records are safeguarded in accordance with the terms of this Agreement. At the request of the Board, Awarded Bidder agrees to provide Board with a written summary of the procedures Awarded Bidder uses to safeguard the Confidential Records. A breach of these confidentiality requirements shall constitute grounds for the Board to terminate any Agreement with Awarded Bidder.

All confidential records must remain within the continental United States.

XLII. PROPRIETARY INFORMATION

Pursuant to Chapter 119, Florida Statutes, bids received as a result of this ITB shall not become public record until thirty (30) days after the date of opening or until posting of the recommendation for award, whichever occurs first. Thereafter, all bid documents or other materials submitted by all Bidders in response to this ITB shall be open for inspection by any person and in accordance with Chapter 119, Florida Statutes. To the extent a Bidder asserts any portion of its bid is confidential and exempt, long with specific citations of the Florida Statutes establishing the confidentiality or exemption. Failure to identify the portions of the bid claimed to be exempt or the specific statutory authority establishing the exemption shall be deemed a waiver by the Bidder that any unidentified portion of the bid is confidential or exempt from disclosure under Chapter 119, Florida Statutes.

XLIII. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended-Contracts and subgrants of amounts in excess of \$150,000 Bidder agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q), pursuant to the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, Environmental Protection Agency regulations (40 CFR part 15) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387).

XLIV. For all Bids for the purchase of food for Child Nutrition the following Buy American clause is applicable:

- a) Federal regulations require that all foods purchased for Child Nutrition Program be of domestic origin to the maximum extent practicable. While rare, two (2) exceptions may exist when the product is not produced or manufactured in the US in sufficient, reasonable and available quantities of a satisfactory quality, such as bananas and pineapple or competitive proposals reveal the cost of a domestic product is significantly higher than a non-domestic product.
- b) All products that are normally purchased by Bidder as non-domestic and proposed as part of this ITB must be identified with the country of origin. Bidder shall outline their procedures to notify the School Board when products are purchased as non-domestic.
- c) Any substitution of a non-domestic product for a domestic product (which was originally a part of the bid), must be approved, in writing, by the School Board, prior to the delivery of the product.
- d) Any non-domestic product delivered to the School Board, without the prior, written approval of the School Board, will be rejected.

XLV. Debarment and Suspension (Executive Orders 12549 and 12689) – A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide 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.

XLVI. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) Board for an award greater than 100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress, 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.

XLVII. LICENSES, CERTIFICATIONS AND REGISTRATIONS

Bidder must have all Licenses, Certifications and Registrations required when performing the services as described herein, in order for Bid to be considered a responsive and responsible Bid. Licenses, Certifications and Registrations required for this Bid shall be as required by Chapter 489, Florida Statutes, as currently enacted or as amended from time to time; by the State Requirements for Educational Facilities (SREF), latest version; and by Miami-Dade County, Florida. Bidder must submit a copy of all its current Licenses, Certifications and Registrations required as described herein, either with its Bid or within five working days of notification.

An Awarded Bidder who has any License, Certification or Registration either suspended, revoked or expired after the date of the Bid Opening, shall provide notice to the Chief Procurement Officer of Procurement Management Services within five working days of such suspension, revocation or expiration. However, such suspension, revocation or expiration after the date of the Bid Opening shall not relieve the Awarded Bidder of its responsibilities under this ITB.

XLVIII. EXPENDITURE

No guarantee is given or implied as to any sums payable or the quantity or scope of any award under this ITB. Board is not obligated to place any order for goods/services as a result of this award. Order placement shall be based upon the needs and best interest of Board.

XLIX. POTENTIAL INTERNSHIP OPPORTUNITIES FOR M-DCPS STUDENTS WITH AWARDED VENDORS

The District has several initiatives to prepare and increase student participation in appropriate internship opportunities. The District's Office of Community Engagement facilitates the student internship program where organizations may participate as Business Mentors. For more information about how to be an internship provider, please visit <http://www.engagemiamidade.net/#/community-internships/c7pc> or email us at internships@dadeschools.net. As an awarded vendor, District staff may contact your organization regarding current and upcoming Business Mentor opportunities for M-DCPS students and seek your organization's participation, if eligible.

L. COMPLIANCE WITH SCHOOL BOARD POLICIES

Bidder agrees to comply with the following School Board Policies: 6465 Commercial Anti-Discrimination, Diversity, and Inclusion; 6460 Business Code of Ethics; 6325 Code of Silence; 6320 Purchasing; 6320.01 Outside Vendors Selling; 6320.02 Small/Micro, Minority/Women, and Veteran Business Enterprise Programs, and agree to comply with all applicable School Board contracting and procurement policies and procedures.

LI. INDEMNIFICATION

To the fullest extent permitted by law, the Awarded Bidder shall indemnify and hold harmless the Board, and its employees ("Indemnitees") from and against all claims, liabilities, damages, losses, and costs including, but not limited to, reasonable costs and attorneys' fees at the pre-trial, trial and appellate levels, arising out of, resulting from or incidental to the Awarded Bidder's performance under this Agreement or to the extent

caused by negligence, recklessness, or intentional wrongful conduct of the Awarded Bidder or other persons employed or utilized by the Awarded Bidder in the performance of this Agreement. The remedy provided to the Indemnitees by this indemnification shall be in addition to and not in lieu of any other remedy available under this Agreement or otherwise. This indemnification obligation shall not be diminished or limited in any way to any insurance maintained pursuant to this Agreement otherwise available to the Awarded Bidder. The provisions of this Section are intended to require the Awarded Bidder to furnish the greatest amount of indemnification allowed under Florida law. To the extent any indemnification requirement contained in this Agreement is deemed to be in violation of any law, that provision shall be deemed modified so that the Awarded Bidder shall be required to furnish the greatest level of indemnification to the Indemnitees as was intended by the parties hereto.

DUTY TO DEFEND: The Awarded Bidder agrees, at its own expense, and upon written request by the Board, to defend any suit, action or demand brought against the Board on any claim or demand arising out of, resulting from or incidental to the Awarded Bidder's performance under this Agreement.

LII. ADA COMPLIANCE

Awarded Bidder agrees and warrants that its services and/or products comply with the Americans with Disabilities Act of 1990 and Section 504 of the Rehabilitation Act of 1973, along with the its implementing regulations, to ensure that individuals with disabilities have an equal opportunity to participate in the School Board's programs and activities. Awarded Bidder agrees to promptly respond and resolve any complaints regarding the accessibility of its services and/or products. Awarded Bidder further agrees to defend, hold harmless and indemnify the School Board, including reasonable attorneys' fees, for any claims or actions arising out of the Awarded Bidder's failure to comply with this requirement.

SECTION 5 - SPECIAL CONDITIONS

5.1 GENERAL INFORMATION

The purpose of this Invitation to Bid (ITB) is to establish a pool of preapproved contractors to provide emergency debris and hazardous tree removal services and furnish all labor, supervision, equipment and materials necessary to remove and lawfully dispose of storm generated debris from The School Board of Miami-Dade County properties and right-of-way areas.

The term of the resulting agreement shall be for a period of three (3) years with two (2) successive options to renew of one-year each, all at the discretion of the District. Options to renew will be evidenced in writing as a contract amendment to the resulting agreement, negotiated, executed and signed by the District prior to the expiration date of the resulting agreement or any valid extension thereof.

5.2 METHOD OF AWARD

The Procurement staff, assigned to this ITB, will evaluate and award all responsive and responsible bidders regularly engaged in providing hazardous tree and emergency debris removal services. The recommendation for award will be submitted through Procurement staff to the School Board. The award decision will be made by the School Board, whose decision shall be final. The agreement between the successful proposer(s) and the Board will be non-exclusive.

Awarded Pre-approved Bidders will be contacted for services under this bid as follows:

- a. Projects under the current threshold of one-thousand dollars (1,000) may be awarded to bidders on a rotating basis.
- b. For projects over the threshold of one-thousand dollars (1,000), awarded pre-approved bidders will be invited to participate in a Request for Quote (RFQ). A M-DCPS authorized representative will arrange a site scope meeting with all awarded vendors, so that they may be fully acquainted with the conditions that exist and the work to be quoted for that specific project. Bidders will be required to submit a lump sum quote for the designated project to Procurement Management Services and/or Facilities Operations, Maintenance. The project will be awarded to the lowest responsive, responsible bidder, meeting specifications.
- c. For spot repairs, and emergency projects over the threshold of one-thousand dollars (1,000), awarded pre-approved bidders will be requested to complete a Time and Materials Quote Sheet after award of the bid. Vendors will be selected to perform time and materials repairs based upon: a) the submitted rates, b) the availability of the vendor's service personnel to respond within the necessary time frame dictated by the nature of the repair, and c) the expertise of the vendor necessary to complete the type of repair needed.

The agreement between the successful bidder(s) and the Board shall be non-exclusive. Procurement staff may apply scoring incentives for registered businesses certified by the M-DCPS Office of Economic Opportunity, at the recommendation of the Goal Setting Committee, and/or vendors claiming local preference, in accordance with School Board Policy 6320.05. **The Goal Setting Committee recommended that this solicitation be open with a 5% price preference for SBE/MBE certified firms to be applied during the RFQ process.**

5.3 PRICE ADJUSTMENTS

For firm fixed pricing, catalog discounts and/or preapproved vendor bids, it is expected that the prices submitted shall remain firm for the entire contract and extension period (if any). However, fluctuating market conditions may affect the ability of awarded bidder(s) to maintain the original bid prices. Therefore, the awarded bidder(s) may request a price adjustment based on verifiable changes in the market prior to the

end of the initial contract term or each extension period to be valid for the upcoming contract extension period. This price adjustment is subject to approval by M-DCPS. All requests for price adjustments must be submitted in writing to M-DCPS Procurement Management Services, with substantial documentation, including but not limited to, applicable market indexes for the product/service affected, Consumer Price Index (CPI) published by the U.S. Department of Labor, and any other documentation supporting the request for price adjustment. The price adjustment shall not exceed the price index as reported by the Department of Labor. M-DCPS will review all requests for price adjustments, and reserves the right to reject or to modify all requests as deemed to be in the best interest of M-DCPS with appropriate documentation provided to the awarded bidder(s). If mutually agreed upon, the price adjustment(s) shall be valid for the next contract and/or extension period unless the adjustment period is otherwise stated and approved by M-DCPS Procurement Management Services. Awarded bidder(s) who are granted price adjustments must make these price adjustments valid for the contract extension period. Price adjustments shall be subject to audit as to the validity/accuracy at any time by M-DCPS personnel.

5.4 BID SUBMISSION

The entire bid packet must be submitted electronically via the e-bidding platform DemandStar. All bids must be neatly typed on 8 1/2" X 11" page size, with normal margins and spacing. **It should be noted that M-DCPS is no longer accepting submittal of bids in hard copy format. All bids must be submitted electronically via DemandStar.**

For more information on how to register on DemandStar, please refer to the instructions set forth in **Attachment 15.**

Bids must be received by the deadline for receipt of proposals specified in this ITB Timetable (Section 3).

Please note that bids are due on the date and at the time indicated in Section 3. Bid response submission to the Procurement Management Services via DemandStar on or before the stated time and date will be solely and strictly the Bidder's responsibility. M-DCPS will not in any way be responsible for any delays in Bidder's submission of their bid.

Bids must be signed by an authorized officer of the Proposer who is legally authorized to enter into a contractual relationship in the name of the Proposer. The submittal of a bid by a Bidder will be considered by the District as constituting an offer by the Bidder to perform the required services at the stated prices.

5.5 INSURANCE REQUIREMENTS

Bidders shall be required to provide, at the time of submittal of their bid, evidence of insurance coverages and limits meeting, at a minimum, the following requirements:

A. Workers' Compensation/Employer's Liability Insurance

Such insurance shall be no more restrictive than that provided by the Standard Workers' Compensation Policy, as filed for use in Florida by the National Board on Compensation Insurance, without restrictive endorsements. The minimum amount of coverage (inclusive of any amount provided by an umbrella or excess policy) shall be:

Part One: "Statutory"

Part Two: \$100,000 Each Accident

\$500,000 Disease - Policy Limit

\$100,000 Disease - Each Employee

B. General Liability Insurance

Such insurance shall be no more restrictive than that provided by the most recent version of standard Commercial General Liability Form (ISO Form CG 00 01) without any restrictive endorsements.

The minimum limits (inclusive of amounts provided by an umbrella or excess policy) shall be:

\$ 1,000,000 General Aggregate

\$ 1,000,000 Products/Completed Operations Aggregate

\$ 1,000,000 Personal and Advertising Injury

\$ 1,000,000 Each Occurrence

C. Automobile Liability Insurance

Such insurance shall be no more restrictive than that provided by Section II (Liability Coverage) of the most recent version of standard Business Auto Policy (ISO Form CA 00 01) without any restrictive endorsements, including coverage for liability contractually assumed, and shall cover all owned, non-owned, and hired autos used in connection with the performance of the Contract. The minimum limits (inclusive of any amounts provided by an umbrella or excess policy) shall be \$ 1,000,000

Each Occurrence - Bodily Injury and Property Damage Combined

In addition, upon award, the successful bidder shall provide a fully completed certificate of insurance signed by an authorized representative of the insurer providing the insurance coverages set forth hereinabove, and naming **“The School Board of Miami-Dade County, Florida and its members, officers and employees” as an additional insured and certificate holder**. Failure by the successful bidder to provide a fully completed certificate of insurance providing the insurance coverages outlined above, or to maintain such insurance coverages throughout the contractual period, including any extension periods, may cause the bidder to be in default, which may result in the termination of the award.

Neither approval nor failure to approve the insurance furnished by the bidder shall relieve the bidder of the bidder’s full responsibility to provide insurance as required herein.

The insurance provided by the bidder shall apply on a primary basis. Any insurance, or self- insurance, maintained by the Board shall be in excess of, and shall not contribute with, the insurance provided by the bidder.

Compliance with these insurance requirements shall not limit the liability of the bidder. Any remedy provided to the Board by the insurance provided by the Board shall be in addition to and not in lieu of any other remedy (including, but not limited to, as an indemnitee of the bidder) available to the Board under this contract or otherwise.

The bidder shall be responsible for assuring that the insurance remains in full force and effect for the duration of the contractual period, including any and all extension periods that may be granted to the bidder. The certificate of insurance shall contain the provision that the School Board be given no less than (30) days written notice of cancellation. If the insurance is scheduled to expire during the contractual period, the bidder shall be responsible for submitting new or renewed certificates of insurance to the School Board at a minimum of fifteen (15) calendar days in advance of such expiration.

As noted above, the certificate of insurance shall name “The School Board of Miami-Dade County, Florida and its members, officers and employees” as an additional insured and certificate holder, and shall be delivered to the following location, unless otherwise notified:

Miami-Dade County Public Schools
Office of Risk and Benefits Management
1501 N.E. 2nd Avenue, Suite 335
Miami, Florida 33132

The above insurance requirements may only be amended or waived via written approval of the Office of Risk and Benefits Management.

5.6 SMALL/MICRO, MINORITY/WOMEN, AND VETERAN BUSINESS ENTERPRISE PROGRAMS

The School Board of Miami-Dade County, Florida, has a strong commitment to participation by businesses certified by the M-DCPS Office of Economic Opportunity, as part of all District contracting. The School Board has active certification programs to increase contracting opportunities for local businesses. Pursuant to School Board Policy 6320.02, the Goal Setting Committee may apply scoring incentives and/or other affirmative procurement initiatives for firms. The application may be accessed through the following link: <https://miamidadeschools.diversitycompliance.com/?TN=miamidadeschools>

All certifications must be completed online using the following link: <http://oeo.dadeschools.net/certification.asp> Furthermore, vendors certified as a small/micro, minority/women, veteran and/or other qualifying certifications with any entity or agency other than The School Board of Miami-Dade County, Florida, should contact the Office Of Economic Opportunity (OEO). Proposers with certifications from other entities or agencies must contact the OEO for additional information on the M-DCPS shortened interlocal certification agreement. A current list of businesses certified by the M-DCPS OEO can be found online at: <https://miamidadeschools.diversitycompliance.com/?TN=miamidadeschools>.

All vendors must comply with Board Policy 6320.02 and the procedures described in the OEO Administrative Procedures Manual in effect at the time the vendors enter into an agreement with the Board. All vendors will be required to submit a monthly compliance report via the M-DCPS Online Diversity Compliance System for compliance with use of certified subcontractors and/or any affirmative procurement initiatives. All vendors will be required to submit monthly compliance reports online at: <http://miamidadeschools.diversitycompliance.com>. Please contact the Office of Economic Opportunity at 305-995-1307 or via email at OEO@dadeschools.net for additional information on getting certified and/or submittal of the monthly compliance reports.

Please refer to Section 5.2 (Method of Award) for the certified firms participation information applicable to this ITB.

5.7 REQUIRED SUBCONTRACTOR/SUBCONSULTANT INFORMATION TO BE SUBMITTED BY THE BIDDER

If applicable, please include a completed Attachment 16 (Statement of Intent to Perform as a Certified Subcontractor/Subconsultant) in your bid response to specify the name of the certified subcontractor/subconsultant, the proposed percentage or dollar amount of the work to be assigned to the certified subcontractor/subconsultant, along with the scope of work the subcontractor/subconsultant will provide related to this solicitation. In addition, please refer to Section 5.6 for compliance reporting requirements when using a certified subcontractor.

Bidder(s) are required to provide notification of certified subcontractor substitution within five (5) business days of any change. Please note that the substitution of subcontractor must have prior approval by the Office of Economic Opportunity. All substitution requests should be submitted on the Substitution Form.

SECTION 6 - SCOPE OF WORK

6.1 PROJECT DESCRIPTION AND REQUIREMENTS

- 6.1.1** The debris removal shall also include the removal of storm generated dangerous hanging tree limbs, leaning trees, tree or palm stumps and associated storm generated debris from the School Board's properties and right-of-way areas. All bidders who meet or exceed the criteria established in this Invitation to Bid shall be placed on a Preapproved List and will periodically be invited to respond to a "Request for Quote" for emergency debris and hazardous tree removal. All prices shall be firm for the term of the quote. The successful vendor(s) agrees to this condition by signing its bid.
- 6.1.2** Work under this contract will be awarded to all responsive, responsible bidders based on price quotes submitted for the various phases of service needed and the bidder's ability to mobilize crews in order to expedite the overall cleanup process throughout the District by Request for Quote (RFQ). Please refer to Section 5.2 for additional information regarding the RFQ process.
- 6.1.3** Other disaster response and recovery work or conditions may be added, and any requirements or rates not covered by this Bid may be negotiated or contracted separately by the School Board through the RFQ process.
- 6.1.4** The objective of the bid and subsequent contracting activity is to secure the services of experienced and qualified contractors capable of efficiently and effectively removing storm generated debris from the many School Board's sites located throughout Miami Dade County in a timely and cost-effective manner. These services will include transporting debris to the approved Miami-Dade County disposal locations as specified by the School Board. Contractors must be capable of assembling, directing, and managing a workforce that can complete the removal of all storm generated debris from the designated/assigned areas, as defined below, in the allocated time period for each phase of the scope of work.
- 6.1.5** It is the direct objective of the School Board to provide a thorough, professional, effective and efficient cleanup process of the storm generated debris that provides a high level of service to The School Board of Miami-Dade County, Florida. The School Board requests that contractors pay particular attention to the following requirements:
- A. CONTRACTORS** shall conduct themselves in a professional, respectful and courteous manner at all times with School Board employees, approved monitors and school administration.
 - B. FIRST PUSH** (Estimated First 70 Hours 7 Days -10 hour working days): Each contractor shall provide at all times professional debris removal contractors for the initial removal of the storm generated debris to include the gathering, collecting and general removal of the associated debris for clearing of any School Board sites, interior roadways, parking areas and playgrounds. Priority for this time period will include the accessibility and safety issues involved with storm generated debris (i.e. debris blocking interior roadways, trees on buildings or fences and debris in playground areas).
 - C. POST FIRST PUSH**: Each contractor shall at all times have access to a certified arborist on staff with professional field experience utilizing arborist training for the supervision of actual hazardous tree work which shall include but not limited to the removal of hangers/hazardous limbs, leaning trees, removal of large fallen trees and tree felling for

tree removal. The general groundwork involved with the gathering, collecting and removal of the storm generated debris shall follow the same required specifications as outline in the FIRST PUSH with regard to personnel.

- D. FIRST PUSH & POST FIRST PUSH:** The contractor shall gather, collect and remove all storm generated debris from each assigned site, location and/or area. No debris larger than 3/4" will be allowed to remain on site, except leaves in the assigned site, location and/or area.
- E. SECURITY REQUIREMENTS:** The contractors shall adhere to security requirements of The School Board of Miami-Dade County, Florida **AT ALL TIMES**. If awarded contractor(s) is called for service during school operations, they will require either Level 2 security or monitoring by a School Board employee in accordance with the Jessica Lunsford Act.
- F. EQUIPMENT AND SAFETY SPECIFICATION:** Contractors shall strictly always adhere to equipment and safety specifications during project.
- G. SITE DEVIATION:** Contractors shall not deviate from assigned area or sites at any time.
- H. DAMAGES:** Contractors shall be directly responsible for damages caused by their staff, crews and /or subcontractors.

6.2 DEBRIS MANAGEMENT REMOVAL

- 6.2.1** The removal of storm generated debris will generally be limited to (1) storm debris remaining in right-of-way areas of the School Board's locations and facility grounds and (2) debris generated as a result of the removal of hanging limbs, leaning trees or hazardous stumps. All approved removal of debris shall only be allowed in coordination with the School Board's approved disaster debris monitoring awarded contractor (monitor). The removal of the debris shall be calculated and paid upon the following three-line items:
 - i. Removal of debris from the approved School Board facility right-of-way areas or school grounds.
 - ii. Removal of hanging limbs, leaning trees or stumps and associated debris. Line-item pricing for such services shall be "all-inclusive" pricing to include both the cutting of hangers/leaners/ excavation of stumps and removal of the associated debris.
 - iii. Final disposal tipping fees at a School Board designated disposal facility as a direct pass-through cost with no markup.
- 6.2.2** The contractor will be responsible for debris removal, transportation and disposal consistent with the Scope of Work, and in accordance with all applicable Federal, State and/or Local guidelines.

6.3 CONTRACTOR QUALIFICATIONS AND REQUIREMENTS

- 6.3.1** At the time of bid submittal and/or throughout the term of the contract, the successful bidders must be qualified, properly licensed, and insured to perform the scope of the work described herein in accordance with the State of Florida and local code requirements for this County.
- 6.3.2** The contractor shall provide proof of a licensed certified arborist in good standing.

- 6.3.3** The contractor shall provide a minimum of three (3) references on the reference company letterhead of similar work performed preferably within the State of Florida and shall include documentation of at least five (5) years' experience.
- 6.3.4** The contractor must submit a "Surety Letter of Intent" in the amount of \$500,000 with bid. A Payment and Performance bond will be required pursuant to specifications stipulated in the "Request for Quote", which will be issued prior to commencement of each hurricane season while this agreement is in force.
- 6.3.5** The contractor shall provide a list of equipment they have in inventory with the bid. This list shall be a comprehensive list of all equipment needed to complete the work involved with the storm generated debris removal as outlined in the specifications. The equipment list should include but not be limited to the following: chippers (0-22" diameter), stump grinders, bucket trucks (55' reach & 75' reach), self-loading trucks (20- 40 yards min.), small mobile articulating loaders and access to cranes or excavators for the removal of very large trees.
- 6.3.6** The contractor shall have the capability to simultaneously perform all work described herein, at multiple locations throughout Miami-Dade County, on a timely basis.
- 6.3.7** The contractor shall ensure that all of its personnel, subcontractors and subcontractors' personnel, engaged in activities related to this term bid are properly qualified, trained, certified and licensed in accordance with all applicable local, state and federal rules, regulations laws and standards to perform the work assigned. Contractor may be requested at any time to provide evidence of such qualifications.

6.4 OVERVIEW

- 6.4.1** Other disaster response and recovery work may be added, and any requirements or rates not covered by this bid may be negotiated or contracted separately by the School Board through the RFQ process.
- 6.4.2** The School Board of Miami-Dade County, Florida reserves the right to extend operations on a weekly basis and/or by location.
- 6.4.3** The School Board of Miami-Dade County, Florida reserves the right to award quotations to multiple contractors based on the price quotes provided and the mobilization response information. It is anticipated that depending on the severity and assessment of the damage caused by a storm, there may be multiple contractors based on the price and mobilization information in order to expedite the overall cleanup process throughout the County. The contractor shall commence mobilization immediately upon receipt of authorization and shall meet the following guidelines for Mobilization: i) Task Order: 24 hours- 25%, 48 hours- 50%, 72 hours- 75%, and 96 hours- 100%. This represents a minimum response schedule and does not restrict an earlier response.
- 6.4.4** The contractor shall obtain all permits necessary to complete the work and shall be responsible for determining what additional permits and licenses are necessary to perform under the contract. Copies of all permits and licenses shall be submitted to the School Board as soon as available.
- 6.4.5** Payment will be made at the unit rates proposed by the contractor. Contractor must provide an invoice detailing each School Board site/location, load ticket being invoiced including load ticket number, date of collection, truck number, truck capacity, load call, actual cubic yards of the load OR item quantity per unit priced, and the amount being invoiced for the load or per unit. The invoice shall be provided to the assigned monitoring company in both

hard copy and electronic form. The electronic form of the invoice shall be in Microsoft Excel format for reconciliation against the School Board's data.

6.4.6 The contractor shall be responsible for correcting any notices of violations or traffic tickets issued as a result of the contractor's or any subcontractor's actions or operations during the performance of this contract. Corrections for any such violations shall be at no additional cost to The School Board of Miami-Dade County, Florida.

6.4.7 All rates are to be an all-inclusive cost, including the cost of protective clothing (to include hardhats, steel-toed boots, reflective vests, eye protection, etc.), fringe benefits, hand tools, supervision, transportation, traffic control, permits, insurance, liability insurance, workman's compensation and any other related costs.

6.5 DEBRIS REMOVAL, HAZARD/HANGER TREE LIMBS, LEANERS, STUMPS AND DISPOSAL OPERATIONS

6.5.1 The contractor shall provide equipment, operators and laborers for debris removal operations. The contractor shall provide all labor and materials necessary to fully operate and maintain (including fuel, oil, grease, and repairs) all equipment under this contract.

6.5.2 The work shall consist of gathering, clearing and removal of storm generated debris as directed by the School Board's representative or designated monitoring company. During the course of this contract, and once the assigned locations have commenced, the contractor shall not relocate any equipment or labor assets, including subcontractors without giving 24 hours advanced notice of the intended relocation to the M-DCPS representative. In addition to this requirement for advanced notice, the contractor will complete all debris clearing, hazard removal, hangers, leaners, stumps, loading and hauling operations that have been started on any particular pass through a particular school campus or site. The School Board of Miami-Dade County, Florida work may include:

- i) Gathering, clearing, removal, loading and hauling of storm generated debris from assigned School Board sites or facilities, public access roadways, rights-of way and public property as requested and approved by the School Board's representative or monitor, to debris management sites, or authorized disposal facilities, and disposal.
- ii) Removal of hazardous/hanging tree limbs from ALL trees on each assigned School Board sites or facilities.
- iii) Removal of hazardous tree or palm stumps from assigned School Board sites or facilities.
- iv) Providing traffic control for streets, parking areas and sidewalks during ALL operation for storm generated debris and hazardous tree removal for each assigned School Board sites or facilities.
- v) The contractor shall work on only the school sites that have been assigned by the School Board's representative or designated monitor.

6.6 EQUIPMENT

6.6.1 All trucks, trailers and equipment must be in compliance with all applicable federal, state, and local rules and regulations. Trucks and transfer trailers used to haul debris must be capable of rapidly dumping their load without the assistance of other equipment, be equipped with a tailgate and bed cover that will effectively contain the debris during transport and that will permit the trucks to be filled to capacity.

6.6.2 All trucks and transfer trailers must be suitable for being loaded by motorized equipment and shall be high capacity pay loaders with grapple buckets, grapple trucks, transfer

trailers, roll-offs or dump trucks. No crawler or steel tracked vehicles will be allowed on any School Board sites or facilities. All vehicles are to be in good, safe working order at all times, with no “monsterized” vehicles allowed on any School Board sites or hauling of debris from the school sites.

- 6.6.3** The contractor shall submit to the School Board and/or designated monitoring company certifications indicating the type of vehicle, copy of registration, make and model, odometer reading, license plate number, equipment number, and measured maximum volume (in cubic yards) of the load bed of each piece of equipment utilized to haul debris. The measured volume of each piece of equipment shall be calculated from actual internal physical measurements performed by the contractor and the School Board monitoring company prior to any assigned hauling. The reported measured maximum volume of any load bed shall be the same as shown on the sign fixed to each piece of equipment. The School Board of Miami-Dade County, Florida reserves the right to re-measure trucks at any time to verify reported capacity.
- 6.6.4** All trucks and trailers utilized in hauling debris shall be equipped with a tailgate that will permit the vehicle to be loaded to capacity and effectively safely contain the debris on the vehicle while hauling. Sideboards, if installed, must be constructed of 2” x 6” boards or greater and may NOT extend more than 2-feet above the metal bedsides. Once installed all sideboard extensions must remain in place throughout the duration of the operation, or the vehicle must be remeasured and remarked. All extensions to the bed, and any exceptions to the above requirements, must be approved in writing by the School Board in advance to the use of the vehicle.
- 6.6.5** Trucks or equipment that are designated for use under this contract shall not be used for any other work. The contractor shall not solicit work from private citizens or others during the period of this contract. Under no circumstance will the contractor mix debris hauled for others with debris hauled under this contract.

6.7 SECURING DEBRIS FOR HAULING

- 6.7.1** The contractor shall be responsible for properly and adequately securing debris on each piece of equipment utilized to haul debris. Prior to leaving the loading site, the contractor shall ensure that each load is secure and trimmed so that no debris extends horizontally beyond the bed of the equipment in any direction. All loose debris shall be reasonably compacted during loading and secured during transport. Tarps or other methods of securing debris shall be provided by the contractor to prevent reduction by-products and other materials from being blown from the bed during hauling to disposal sites. The contractor shall be held liable for removal of spilled debris on to roadways or damage caused by spilling of debris during transport to the approved disposal sites.
- 6.7.2** The overall maximum height of hauling equipment, including sideboards and debris, shall be no greater than 13 feet 6 inches, or as approved by the School Board. The 13 feet 6-inch height restriction is intended to ensure that vertically protruding debris or equipment does not snag traffic signals, bridges, trees, conductors, and support wiring. The contractor must also verify the clearance of bridges and overpasses on all routes to be used, however, any such structure, with clearance less than 13 feet 6 inches, should be placarded showing the reduced clearance. Maximum width of a truck should be no greater than 8 feet 6 inches wide. The contractor is not relieved of the responsibility for verifying clearance for all overhead structures and wires. The contractor is responsible for any damage caused by the operation of their hauling vehicle and/or damage caused to others property while transporting debris to the approved disposal site.

6.8 EQUIPMENT SIGNAGE

Prior to commencing operations, the contractor shall allow the approved monitor by the School Board to affix to each piece of equipment, signs or markings indicating the Owner/Operator's name and a unique equipment identification number. One sign shall be placed on each side of the equipment. For those trucks, trailers and other equipment intended to haul debris, the maximum volume, in cubic yards, of the load bed shall also be shown. Signs shall be maintained by the contractor in an easily readable fashion for the duration of the work. Minimum letter size shall be 3-inches in height.

6.9 OTHER CONSIDERATIONS

- 6.9.1** The contractor shall assign and provide an Operations Manager to serve as the principal liaison between the School Board representatives, the designated monitoring company and the contractor's forces. The assigned Operations Manager must be knowledgeable of all facts of the contractor's operations AT ALL TIMES and have authority in writing to commit the contractor. The Operations Manager shall be on call 24 hours per day, seven days per week. This linkage shall provide immediate contact capabilities via telephone, cell phone, fax machine, and the internet. The Operations Manager will participate in daily and/or weekly meetings at the request of the School Board's representative and monitoring company.
- 6.9.2** The contractor shall be responsible for control of pedestrian and vehicular traffic in the assigned work area AT ALL TIMES.
- 6.9.3** The contractor shall supervise and direct the work, using professional skilled labor and proper equipment for all assigned and approved tasks. Safety of the contractor's personnel and equipment is the responsibility of the contractor. Additionally, the contractor shall pay for all materials, tools, equipment, safety equipment, personnel, taxes, and fees necessary to perform under the terms of this contract.
- 6.9.4** Payment for debris hauled will be based on the quantity of debris hauled in truck/trailer measured cubic yards to the School Board approved debris disposal site in accordance with the contractor's quoted rates. Debris hauled to a debris management site will require a validated load ticket. Drivers will be given load tickets at the approved site or location by a site monitor. The quantity of debris hauled will be estimated in cubic yards at the debris disposal site by a site monitor. The estimated quantity will be recorded on the load ticket. The debris management site monitor will retain one copy of the load ticket and the driver will retain two copies of the load ticket. Debris being hauled to a permanent disposal site will be paid based on cubic yards on an approved load ticket in accordance with the rate quoted by the contractor. Payment will be made against the contractor's invoice once the School Board's load ticket data and contractor's invoice of load tickets match and have been processed and verified with the monitoring company database.
- 6.9.5** The School Board's debris management site monitors and the disposal facility monitors will use their best judgment in estimating the quantity of debris in the trucks. For purposes of this contract the School Board monitors are the final authority. Trucks are assumed to be carrying 100% full loads, but deductions will be made for: consolidation during hauling, lightly packed loads with air voids, voids caused by incomplete loading at the loading site, and mandatory deductions due to not meeting current guidelines at the time of the Task Order is approved.

6.9.6 MISCELLANEOUS REQUIREMENTS

NO PRIVATE PROPERTY ACCESS. Under no circumstances will the contractor seek or accept requests from private property owners to perform debris clearing or removal.

6.9.7 DAMAGES TO PUBLIC OR PRIVATE PROPERTY

The contractor shall be responsible for any damage to private or public property that results from the debris collection, hazard, hangers, leaners, stumps and removal activities. Such damage may include, but not be limited to, damage to sidewalks and driveways, sprinkler systems, mailboxes, fences, roadways, bridges, buildings, signs etc. The School Board's inspectors/representative will determine where repairs are required. The decision of the School Board's representative is final. Repair of damaged areas will be performed immediately. The affected area or item will be restored to equal or better than its original condition. The contractor shall supply the School Board with semi-weekly lists showing all damage claims that have been settled and all claim issues that remain outstanding.

6.9.8 HAZARDOUS TREE LIMB AND LEANER REMOVAL FROM SCHOOL BOARD APPROVED SITES

All hazardous tree limbs are to be removed from each tree on each assigned School Board sites or facilities by the contractor and shall be performed utilizing proper professional techniques and equipment. The contractor will be required to remove hazardous hanging limbs and branches that have not completely fallen to the ground and hazardous leaning or damaged trees that are still standing. The determination of the existence of a hazardous situation is the responsibility of the School Board's assigned monitors. The School Board will provide a detailed description of the trees or limbs to be removed and the contractor will provide the tree and/or limb removal based upon unit prices from the contractor's quoted prices. Any deviation from these unit prices will not be acceptable. Unit prices quoted by contractor for hanging limb and leaning or damaged tree removal shall include the cost to collect debris generated by these cutting activities and deliver/transport such debris to a debris disposal site designated by the School Board. All cuts for the removal of the hanging limbs are to be made utilizing standard certified arborist methods, techniques and practices. The cost of disposal at the designated debris site will be covered directly by the School Board as a passthrough with no markup. The contractor shall perform each scope of work under an approved Task Order. The School Board or their designated representative will document the work with the names and signatures of those present, date, address, Global Positioning System (GPS) coordinates, and photograph of each tree. In the case of leaners, the diameter of the tree as measured at two-feet above grade will also be documented. Contractor shall not commence with work without prior written authorization from The School Board of Miami-Dade County, Florida.

6.9.9 HAZARDOUS STUMP REMOVAL

- i. The contractor will be required to remove all hazardous stumps that have not been fully uprooted, by means of digging or grinding as assigned. The determination of the existence of a hazardous situation is the responsibility of the School Board's assigned monitors. The School Board will provide a detailed description of the stumps to be removed and the contractor will provide stump removal services based upon the contractor's unit price quote provided. Any deviation from these unit prices will not be accepted. The contractor shall perform each scope of work under an approved Task Order. All stump measurements are based on a minimum trunk diameter as measured two feet above the normal ground level. The stump diameter will be Page 30 of 51 measured 24 inches above normal ground level using a loggers tape. Unit prices quoted by contractor for removal of stumps shall include the cost to remove or grind the stump and deliver the stumps to a debris disposal site designated by the School Board. The hole or depression left behind shall be immediately filled with clean fill and graded to provide a level safe area. A sample of the clean fill is to be provided the School Board's representative in advance for approval prior to use.

- ii. All stumps 24 inches in diameter or less measured two feet above the nominal ground level shall be ground using a professional stump grinder and trained operator. All stumps greater than 24" shall be removed using excavation methods with the utmost caution and care at all times. The removal cost will be all inclusive from the removal site to the approved disposal site. The cost of disposal at the designate debris site will be covered directly by the School Board as a pass-through with no markup.
- iii. The School Board or their designated representative will be required to document the work with the names and signatures of those present, date, address, Global Positioning System (GPS) coordinates, average stump diameter, and photograph of each hazardous stump equal to, or in excess of 24- inches in diameter.
- iv. Contractor shall not commence with work without prior written authorization from The School Board of Miami-Dade County, Florida.

6.10 ADDITIONAL CONSIDERATIONS

The School Board of Miami-Dade County, Florida shall have the right to terminate a contract or a part thereof before the work is completed in the event:

- i) Previous unknown circumstances arise making it desirable in the public interest to void the contract.
- ii) The contractor is not adequately complying with the specifications.
- iii) Proper techniques are not being followed after warning written notification by the School Board.
- iv) The contractor refuses, neglects, or fails to supply properly trained or skilled supervisory personnel or workers or proper equipment of the specified quality and quantity as outlined in the specifications.
- v) The contractor(s), in the judgment of the School Board, is unnecessarily or willfully delaying the performance and completion of the work.
- vi) The contractor refuses to proceed with work when and as directed by the School Board.
- vii) The contractor abandons the work.
- viii) The contractor employs subcontractors who are on the Federal debarred listing.

6.11 CONTRACTOR PETROLEUM, OIL, LUBRICANT (POL) SPILLS

- A. The contractor shall be responsible for reporting to the School Board and mitigating all petroleum, oil, lubricant (POL) spills caused by the contractor's operations.
- B. Immediate containment actions shall be taken as necessary to minimize effect of any spill or leak. Cleanup shall be in accordance with applicable Federal and local laws and regulations, and at the sole cost of the contractor.

- c) Spills other than on-the-site shall be reported to the National Response Center, and the School Board immediately following discovery. A written follow-up shall be submitted to the School Board not later than seven (7) days after the initial report. The written report shall be in narrative form, and as a minimum shall include the following:
 - i) Description of the material spilled (including identity, quantity, etc.)
 - ii) Determination as to whether or not the amount spilled is EPA/State reportable, and when and to whom it was reported.
 - iii) Exact time and location of spill, including description of the area involved.
 - iv) Receiving stream or waters.
 - v) Cause of incident and equipment and personnel involved.
 - vi) Injuries or property damage.
 - vii) Duration of discharge.
 - viii) Containment procedures initiated.
 - ix) Summary of all communications the contractor has had with press or other officials.
 - x) Description of cleanup procedures employed or to be employed at the site, including disposal location of spill residue.
 - xi) Disposal location of spill residue.
 - xii) Corrective actions taken to prevent reoccurrence of similar event.

6.12 NON-EXCLUSIVITY

The School Board of Miami-Dade County, Florida reserves the right to perform, or cause to be performed, the work and services herein described in any manner it sees fit, including, but not limited to, award of other contracts, or to perform the work with its own employees.

6.13 INVOICING

A. The invoice document shall contain, as a minimum, the following information:

1. M-DCPS's Purchase Order Number
2. Unit line items of work performed with quantities, descriptions, unit prices and extension totals per line item in conformance with submitted quotes.
3. Start and completion time and date(s) of work performed including the names and work category of all personnel and equipment used.
4. Location where services were provided.

5. As appropriate, contractor's copy of the Daily Log and Sign In Sheet, tipping, dump ticket receipts, properly signed by the M-DCPS representative.

- B. Payment will only be made for actual work performed which has been verified and found to be in accordance with the terms and conditions of the contract. The contractor will not be compensated for waste, surplus, any travel, including travel to or between sites or any standby or waiting time.
- C. Invoices shall be mailed or delivered to the appropriate M-DCPS authorized representative as identified on the purchase order.
- D. Unsubstantiated, incorrect, inaccurate or incomplete invoices will not be processed and will be returned to the contractor for correction.

SECTION 7 - BID SUMMARY EXCEL SPREADSHEET

Awarded Pre-approved Bidders will be contacted for services under this bid as follows:

- a. Projects under the current threshold of one-thousand dollars (1,000) may be awarded to bidders on a rotating basis.
- b. For projects over the threshold of one-thousand dollars (1,000), awarded pre-approved bidders will be invited to participate in a Request for Quote (RFQ). A M-DCPS authorized representative will arrange a site scope meeting with all awarded vendors, so that they may be fully acquainted with the conditions that exist and the work to be quoted for that specific project. Bidders will be required to submit a lump sum quote for the designated project to Procurement Management Services and/or Facilities Operations, Maintenance. The project will be awarded to the lowest responsive, responsible bidder, meeting specifications.
- c. For spot repairs, and emergency projects over the threshold of one-thousand dollars (1,000), awarded pre-approved bidders will be requested to complete a Time and Materials Quote Sheet after award of the bid. Vendors will be selected to perform time and materials repairs based upon: a) the submitted rates, b) the availability of the vendor's service personnel to respond within the necessary time frame dictated by the nature of the repair, and c) the expertise of the vendor necessary to complete the type of repair needed.

The Bidder shall offer all the elements of this ITB and meet all service requirements and specifications listed within Section 6.0 – Scope of Work, including furnishing labor, supervision, and materials necessary for this work.

The information contained on this ITB is to be utilized solely for preparing the proposal response to this ITB and does not constitute a commitment by the District to procure any product in any volume.

The Remainder of this page was left intentionally blank.

SECTION 8 - FORMS AND ATTACHMENTS

Please fill out all attachments. Some attachments must be notarized.

ATTACHMENT 1	COVER PAGE
ATTACHMENT 2	STATEMENT OF "NO BID"
ATTACHMENT 3	ACKNOWLEDGEMENT OF AMENDMENTS
ATTACHMENT 4	CONFLICT OF INTEREST
ATTACHMENT 5	DEBARMENT
ATTACHMENT 6	INSTRUCTIONS
ATTACHMENT 7	BIDDER'S PREFERENCE
ATTACHMENT 8	DRUG-FREE WORKPLACE (must be notarized)
ATTACHMENT 9	LOCAL BUSINESS AFFIDAVIT OF ELIGIBILITY (must be notarized)
ATTACHMENT 10	ANTI-COLLUSION STATEMENT
ATTACHMENT 11	BIDDER EXPERIENCE
ATTACHMENT 12	SUBMITTED BID DOCUMENT VERIFICATION FORM
ATTACHMENT 13	FLORIDA STATUTES ON PUBLIC ENTITY CRIMES
ATTACHMENT 14	BID OPENING INSTRUCTIONS
ATTACHMENT 15	DEMANDSTAR REGISTRATION INSTRUCTIONS
ATTACHMENT 16	STATEMENT OF INTENT TO PERFORM AS A CERTIFIED SUBCONTRACTOR/SUBCONSULTANT
EXHIBIT A	FEDERAL EMERGENCY MANAGEMENT AGENCY(FEMA) CONTRACT PROVISIONS

ATTACHMENT 1 - COVER PAGE

Cover Page for Bid

BIDDER'S NAME (Name of firm, entity or organization):		
FEDERAL EMPLOYER IDENTIFICATION NUMBER:		
NAME AND TITLE OF BIDDER'S CONTACT PERSON:		
Name: _____ Title: _____		
MAILING ADDRESS:		
Street Address: _____		
City, State, Zip: _____		
TELEPHONE:	FAX:	E-MAIL ADDRESS:
BIDDER'S ORGANIZATIONAL STRUCTURE:		
____ Corporation ____ Partnership ____ Proprietorship ____ Joint Venture		
____ Other (Explain): _____		
IF CORPORATION:		
Date Incorporated/Organized: _____		
State Incorporated/Organized: _____ (attach current registration from state of incorporation/organization)		
If Bidder was not incorporated/organized in the State of Florida, attach current registration authorizing Bidder to transact business in Florida.		
If Bidder is not registered to transact business in the State of Florida, state below the applicable exemption to this requirement as set forth in Section 607.1501, Florida Statutes: _____		

States registered in as foreign corporation: _____		
BIDDER'S SERVICE OR BUSINESS ACTIVITIES OTHER THAN WHAT THIS SOLICITATION REQUESTS FOR:		

LIST NAMES OF BIDDER'S SUBCONTRACTORS OR SUBCONSULTANTS FOR THIS PROJECT (Also refer to Section 5.7 and Attachment 16): _____		

BIDDER'S AUTHORIZED SIGNATURE:		
The undersigned hereby certifies that this bid is submitted in response to this solicitation.		
Sign Name: _____ Date: _____		
Print Name: _____ Title: _____		

ATTACHMENT 2 - STATEMENT OF "NO BID"

If your company shall not be submitting a bid in response to this Invitation to Bid, please complete this Statement of "No Bid" sheet and submit via Demandstar, prior to the Bid Due Date established herein

This information shall help M-DCPS in the preparation of future Bids.

Company Name: _____

Contact: _____

Address: _____

Telephone: _____ Email: _____

√	Reasons for "No Bid":
	Unable to comply with product or service specifications.
	Unable to comply with scope of work.
	Unable to quote on all items in the group.
	Insufficient time to respond to the Invitation to Bid.
	Unable to hold prices firm through the term of the contract period.
	Our schedule would not permit us to perform.
	Unable to meet delivery requirements.
	Unable to meet bond requirements.
	Unable to meet insurance requirements.
	Other (Specify below)

Comments:

Signature: _____

ATTACHMENT 3 - ACKNOWLEDGEMENT OF AMENDMENTS

Instructions: Complete Part I or Part II, whichever is applicable.

PART I: Listed below are the dates of issue for each addendum received in connection with this solicitation.

Please include a signed copy of each addendum.

Addendum #1, Dated _____, 20__

Addendum #2, Dated _____, 20__

Addendum #3, Dated _____, 20__

Addendum #4, Dated _____, 20__

Addendum #5, Dated _____, 20__

Addendum #6, Dated _____, 20__

Addendum #7, Dated _____, 20__

Addendum #8, Dated _____, 20__

PART II:

☐ No Addendum was received in connection with this solicitation.

Authorized Signature: _____ Date: _____

Print Name: _____ Title: _____

Federal Employer Identification Number: _____

Firm Name: _____

Address: _____

City/State/Zip: _____

Telephone: _____ Fax: _____

ATTACHMENT 4 - CONFLICT OF INTEREST

DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST AND CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP

MUST BE COMPLETED BY ALL BIDDERS AND SUBMITTED WITH THEIR BID TO BE CONSIDERED FOR AWARD

VENDOR NAME:

In accordance with General Condition 11, each Bidder must disclose in its Bid, the names of any employees who are employed by Bidder who are also an employee of M-DCPS. Persons identified below may have obligations and restrictions applicable to them under Chapter 112, Florida Statutes.

Name of Bidder's Employee	M-DCPS Title or Position of Employee	M-DCPS Department/School of Bidder's Employee

Check one of the following and sign:

- ☐ I hereby affirm that there are no known persons employed by Bidder who are also an employee of M-DCPS.
- ☐ I hereby affirm that all known persons who are employed by Bidder who are also an employee of M-DCPS have been identified above.

Signature

Printed Name

ATTACHMENT 5 - DEBARMENT

CERTIFICATION OF DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION LOWER TIER TRANSACTIONS

MUST BE COMPLETED BY ALL BIDDERS AND SUBMITTED WITH THEIR BID TO BE CONSIDERED FOR AWARD

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 45 CFR 1183.35, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by going to this link: <http://www.gpo.gov/fdsys/granule/CFR-2011-title45-vol3/CFR-2011-title45-vol3-sec1183-35>

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON THE NEXT PAGE)

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name

Name(s)

Title(s) of Authorized Representative(s)

Signature(s)

Date

ATTACHMENT 6 - INSTRUCTIONS

INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List (Telephone Number).
8. 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 clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

ATTACHMENT 7 - BIDDER'S PREFERENCE

LEGAL OPINION OF BIDDER'S PREFERENCE

MUST BE COMPLETED BY ALL BIDDERS AND SUBMITTED WITH THEIR BID TO BE CONSIDERED FOR AWARD

VENDOR NAME:

Section 1: Attorney for an Out-of-State Bidder must complete and sign Section 1

Section 2: Florida Bidder must complete and sign Section 2 and have it notarized

NOTICE: The State of Florida provides a Bidder's preference for Bidders whose principal place of business is within the State of Florida for the purchase of personal property. The local preference is five (5) percent. Bidders whose principal place of business is outside the State of Florida must have an Attorney, licensed to practice law in the out-of-state jurisdiction, as required by Florida Statute 287.084(2), execute the "Opinion of Out-of-State Bidder's Attorney on Bidding Preferences" form and must submit this form with submitted bid. Such opinion should permit M-DCPS' reliance on such attorney's opinion for purposes of complying with Florida Statute 287.084.

Florida Bidders are not required to have an Attorney render an opinion, but the Florida Bidder must complete its portion of this form.

Failure to submit and execute this form, with bid, shall result in bid being considered "non-responsive" and bid rejected.

SECTION 1

LEGAL OPINION ABOUT OUT-OF-STATE BIDDING PREFERENCES

(Must Select One)

_____The Bidder's principal place of business is in the State of _____ and it is my legal opinion that the laws of that state **do not grant a preference** in the letting of any or all public contracts to business entities whose principal places of business are in that state.

_____The Bidder's principal place of business is in the State of _____ and it is my legal opinion that the laws of that state **grant the following preference(s)** in the letting of any or all public contracts to business entities whose principal places of business are in that state: [Please describe applicable preference(s) and identify applicable state law(s)]:

The undersigned attorney submits the foregoing opinions with the intention that they be relied upon by The School Board of Miami-Dade County, Florida in the letting of public contracts

Signature of out-of-state Bidder's attorney: _____

Printed name of out-of-state Bidder's attorney: _____

Address out-of-state Bidder's attorney: _____

Telephone number out-of-state Bidder's attorney: _____

E-Mail address out-of-state Bidder's attorney: _____

Attorney's state(s) of bar admission: _____

SECTION 2

LEGAL OPINION ABOUT POLITICAL SUBDIVISION BIDDING PREFERENCES FOR A FLORIDA BIDDER ONLY – FLORIDA BIDDER MUST COMPLETE AND SIGN THIS SECTION AND HAVE IT NOTARIZED ATTORNEY'S OPINION AND SIGNATURE NOT REQUIRED FOR FLORIDA BIDDERS T

(Must Select One)

_____The Bidder's principal place of business is in the political subdivision of Miami-Dade County, Florida.

_____The Bidder's principal place of business is in the political subdivision of _____ and it is my legal opinion that the laws of that political subdivision **do not grant a preference** in the letting of any or all public contracts to business entities whose principal places of business are in that political division.

_____The Bidder's principal place of business is in the political subdivision of _____ and it is my legal opinion that the laws of that political subdivision **grant the following preference(s)** in the letting of any or all public contracts to business entities whose principal places of business are in that political subdivision: [Please describe applicable preference(s) and identify applicable authority granting the preference(s)]: _____

STATE OF FLORIDA
COUNTY OF _____

BEFORE ME; the undersigned authority, in _____ and for the State of Florida, personally appeared _____ who, after being sworn according to law, stated that he or she was authorized to represent _____ and to execute this affidavit on behalf of the said Business Entity and attests, under penalty of perjury, to the above.

SIGNATURE OF AFFIANT

DATE

PRINTED NAME OF AFFIANT

TITLE

COMPANY NAME

SWORN AND SUBSCRIBED BEFORE ME

SIGNATURE OF NOTARY PUBLIC
THIS _____ DAY OF _____, 20____

My Commission Expires: _____
NOTARY SEAL

ATTACHMENT 8 - DRUG-FREE WORKPLACE

VENDOR NAME:

SWORN STATEMENT PURSUANT TO SECTION 287.087, FLORIDA STATUTES, AS CURRENTLY ENACTED OR AS AMENDED FROM TIME TO TIME, ON PREFERENCE TO BUSINESSES WITH DRUG-FREE WORKPLACE PROGRAMS.

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

This sworn statement is submitted to The School Board of Miami-Dade County, Florida,

by _____
(Print individual's name and title)

for _____
(Print name of entity submitting sworn statement)

whose business address is _____

and (if applicable) its Federal Employer Identification Number (FEIN) is _____
(If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: _____.)

I certify that I have established a drug-free workplace program and have complied with the following:

1. Published a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that shall be taken against employees for violations of such prohibition.
2. Informed employees about the dangers of drug abuse in the workplace, the business' policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Given each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).
4. In the statement specified in subsection (1), notified the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee shall abide by the terms of the statement and shall notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five days after such conviction.
5. Shall impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community by, any employee who is so convicted.
6. Am making a good faith effort to continue to maintain a drug free workplace through implementation of this section.

(Signature)

Sworn to and subscribed before me this _____ day of _____, 20____.

Personally known _____ or

Produced Identification _____

Notary Public – State of _____

My commission expires: _____

(Type of Identification)



ATTACHMENT 9 - LOCAL BUSINESS AFFIDAVIT OF ELIGIBILITY

Miami-Dade County Public Schools Local Business Affidavit of Eligibility

This declaration is executed under penalty of perjury of the laws of the United States and State of Florida.

THIS AFFIDAVIT IS SUBMITTED IN REFERENCE TO THE FOLLOWING SOLICITATION:	
RFQ/RFP/BID/CONTRACT/PROJECT # (as applicable): _____	
BUSINESS NAME:	_____
CONTACT PERSON:	_____
LOCAL ADDRESS: (Include City State & Zip Code)	_____
FEIN (Federal Employer Identification Number):	Length of Time at Address Provided: _____
	Length of Time Located within the legal boundaries of Miami-Dade County: _____
BUSINESS STRUCTURE:	☐ Corporation ☐ LLC ☐ Partnership ☐ Sole Proprietorship ☐ Other (Specify): _____
PHONE:	() FAX: ()
E-MAIL ADDRESS:	_____
ATTESTATION - I understand that: - In accordance with School Board Policy 6320.05, local business means the Bidder has a valid business license, issued by a jurisdiction located in Miami-Dade County, with its headquarters, manufacturing facility, or locally-owned franchise located within the legal boundaries of Miami-Dade County, for at least twelve (12) months (or having a street address for at least twenty-four (24) months), prior to the bid or proposal opening date. Post office boxes are not verifiable and shall not be used for the purpose of establishing said physical address. - To be considered for local preference, a Bidder must attach a copy of its business license (Local Business Tax Receipt) to this affidavit of eligibility with a bid or proposal. - The preference does not apply to goods or services exempted by statute as reflected in Policy 6320, or prohibited by Federal or State law, or other funding source restrictions. - The application of local preference to a particular purchase, contract, or category of contracts for which the Board is awarding authority may be waived upon written justification and recommendation by the Superintendent. - The preference established in this policy does not prohibit the right of the Board, or other authorized purchasing authority, from giving preference permitted by law in addition to the preference authorized in this policy. - The preference established in this policy does not prohibit the right of the Board, or other authorized purchasing authority, to compare quality or fitness for use of supplies, materials, equipment and services proposed for purchase and compare qualifications, character, responsibility and fitness of all persons, firms or corporations submitting bids or proposals. - The above information may be subject to verification. - A Bidder who misrepresents the local preference status of its firm in a proposal or bid submitted to the School Board will lose the privilege to claim local preference status, and shall lose eligibility to claim local preference status for a period of one (1) year. The Superintendent may also recommend that the firm be referred for debarment in accordance with Policy 6320.04.	

BEFORE ME; the undersigned authority, in and for the State of Florida and Miami-Dade County personally appeared _____ who, after being sworn according to law, stated that he or she was authorized to represent _____ and to execute this affidavit on behalf of the said Business Entity and attests, under penalty of perjury, to the above.

SWORN AND SUBSCRIBED BEFORE ME

SIGNATURE OF NOTARY PUBLIC
THIS _____ DAY OF _____, 20____

My Commission Expires: _____
NOTARY SEAL

PRINTED NAME OF AFFIANT

SIGNATURE OF AFFIANT _____ DATE _____

TITLE _____

COMPANY NAME _____

ATTACHMENT 10 - ANTI-COLLUSION STATEMENT

THE UNDERSIGNED BIDDER HAS NOT DIVULGED TO, DISCUSSED, OR COMPARED HIS/HER PROPOSAL WITH OTHER BIDDERS AND HAS NOT COLLUDED WITH ANY OTHER BIDDER OR PARTIES TO THE PROPOSAL WHATSOEVER. BIDDER ACKNOWLEDGES THAT ALL INFORMATION CONTAINED HEREIN IS PART OF THE PUBLIC DOMAIN AS DEFINED BY THE STATE OF FLORIDA SUNSHINE LAW.

CERTIFICATION AND IDENTIFICATION FOR BIDDERS SUBMITTING PROPOSALS

I certify that this proposal is made without prior understanding, agreement or connection with any corporation, firm or person submitting a proposal for the same service and is in all respects fair and without collusion or fraud. I agree to abide by all conditions of these proposal specifications, and I certify that I am authorized to sign this proposal. I certify agreement with The School Board of Miami-Dade County, Florida Business Code of Ethics and agree to comply with this Code and all applicable School Board contracting and procurement policies and procedures (School Board Policy 6460). I certify that I, nor my company or its principals, or any wholly-owned subsidiary are currently debarred or in default of any bid, purchase order or contract with the School Board or any other private or governmental entity and that the company satisfies all necessary requirements as an entity to do business with The School Board of Miami-Dade County, Florida.

Type of Business Organization and Authority of Signatory:

Indicate type of business organization Bidder is registered as with the Florida Department of State Division of Corporations. For example, Partnership, Limited Partnership, Limited Liability Company, Corporation, etc. If a proposal is submitted by a corporation, provide documentation that the corporation is active and authorized to do business in the State of Florida, and that its corporate status shall remain active and unchanged at the time of award or proposal. As to other types of business organizations, please provide any and all documentation relating thereto, including without limitation, verification that the party signing this proposal is fully authorized and empowered to do so, on behalf of Bidder. In addition, set forth name(s) and title of any and all parties who are authorized to contract on behalf of Bidder.

LEGAL NAME OF AGENCY OR
BIDDER SUBMITTING PROPOSAL: _____

MAILING ADDRESS: _____

CITY STATE, ZIP CODE: _____

TELEPHONE NUMBER: _____

TYPE OF BUSINESS ORGANIZATION: _____

EMAIL ADDRESS: _____

BY: SIGNATURE (ORIGINAL) _____

BY: NAME TYPED _____

TITLE: _____

Revised 11/19/20

ATTACHMENT 11 - BIDDER EXPERIENCE

Submit three (3) forms; one for each client reference. Understand that each client may be contacted to verify the validity of the partnership between the Bidder and the client.

BIDDER REFERENCE EVALUATION FORM

Bidder Name:

Bid Number:

Bid Title:

**Name of Organization
Providing Reference:**

Contact Person:

Date of Evaluation:

Email:

**PLEASE CHECK THE APPROPRIATE STATEMENT THAT BEST DESCRIBES YOUR CLIENT
EXPERIENCE WITH THE ABOVE REFERENCE BIDDER.**

I. DELIVERY

☐

- ____ Vendor was always on time
____ Vendor was usually on time
____ Vendor was never on time
____ Vendor never delivered product/service as ordered
____ Vendor defaulted

II. PRODUCT QUALITY

☐

- ____ Vendor's product/service always performed as expected
____ Vendor's product/service usually performed as expected
____ Vendor's product/service never performed as expected
____ Vendor's product had to be replaced
____ OTHER: COMMENTS

III. PRODUCT SUBSTITUTION

☐

- ____ Vendor always substituted product/service
____ Vendor never substituted product/service
____ OTHER: COMMENTS

IV. PACKAGING

☐

- ____ Vendor's packaging was always satisfactory
____ Vendor's packaging was usually satisfactory
____ Vendor's packaging was sometimes satisfactory
____ Vendor's packaging was never satisfactory
____ OTHER: COMMENTS

V. INVOICING

☐

- ____ Vendor always invoiced correctly and on time
____ Vendor usually invoiced correctly and on time
____ Vendor sometimes invoiced correctly and on time
____ Vendor never invoiced correctly and on time
____ OTHER: COMMENTS

VI. PROFESSIONALISM

☐

- ____ Vendor was always professional
____ Vendor was usually professional
____ Vendor was sometimes professional
____ Vendor's product had to be replaced
____ OTHER: COMMENTS

VII. ACCESSIBILITY

☐

- ____ Vendor was always accessible
____ Vendor was usually accessible
____ Vendor was sometimes accessible
____ Vendor never accessible
____ OTHER: COMMENTS

VIII. OVERALL RATING

- Recommend for new business ☐
Does not recommend for new business ☐

OVERALL STATEMENT OF VENDOR'S PERFORMANCE

CLIENT'S NAME: _____

SIGNATURE: _____ DATE: _____

VERIFIED BY: (PRINT NAME) _____ SIGNATURE: _____ DATE: _____

Revised 11/19/20

ATTACHMENT 12 - SUBMITTED BID DOCUMENT VERIFICATION FORM

All bidders are required to submit the following information to be considered for award. Failure to submit any of the required documents with the bid will cause the bidder to be considered nonresponsive and ineligible for further consideration. Each bidder must include the following information within their submittal:

REQUIREMENT	YES	NO
a. Provide a Local Business Tax Receipt. Any person, firm, corporation or joint venture, with a business location in Miami-Dade County, Florida, which is submitting a bid, shall meet the County's Local Business Tax Receipt requirements in accordance with Miami-Dade County, Florida, code. Bidders with a location outside Miami-Dade County shall meet their local Occupational Tax requirements. A copy of the license must be submitted. Noncompliance with this condition may cause the bidder not to be considered for award.		
b. Copy of current registration with the Florida Dept. of State, Division of Corporations to conduct business in the State of Florida. If Bidder is not registered to transact business in the State of Florida, Bidder must provide a copy of Bidder's current registration in their state of incorporation/organization, along with the applicable exemption to this requirement as set forth in Section 607.1501, Florida Statutes. This information must be documented on Attachment 1 (Cover Page), along with submittal of required incorporation/organization documentation.		
c. Three (3) references from organizations comparable in complexity and/or size to M-DCPS, preferably. This must be documented on Attachment 11, Bidder Experience form, whereby each bidder uses one form per reference.		
d. Provide a company resume listing a minimum of 5 (five) years' experience pursuant to Section 6.3.3 of this ITB.		
e. The Contractor shall provide a list of equipment they have in inventory with the bid. This list shall be a comprehensive list of all equipment needed to complete the work involved with the storm generated debris removal as outlined in the specifications in pursuit to section 6.3.5.		
f. Submission of all documentation/information stated in this ITB, including, without limitation, the documentation, information and/or plans stated in Sections 5, 6, and 7 of this ITB, as well as the required forms and attachments, as stated in Section 8 of this ITB.		
g. If applicable, please include a completed Attachment 16 (Statement of Intent to Perform as a Certified Subcontractor/Subconsultant) <u>in your bid response</u> to specify the name of the certified subcontractor/subconsultant, the proposed percentage or dollar amount of work to be assigned to the certified subcontractor/subconsultant, if any, along with the scope of work the certified subcontractor/subconsultant will provide related to this solicitation.		
h. Provide Copy of General Hauler Permit, upon receipt of Notice to Proceed.		
i. Provide a copy of licensed certified arborist certification.		
j. The Contractor must submit a "Surety Letter of Intent" in the amount of \$500,000 with bid. A Payment and Performance bond will be required pursuant to specifications stipulated in the "Request for Quote", which will be issued prior to commencement of each hurricane season while this agreement is in force.		

Please complete and sign below confirming all items noted above are included in your submission.

Name of Bidder: _____

Signature of Bidder's Authorized Representative *Date*

Printed Name *Title*

For Internal Use Only:

Signature of Originating Department (as applicable) *Date*

Printed Name *Title*

Procurement Staff Name/Signature *Date*

ATTACHMENT 13 - FLORIDA STATUTES ON PUBLIC ENTITY CRIMES AFFIDAVIT

The State of Florida has enacted a law that requires proposers or contractors to submit a sworn document stating whether or not a corporation, its officers, predecessors or successors have been convicted of a public entity crime. Neither the Proposer, the contractor nor any officer, director, executive, partner, shareholder, employee, member nor agent who is active in the management of the Proposer or contractor nor any affiliate of the Proposer or contractor shall have been convicted of a public entity crime subsequent to July 1, 1989.

All Proposers must read and complete in its entirety, sign and have notarized the attached "Sworn Statement under Section 287.133 (3) (a), Florida Statutes, on Public Entity Crimes."

Failure to do so will result in the proposal submitted being considered non-responsive and therefore not considered for award.

ITB or Contract No. _____

SWORN STATEMENT UNDER SECTION 287.133 (3) (A),
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

STATE OF _____
COUNTY OF _____

Before me, the undersigned authority, personally appeared _____ who, being by me first duly sworn, made the following statement:

1. The business addresses of _____ (name of proposer or contractor) is _____.
2. My relationship to _____ (name of proposer or contractor) is _____ (relationship such as sole proprietor, partner, president, vice president).
3. I understand that a public entity as defined in Section 287.133 of the Florida Statutes includes a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity in Florida or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or such an agency or political subdivision and involving antitrust, fraud, theft, bribery, collusion, racketeering conspiracy, or material misrepresentation.
4. I understand that "convicted" or "conviction" is defined by the statute to mean a finding or a conviction of a public entity crime with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July, 1989, as a result of a jury verdict, non-jury trial, or entry plea of guilty or nolo contendere.

5. I understand that "affiliate" is defined by the statute to mean (1) a predecessor or successor of a person or a corporation convicted of a public entity crime, or (2) an entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime, or (3) those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate, or (4) a person or corporation who knowingly entered into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months.
6. Neither the Proposer, contractor nor any officer, director, executive, partner, shareholder, employee, member nor agent who is active in the management of the Proposer or contractor nor any affiliate of the Proposer or contractor has been convicted of a public entity crime.

(Draw a line through paragraph 6 if paragraph 7 below applies)

7. There has been a conviction of a public entity crime by the Proposer or contractor, or an officer, director, executive, partner, shareholder, employee, member or agent of the Proposer or contractor, or an officer, director, executive, partner, shareholder, employee, member or agent of the Proposer or contractor who is active in the management of the Proposer or contractor or an affiliate of the Proposer or contractor. A determination has been made pursuant to Section 287.133 (3) by order of the Division or Administrative Hearings that it is not in the public interest for the name of the convicted person or affiliate to appear on the convicted Proposer list. The name of the convicted person or affiliate is _____. A copy of the order of the Division of Administrative Hearing is attached to this statement.

Affiant's Signature

Sworn to and subscribed before me in the state and county first mentioned above on the _____ day of _____, 20_____.

NOTARY PUBLIC

MY COMMISSION EXPIRES

ATTACHMENT 14 - BID OPENING INSTRUCTIONS

ITB-22-021-TA Emergency Debris and Hazardous Tree Removal

BIDS DUE: Sealed bids will be received by The School Board of Miami-Dade County, Florida until **1:00 P.M. local time, on Tuesday, April 4, 2023**, via the e-bidding platform DemandStar.

NOTE: M-DCPS is no longer accepting submittal of bids in hard copy format. All bids must be submitted electronically via DemandStar.

For bid submittal requirements or instructions, please refer to **Section 5.4** of this ITB.

The bid opening will take place virtually via zoom.

Tuesday, April 4, 2023 at 2:00 p.m. ET
Meeting ID: 963 8325 8347
Passcode: 978824
One tap mobile
+16468769923,,96383258347# US (New York)
+13017158592,,96383258347# US (Germantown)

ATTACHMENT 15 – DEMANDSTAR REGISTRATION INSTRUCTIONS

To register for free as a vendor in the DemandStar Platform, you must complete the registration form.

1. Navigate to the DemandStar page by going to:

<https://www.demandstar.com/app/registration>.

2. On the **Get Started! Create your free DemandStar account** page, fill in your **E-mail address** and your **Company Name**.
3. Read and accept the Terms of Use and Privacy Policy.
4. Choose your Free Agency: Please type **Miami-Dade County Public Schools** and select it, click next.
5. Input your Company Contact Information and click Submit.
6. Input your Contact Information and click Submit.
7. An email will be sent for you to confirm your account.
8. If you need further assistance, please contact DemandStar Support at support@demandstar.com or call (206) 940-0305



ATTACHMENT 16 - STATEMENT OF INTENT TO PERFORM AS A CERTIFIED SUBCONTRACTOR/SUBCONSULTANT

Solicitation No.: _____

Solicitation Title: _____

A signed *Statement of Intent to Perform as a Certified Subcontractor/Subconsultant* form must be completed by the owner or authorized principal of each firm certified by the Miami-Dade County Public Schools (M-DCPS) Office of Economic Opportunity, listed in the Proposer's/Bidder's submittal to perform work on the above solicitation as a subcontractor/subconsultant.

STATEMENT OF INTENT			
The undersigned is a vendor certified by the M-DCPS Office of Economic Opportunity: ☐ Yes ☐ No _____ (Name of M-DCPS certified firm) agrees to perform work as a subcontractor/subconsultant on the above solicitation as a (check one): ☐ Individual ☐ Partnership ☐ Corporation The M-DCPS certified firm named above will enter into a formal agreement with _____ (Name of Bidder/Proposer) to perform work as a subcontractor/subconsultant on the above solicitation conditioned upon the Bidder/Proposer executing a contract with M-DCPS.			
DESCRIPTION OF WORK & VALUE			
Please provide the details and value of the work to be performed by the certified subcontractor/subconsultant named above:			
Item No.	Type of Work	Agreed Upon Price	% of Work
		\$	%
		\$	%
		\$	%
TOTAL VALUE OF WORK		\$	%
M-DCPS CERTIFIED SUBCONTRACTOR/SUBCONSULTANT SIGNATURE			
_____ (Signature) M-DCPS Certified Subcontractor/Subconsultant		_____ Title	
_____ (Print) Name of M-DCPS Certified Subcontractor/Subconsultant		_____ Date	

EXHIBIT A

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) CONTRACT PROVISIONS

Contract Provisions Guide

Navigating Appendix II to Part 200—Contract Provisions
for Non-Federal Entity Contracts Under Federal Awards

Procurement Disaster Assistance Team (PDAT)
June 2021
(FI-207-21-0001)



FEMA

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Introduction

FEMA grant recipients and subrecipients (also known as non-federal entities or NFEs)¹ will often use contractors to help them carry out work under their awards. These contracts are a commercial transaction between the NFE and its contractor, and FEMA has no contractual relationship with NFEs' contractors. Although FEMA is not a party to the contract, if an NFE is using federal funding to pay for the contract, the NFE must comply with federal laws, including the [federal procurement standards](#).

This Guide is applicable to *all* NFEs purchasing in support of declarations and FEMA awards issued on or after November 12, 2020 and reflects [Office of Management and Budget \(OMB\) revisions](#) to the federal procurement standards.

For FEMA declarations and awards issued between December 26, 2014 and November 11, 2020 please refer to the [Contract Provisions Template](#). While the *Contract Provisions Template* is only directly applicable to FEMA's Public Assistance (PA) Program, all FEMA grant recipients and subrecipients are encouraged to review this resource since it provides guidance on the federal procurement under grants regulations.

The federal procurement standards for NFEs are described in Title 2 of the Code of Federal Regulations (C.F.R.), Part 200, sections 200.317-200.327. [2 C.F.R. § 200.327](#) states that “the non-federal entity's contracts *must contain the applicable provisions* described in [Appendix II to this part](#)” (emphasis added).

This Guide is designed to help FEMA grant recipients and subrecipients navigate Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, including providing mandatory language and/or suggested language for each required contract provision. This Guide also describes contract clauses that FEMA *recommends* in addition to those required by 2 C.F.R. Part 200.

This Guide provides:

- Sample language or references to find sample language for some of the federally required clauses.
- Required language for clauses that require exact language.

¹ Non-federal entity is defined as a state, local government, Indian tribe, institution of higher education, or nonprofit organization carrying out a federal award as a recipient or subrecipient. 2 C.F.R. § 200.1. State is defined as “any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any agency or instrumentality thereof exclusive of local governments.” 2 C.F.R. § 200.1. The term “non-state entity” therefore refers to a non-federal entity other than a state, which includes local and tribal governments as well as nonprofit organizations.

- Sample language for some of the federally recommended clauses.

This Guide does *not* provide:

- Sample language for certain federally required or recommended clauses that must be included in accordance with the NFE's applicable laws, rules, and procedures.
- Provisions required by applicable state, tribal, or local laws or rules separate from the federal provisions.

Many of the provisions described in this Guide only apply when certain circumstances are present, such as the type of work being procured, the dollar amount, or the date when it is procured. Each section will describe the applicable requirements.

NOTE: The NFE is solely responsible for ensuring that all language included in its contracts meets the requirements of 2 C.F.R. Part 200, including 2 C.F.R. § 200.327 and Appendix II. While the Contract Provisions Guide provides general guidance, NFEs should reach out to their applicable [FEMA grant program representative\(s\)](#) if they have specific questions on the applicability of the contract provisions to a particular FEMA grant program. NFEs are encouraged to visit www.fema.gov for additional information regarding FEMA grant programs and www.fema.gov/grants/procurement for procurement under grants reference material.

Summary of Applicable Federal Procurement Standards

For the NFE to determine which federal procurement rules to follow, it must first determine whether it is a state entity or a non-state entity. Below are the federal procurement rules applicable to state and non-state entities effective November 12, 2020:

- [State entities](#)², including their agencies and instrumentalities, must follow their own documented procurement policies and procedures when purchasing under a FEMA award pursuant to 2 C.F.R. § 200.317. These entities must also comply with socioeconomic affirmative steps (2 C.F.R. § 200.321), requirement for domestic preferences for procurement (2 C.F.R. § 200.322), the requirements for procurement of recovered materials (2 C.F.R. § 200.323) and ensure that all necessary contract provisions are included in their contracts (2 C.F.R. § 200.327).
- NFEs other than states (collectively referred to as non-state entities³), which include local governments, tribes and eligible private nonprofit organizations, must have documented procurement policies and procedures, which reflect applicable local, state or tribal law, and ensure compliance with the federal requirements listed at 2 C.F.R. §§ 200.318 – 200.327.

² A state entity is “any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any agency or instrumentality thereof exclusive of local governments.” 2 C.F.R. § 200.1

³ A non-state entity is any non-federal entity (as defined above) other than a state (as defined above).

In the case of noncompliance with the federal procurement rules, FEMA may apply a remedy, as appropriate, in accordance with its authorities found at 2 C.F.R. § 200.339 *Remedies for Noncompliance*.

Policy and Guidance Document(s) Incorporated and Superseded

This Guide supersedes the [Contract Provisions Template](#) and other provisions pertaining to the procurement under grants process in policy or guidance circulated prior to the publication date of the Contract Provisions Guide. This Guide provides the most updated and authoritative information regarding required provisions under Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards and FEMA-recommended contract provisions.

Document Management and Maintenance

FEMA Policy FI-207-21-0001, Contract Provisions Guide, will be reviewed, reissued, revised, and/or rescinded within four years for the issue date. The Procurement Disaster Assistance Team (PDAT), a subcomponent of FEMA's Grant Programs Directorate's (GPD) Policy Division, developed this Guide to provide accurate and updated information to assist both FEMA staff and FEMA award recipients and subrecipients navigate Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards. PDAT is responsible for the management and maintenance of this Guide. Comments and feedback from FEMA personnel and stakeholders regarding this Guide should be directed to the Grants Program Directorate Policy Division at FEMA headquarters (HQ) at FEMA-GPD-Policy@fema.dhs.gov.

Contract Provisions Quick Reference Guide

Tables A and B are designed to help FEMA grant recipients and subrecipients conduct a quick reference of the applicability of a specific contract provision and whether sample contract language is included within this Guide to incorporate within the NFE's contract.

The Tables are divided between the required contract provisions set forth under 2 C.F.R. Part 200 Appendix II and those that FEMA *recommends* in addition to those required by 2 C.F.R. Part 200.

Table A: Required Contract Provisions (*continued next page*)

	Provision (Appendix II Section)	Applicability	Sample Contract Language Included
1	Legal/contractual/administrative remedies for breach of contract	Greater than Simplified Acquisition Threshold (SAT)- \$250,000	No. It is based on NFE's procedures.
2	Termination for cause and convenience	Greater than \$10,000	No. It is based on NFE's procedures.
3	Equal Employment Opportunity	Construction work	Yes. Exact language from 41 C.F.R. § 60-1.4(b) included.
4	Davis-Bacon Act	Construction work	Yes, via reference to required language at 29 C.F.R. § 5.5(a).
5	Copeland "Anti-Kickback" Act	Construction work greater than \$2,000	Yes.
6	Contract Work Hours and Safety Standards Act	Greater than \$100,000 + mechanics or laborers	Yes. Exact language required from 29 C.F.R. § 5.5(b).
7	Rights to inventions made under a contract or agreement	Funding agreement	Yes.
8	Clean Air Act and federal Water Pollution Control Act	Greater than \$150,000	Yes.
9	Debarment and Suspension	Greater than \$25,000	Yes.
10	Byrd Anti-Lobbying Amendment	Greater than \$100,000; and Certification required for all contracts greater than \$100,000	Yes. Clause and certification.

	Provision (Appendix II Section)	Applicability	Sample Contract Language Included
11	Procurement of Recovered Materials	NFE is a state or political subdivision of a state. Work involves the use of materials and the contract is for more than \$10,000.	Yes.
12	Prohibition on Contracting for Covered Telecommunications Equipment or Services	All FEMA declarations and awards issued on or after November 12, 2020.	Yes.
13	Domestic Preferences for Procurements	All FEMA declarations and awards issued on or after November 12, 2020.	Yes.

Table B: Recommended Contract Provisions

	Provision	Applicability	Sample Contract Language Included
1	Access to Records	All	Yes.
2	Contract Changes or Modifications	All	No. It depends on nature of contract and end-item procured.
3	DHS Seal, Logo, and Flags	All	Yes.
4	Compliance with federal Law, Regulations and Executive Orders	All	Yes.
5	No Obligation by Federal Government	All	Yes.
6	Program Fraud and False or Fraudulent Statements or Related Acts	All	Yes.
7	Affirmative Socioeconomic Steps	State entities: all FEMA declarations and awards issued on or after November 12, 2020. Non-state entities: all procurements	Yes.
8	Copyright	All procurements that may involve creation of copyrightable material.	Yes.

Required Contract Provisions

1. Remedies

Contracts for more than the federal simplified acquisition threshold (SAT), the dollar amount below which an NFE may purchase property or services using small purchase methods, currently set at \$250,000 for procurements made on or after June 20, 2018,⁴ must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and must provide for sanctions and penalties as appropriate.⁵

1.1 Applicability

This contract provision is required for contracts over the SAT, currently set at \$250,000 for procurements made on or after June 20, 2018. Although not required for contracts at or below the SAT, FEMA suggests including a remedies provision.

1.2 Additional Considerations

For FEMA's Assistance to Firefighters Grant (AFG) Program, recipients must include a penalty clause in all contracts for any AFG-funded vehicle, regardless of dollar amount. In that situation, the contract must include a clause addressing that non-delivery by the contract's specified date or other vendor nonperformance will require a penalty of no less than \$100 per day until such time that the vehicle, compliant with the terms of the contract, has been accepted by the recipient. This penalty clause should, however, account for *force majeure* or acts of god. AFG recipients should refer to the applicable year's Notice of Funding Opportunity (NOFO) for additional information, which can be accessed at [FEMA.gov](https://www.fema.gov).

2. Termination for Cause and Convenience

Contracts for more than \$10,000 must address termination for cause and for convenience by the non-federal entity, including how it will be carried out and the basis for settlement.⁶

2.1 Applicability

This contract provision is required for procurements exceeding \$10,000. FEMA suggests including a termination for cause and for convenience in all contracts even when not required.

⁴ See FEMA Grant Programs Directorate Information Bulletin No. 434, Increases and Changes to the Micro-Purchase and Simplified Acquisition Thresholds (Aug. 28, 2018), https://www.fema.gov/sites/default/files/2020-08/ib_434_changes_micro_purch_simp_acquisition_thresholds.pdf. For procurements subject to 2 C.F.R. Part 200 that were made before June 20, 2018, the SAT was \$150,000.

⁵ 2 C.F.R. Part 200, Appendix II, § A.

⁶ See 2 C.F.R. Part 200, Appendix II, § B.

3. Equal Employment Opportunity

Any contract that uses federal funds to pay for construction work is a “federally assisted construction contract” and must include the equal opportunity clause found in 2 C.F.R. Part 200, unless otherwise stated in 41 C.F.R. Part 60.⁷

3.1 Applicability

This contract provision is required for all procurements that meet the definition of a “federally assisted construction contract.”

3.2 Key Definitions

- *Federally Assisted Construction Contract*: The regulation at 41 C.F.R. § 60-1.3 defines a *federally assisted construction contract* as “any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any federal program involving a grant, contract, loan, insurance or guarantee, or undertaken pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.”
- *Construction Work*: The regulation at 41 C.F.R. § 60-1.3 defines *construction work* as “the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.”
- *Contract*: The regulation at 41 C.F.R. § 60-1.3 defines *contract* as “any Government contract or subcontract or any federally assisted construction contract or subcontract.”
- Additional definitions pertaining to this contract provision can be found at 41 C.F.R. § 60-1.3.

3.3 Required Language

The regulation at 41 C.F.R. § 60-1.4(b) requires, except as otherwise provided or exempted in 41 C.F.R. Part 60, the insertion of the following contract clause: “During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual

⁷ See 2 C.F.R. Part 200, Appendix II, § C.

orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The 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.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The 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 rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other

sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

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

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

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

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

4. Davis-Bacon Act

This statute requires that contractors must pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in the Secretary of Labor's wage determination. Additionally, contractors are required to pay wages at least once per week.⁸ Additional requirements are listed below, and relevant definitions are at 29 C.F.R. § 5.2. NFEs should refer to the applicable NOFO or other program guidance or contact their applicable FEMA grant representative for additional information on how to implement this requirement.

4.1 Applicability

When required by the federal program legislation, prime construction contracts over \$2,000 awarded by NFEs must include a provision for compliance with the Davis-Bacon Act.⁹

The Davis-Bacon Act only applies to the Emergency Management Performance Grant Program,¹⁰ Homeland Security Grant Program,¹¹ Nonprofit Security Grant Program,¹² Tribal Homeland Security Grant Program,¹³ Port Security Grant Program,¹⁴ Transit Security Grant Program,¹⁵ Intercity Passenger Rail Program,¹⁶ and Rehabilitation of High Hazard Potential Dams Program.¹⁷ Unless otherwise stated in a program's authorizing statute, it *does not* apply to other FEMA grant and cooperative agreement programs, including the PA Program. .

⁸ See *id.*; 40 U.S.C. §§ 3141-3144 and 3146-3148. The Davis-Bacon Act is supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering federally Financed and Assisted Construction)

⁹ 2 C.F.R. Part 200, Appendix II, § D.

¹⁰ See section 611(j)(9) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act), Pub. L. No. 93-288 (codified as amended at 42 U.S.C. § 5196(j)(9)).

¹¹ See section 2008(b)(4)(B)(ii) of the Homeland Security Act of 2002, Pub. L. No. 107-296 (codified as amended at 6 U.S.C. § 609(b)(4)(B)(ii)) (citing to section 611(j)(9) of the Stafford Act).

¹² *Id.* The Davis-Bacon Act only applies to the Nonprofit Security Grant Program (NSGP) where that program is funded as a carve-out of the appropriations for the Homeland Security Grant Program (HSGP). See, e.g., Department of Homeland Security Appropriations Act, 2020, Pub. L. No. 116-93, Title III, Protection, Preparedness, Response, and Recovery, Federal Emergency Management Agency, Federal Assistance §§ 1-2. Compare *id.* with section 2009 of the Homeland Security Act of 2002 (6 U.S.C. § 609a) (authorizing NSGP as a stand-alone program where the Davis-Bacon Act does not apply, but as of the date of publication of this document, NSGP has not been funded as a standalone program).

¹³ See section 2008(b)(4)(B)(ii) of the Homeland Security Act of 2002.

¹⁴ See section 102 of the Maritime Transportation Security Act of 2002 (MTSA), Pub. L. No. 107-295 (codified as amended at 46 U.S.C. § 70107); 46 U.S.C. § 70107(b)(2). While the MTSA requires that PSGP construction activities are carried out consistent with section 611(j)(8) of the Stafford Act, a subsequent amendment to the Stafford Act by section 3 of Pub. L. No. 109-308 in 2006 redesignated the text of section 611(j)(8) to 611(j)(9). The cross-reference in the MTSA has not been updated.

¹⁵ See section 1406 of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), Pub. L. No. 110-53 (6 U.S.C. § 1135) (applying the requirements of section 49 U.S.C. § 5307); 49 U.S.C. § 5333 (applying the Davis-Bacon Act to grants provided under 49 U.S.C. § 5307).

¹⁶ See section 1513(h) of the 9/11 Act (6 U.S.C. § 1163(h)) (citing to 49 U.S.C. § 24312, which requires compliance with the Davis-Bacon Act).

¹⁷ See section 8A(d)(2)(E) of the National Dam Safety Program Act (codified as amended at 33 U.S.C. § 467f-2(d)(2)(E)) (requiring compliance with 42 U.S.C. § 5196(j)(9), which is section 611(j)(9) of the Stafford Act that applies the Davis-Bacon Act).

4.2 Additional Requirements

If applicable, in addition to the requirements mentioned in the beginning of this section, the NFE must do the following:

- Place a copy of the Department of Labor’s current prevailing wage determination in each solicitation. Contracts or subcontracts must be awarded on the condition that the prevailing wage determination is accepted. The non-federal entity must report all suspected or reported violations to the federal awarding agency.¹⁸
- Include a provision for compliance with the Copeland “Anti-Kickback” Act for all contracts subject to the Davis-Bacon Act.¹⁹ See Required Contract Provisions, Section 5. Copeland Anti-Kickback Act in this Guide for additional information. According to 29 C.F.R. § 5.5(a)(5), the regulatory requirements for the Copeland “Anti-Kickback” Act are incorporated by reference into the required contract provision, so a separate contract provision is not necessary. However, the NFE may include a separate contract provision specific to the Copeland “Anti-Kickback” Act.
- Per Department of Labor’s implementing regulations for the Davis-Bacon Act, the NFEs contractor and any subcontractors are required to insert, or incorporate by reference, the clauses contained at 29 C.F.R. § 5.5(a)(1)-(10)²⁰ into any subcontracts.
- Follow the other requirements of the Davis-Bacon Act and implementing regulations.²¹

4.3 Required Language²²

If applicable per the standard described above, the NFE must include the provisions at 29 C.F.R. § 5.5(a)(1)-(10) in full into all applicable contracts, and all applicable contractors must include these provisions in full in any subcontracts.²³

5. Copeland “Anti-Kickback” Act

The Copeland “Anti-Kickback” Act prohibits workers on construction contracts from giving up wages that they are owed.²⁴ Additional requirements are listed below, and relevant definitions are at 29 C.F.R. § 3.2. The applicable implementing regulations are intended to assist with enforcement of the

¹⁸ 2 C.F.R. Part 200, Appendix II, § D.

¹⁹ 2 C.F.R. Part 200, Appendix II, § D.

²⁰ 29 C.F.R. § 5.5(a)(6).

²¹ 40 U.S.C. §§ 3141-3144, 3146-3148; 29 C.F.R. Part 5.

²² 29 C.F.R. § 5.5(a).

²³ 29 C.F.R. § 5.5(a)(1), (6).

²⁴ See *id.*; 40 U.S.C. § 3145. The Copeland “Anti-Kickback” Act is supplemented by Department of Labor regulations at 29 C.F.R. 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).

Davis-Bacon Act's minimum wage provisions as well as various statutes with similar minimum wage provisions for federally assisted construction.²⁵

5.1 Applicability

For all prime construction contracts above \$2,000, when the Davis-Bacon Act also applies,²⁶ NFEs must include a provision in contracts and subcontracts for compliance with the Copeland "Anti-Kickback" Act.²⁷ This requirement applies to all prime construction contracts above \$2,000 in situations where the Davis-Bacon Act also applies.²⁸ In situations where the Davis-Bacon Act does not apply, neither does the Copeland "Anti-Kickback" Act. As described in section A.4 regarding the Davis-Bacon Act, this provision only applies to certain FEMA grant and cooperative agreement programs. Please reference that list discussed above. Of note, it does not apply to the PA Program.

5.2 Additional Requirements

If applicable, the NFE must do the following:

- Include a provision for compliance with the Copeland "Anti-Kickback" Act.²⁹ According to the Davis-Bacon Act implementing regulations, the requirements for the Copeland "Anti-Kickback" Act are incorporated into the required contract provision for the Davis-Bacon Act by reference.³⁰ Therefore, a separate contract provision is not necessary. However, the NFE may include a separate contract provision specific to the Copeland "Anti-Kickback" Act with language suggested below.
- The Copeland "Anti-Kickback Act" prohibits each contractor or subcontractor from any form of persuading a person employed in construction, completion, or repair of public work to give up any part of their rightful compensation. The NFE must report all suspected or reported violations of the Copeland "Anti-Kickback Act" to FEMA.³¹
- Each contractor and subcontractor must provide weekly reports of the wages paid during the prior week's payroll period to each employee covered by the "Copeland Anti-Kickback" Act and the Davis-Bacon Act. The reports must be delivered to a representative of a federal or state agency in charge at the building or work site by the contractor or subcontractor within seven days of the payroll period's payment date.³²

²⁵ See 29 C.F.R. § 3.1.

²⁶ See 2 C.F.R. Part 200, Appendix II, § D; 29 C.F.R. §§ 3.1, 3.3(c).

²⁷ 2 C.F.R. Part 200, Appendix II, § D.

²⁸ See 2 C.F.R. Part 200, Appendix II, § D; 29 C.F.R. § 3.3(c).

²⁹ See 29 C.F.R. § 3.11.

³⁰ 29 C.F.R. § 5.5(a)(5).

³¹ See 2 C.F.R. Part 200, Appendix II, § D.

³² See 29 C.F.R. § 3.4.

- Follow the other requirements of the Copeland “Anti-Kickback” Act and implementing regulations.³³

5.3 Suggested Language

The following provides a sample contract clause:

“Compliance with the Copeland “Anti-Kickback” Act.

Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. Part 3 as may be applicable, which are incorporated by reference into this contract.

Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

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

6. Contract Work Hours and Safety Standards Act

Where applicable,³⁴ all contracts awarded by the NFE of more than \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with statutory requirements on work hours and safety standards.³⁵ Under 40 U.S.C. § 3702, each contractor must base wages for every mechanic and laborer on a standard 40-hour work week. Work over 40 hours is allowed, so long as the worker is paid at least one and a half times the base pay rate for all hours worked over 40 hours in the work week. Additionally, for construction work, under 40 U.S.C. § 3704, work surroundings and conditions for laborers and mechanics must not be unsanitary or unsafe. Relevant definitions are at 40 U.S.C. § 3701 and 29 C.F.R. § 5.2.

6.1 Applicability

This required contract provision applies to all procurements over \$100,000 that involve the employment of mechanics, laborers, and construction work.³⁶ These requirements *do not* apply to

³³ 18 U.S.C. § 874; 40 U.S.C. § 3145; 29 C.F.R. Part 3.

³⁴ See 40 U.S.C. §§ 3701-3708.

³⁵ 40 U.S.C. §§ 3702, 3704. The Contract Work Hours and Safety Standards Act is supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, § E.

³⁶ 41 C.F.R. Part 60-1.3.

the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.³⁷

6.2 Additional Requirements

If applicable per the standard described above, the non-federal entity must include the provisions at 29 C.F.R. § 5.5(b)(1)-(4), verbatim, into all applicable contracts, and all applicable contractors must include these provisions, in full, into any subcontracts.³⁸

In addition to the required language from 29 C.F.R. § 5.5(b)(1)-(4), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any other statutes cited in 29 C.F.R. § 5.1, the NFE must also insert a clause meeting the requirements of 29 C.F.R. § 5.5(c). Specific language is not required, but FEMA has provided suggested language below.

6.3 Required Language

For the required contract provision, the language from 29 C.F.R. § 5.5(b)(1)-(4) is provided here for ease of reference:

“Compliance with the Contract Work Hours and Safety Standards Act.

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

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

(3) Withholding for unpaid wages and liquidated damages. The **(insert name of grant recipient or subrecipient)** 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

³⁷ 29 C.F.R. Part 200, Appendix II, § E.

³⁸ 29 C.F.R. § 5.5(b)(1), (4).

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 (b)(2) of this section.

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

6.4 Suggested Language

For contracts that are only subject to Contract Work Hours and Safety Standards Act and are not subject to the other statutes in 29 C.F.R. § 5.1 where an additional contract provision is required, FEMA suggests including the following language:

“Further Compliance with the Contract Work Hours and Safety Standards Act.

- (1)** The contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.
- (2)** Records to be maintained under this provision shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.”

7. Rights to Inventions Made Under a Contract or Agreement

This contract provision outlines the rules governing the ownership of inventions created using federal funds. If the FEMA award meets the definition of funding agreement³⁹ and the NFE enters into any contract involving substitution of parties, assignment or performance of experimental, developmental, or research work under that funding agreement, then the NFE must comply with the requirements of 37 C.F.R. Part 401 and any implementing regulations issued by FEMA.

³⁹ Funding agreement definition found under 37 C.F.R. § 401.2(a).

7.1 Applicability

This provision *does not* apply to all FEMA grant and cooperative agreement programs. NFEs should refer to applicable NOFO or other program guidance or contact their applicable FEMA grant representative to determine if this provision is required for the procurement. However, the Rights to Inventions Made Under a Contract or Agreement clause is not required for procurements under FEMA's PA Program.

7.2 Key Definitions

Funding Agreements: The regulation at 37 C.F.R. § 401.2(a) defines *funding agreement* as “any contract, grant, or cooperative agreement entered into between any federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.”

8. Clean Air Act and Federal Water Pollution Control Act

For contracts over \$150,000, contracts must contain a provision requiring contractors to comply with the Clean Air Act⁴⁰ and the Federal Water Pollution Control Act.⁴¹ Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency (EPA).⁴²

8.1 Applicability

This contract provision is required for all procurements over \$150,000.

8.2 Suggested Language

The following provides a sample contract clause:

“Clean Air Act”

The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 *et seq.*

The contractor agrees to report each violation to the (insert name of non-federal entity entering into the contract) and understands and agrees that the (insert name of the non-federal entity entering into the contract) will, in turn, report each violation as required to

⁴⁰ 42 U.S.C. §§ 7401-7671q. This also includes all applicable standards, orders, or regulations issued pursuant to the Clean Air Act.

⁴¹ 33 U.S.C. §§ 1251-1387, as amended.

⁴² 2 C.F.R. Part 200, Appendix II, § G.

assure notification to the Federal Emergency Management Agency (FEMA), and the appropriate [Environmental Protection Agency Regional Office](#).

The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by FEMA.

“Federal Water Pollution Control Act”

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.*

The contractor agrees to report each violation to the (insert name of the non-federal entity entering into the contract) and understands and agrees that the (insert name of the non-federal entity entering into the contract) will, in turn, report each violation as required to assure notification to the (insert name of the pass-through entity, if applicable), Federal Emergency Management Agency (FEMA), and the appropriate [Environmental Protection Agency Regional Office](#).

The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by FEMA.”

9. Debarment and Suspension

NFEs contractors and subcontractors are subject to debarment and suspension regulations.⁴³

Applicable contracts and subcontracts must include a provision requiring compliance with debarment and suspension regulations.⁴⁴

9.1 Applicability

The debarment and suspension clause is required for all contracts and subcontracts for \$25,000 or more, all contracts that require the consent of an official of a federal agency, and all contracts for federally required audit services.⁴⁵

NFEs, even for procurements under \$25,000, must also comply with the regulation requiring non-state entities to only award contracts to responsible vendors.⁴⁶

⁴³ 2 C.F.R. Part 180 (implementing Executive Order 12549, Debarment and Suspension (1986) and Executive Order 12689, Debarment and Suspension (1989)); 2 C.F.R. Part 3000 (Department of Homeland Security regulations for Nonprocurement Debarment and Suspension, implementing 2 C.F.R. Part 180).

⁴⁴ 2 C.F.R. § 180; 2 C.F.R. Part 200, Appendix II, § H; 2 C.F.R. § 3000.332.

⁴⁵ 2 C.F.R. § 180.220(b); 2 C.F.R. § 3000.220.

⁴⁶ 2 C.F.R. § 200.318(h). For contracts and subcontracts under \$25,000, a contract provision is only required if those contracts or subcontracts are for federally required audit services or require the consent of a federal agency. However, even where a contract provision is not required, non-state entities must still ensure they are only awarding contracts to responsible vendors.

9.2 Additional Requirements

The debarment and suspension regulations restrict awards, subawards, contracts, and subcontracts with parties that are debarred, suspended, or otherwise excluded, or declared ineligible for participation in federal assistance programs and activities.⁴⁷

If applicable, a contract or subcontract must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM). SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties that are debarred, suspended, or otherwise excluded, or declared ineligible under statutory or regulatory authority other than Executive Order 12549.⁴⁸ SAM Exclusions can be accessed at www.sam.gov.⁴⁹

In general, an “excluded” party cannot receive a federal grant award or a contract considered to be a “covered transaction,” which includes parties that receive federal funding indirectly such as subawards and subcontracts. The key to the exclusion is whether there is a covered transaction. A covered transaction is a nonprocurement transaction at either a primary or secondary tier.⁵⁰

Specifically, a covered transaction includes the following contracts for goods or services under FEMA grant and cooperative agreement programs:

- The contract is at least \$25,000.
- The contract requires the approval of FEMA, regardless of amount.
- The contract is for federally required audit services.
- It is a subcontract for \$25,000 or more.⁵¹

9.3 Suggested Language

The following provides a debarment and suspension clause. It also incorporates an optional method of verifying that contractors are not excluded or disqualified⁵²:

⁴⁷ See 2 C.F.R. Part 200, Appendix II, § H; 2 C.F.R. § 200.213. See also 2 C.F.R. Parts 180, 3000.

⁴⁸ See 2 C.F.R. Part 200, Appendix II, § H.

⁴⁹ 2 C.F.R. § 180.530.

⁵⁰ The regulations at 2 C.F.R. Parts 180 and 3000 are titled “nonprocurement” because they do not apply to procurements by the federal government but rather to federal financial assistance. There are separate debarment and suspension regulations covering procurements by the federal government. However, although the term “covered transactions” under 2 C.F.R. Parts 180 and 3000 *does not* include contracts awarded by the federal government, it *does* include some contracts awarded by recipients and subrecipients.

⁵¹ See 2 C.F.R. §§ 180.220, 3000.220.

⁵² Per 2 C.F.R. § 180.300, non-federal entity about to enter into an applicable contract, or a contractor about to enter into an applicable subcontract, must verify that the contractor or subcontractor is not excluded or disqualified by doing one of three things: 1) check SAM Exclusions; 2) collect a certification from the contractor or subcontractor; or 3) add a clause or condition to the contract or subcontract. The additional suggested language in this sample clause is for purposes of this requirement.

“Suspension and Debarment

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

The contractor must comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by (insert name of recipient/subrecipient/applicant). If it is later determined that the contractor did not comply with 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C, in addition to remedies available to (insert name of recipient/subrecipient/applicant), the federal government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. Part 180, subpart C and 2 C.F.R. Part 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

10. Byrd Anti-Lobbying Amendment

NFEs who intend to award contracts of more than \$100,000, and their contractors who intend to award subcontracts of more than \$100,000, must include a contract provision prohibiting the use of federal appropriated funds to influence officers or employees of the federal government. Contractors that apply or bid for a contract for more than \$100,000 must also file the required certification regarding lobbying.⁵³

Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an employee of a federal agency, a Member of Congress, an employee of Congress, or an employee of a Member of Congress in connection with receiving any federal contract, grant, or other award covered by 31 U.S.C. § 1352.

⁵³ See 2 C.F.R. Part 200, Appendix II, § I (citing 31 U.S.C. § 1352); 44 C.F.R. § 18.110.

The required certification form is found in FEMA regulations.⁵⁴ Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal funding. These disclosures are forwarded from tier to tier, all the way up to the federal awarding agency.⁵⁵

10.1 Applicability

The Byrd Anti-Lobbying Amendment clause and certification are required for contracts of more than \$100,000, and for subcontracts of more than \$100,000.

10.2 Suggested Language

The following provides a sample contract clause:

“Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of more than \$100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.”

10.3 Required Certification

10.3.1 REQUIRED CERTIFICATION LANGUAGE

If applicable, contractors must sign and submit the following certification to the NFE with each bid or offer exceeding \$100,000:

“APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

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

⁵⁴ See 44 C.F.R. §§ 18.100, 18.110; 44 C.F.R. Part 18, Appendix A. FEMA’s regulations at 44 C.F.R. Part 18 implement the requirements of 31 U.S.C. § 1352 and provides, in Appendix A to Part 18, a copy of the certification that is required to be completed by each entity as described in 31 U.S.C. § 1352.

⁵⁵ See 44 C.F.R. §§ 18.100, 18.110; 44 C.F.R. Part 18, Appendix B. The specific form for disclosures is referenced in Appendix B to 44 C.F.R. Part 18 and is SF-LLL, also available at <https://www.grants.gov/web/grants/forms/sf-424-family.html>.

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.

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.

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S.C. 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."

10.3.2 RECOMMENDED SIGNATURE LINE:

At the end of the certification language, FEMA recommends including the following signature line.

"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. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date"

11. Procurement of Recovered Materials

An NFE that is a state agency or an agency of a political subdivision of a state, and the NFE's contractors must comply with Section 6002 of the Solid Waste Disposal Act.⁵⁶ Applicable NFEs must include a contract provision requiring compliance with this requirement.⁵⁷ This includes contracts awarded by a state agency or political subdivision of a state and its contractors for certain items, as designated by the EPA, with a purchase price greater than \$10,000.⁵⁸ Indian Tribal Governments and nonprofit organizations are not required to comply with this provision. Additional requirements are listed below.

11.1 Applicability

This required contract provision applies to all procurements over \$10,000 made by a state agency or an agency of a political subdivision of a state and its contractors.

11.2 Additional Requirements

The requirements include:

- Procuring only items designated in EPA guidelines⁵⁹ that contain the highest practical percentage of recovered materials consistent with maintaining competition, where the purchase price of the item is greater than \$10,000, or the value of the amount of items purchased in the preceding fiscal year was greater than \$10,000;
- Procuring solid waste management services in a way that maximizes energy and resource recovery; and
- Establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.⁶⁰

11.3 Suggested Language

The following provides a sample contract clause:

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

⁵⁶ Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). 2 C.F.R. § 200.323.

⁵⁷ See 2 C.F.R. Part 200, Appendix II, § J (citing 2 C.F.R. § 200.323).

⁵⁸ See 2 C.F.R. Part 200, Appendix II, § J; 2 C.F.R. § 200.323; 40 C.F.R. Part 247.

⁵⁹ 40 C.F.R. Part 247.

⁶⁰ 42 U.S.C. § 6962; 2 C.F.R. § 200.323.

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

Meeting contract performance requirements; or

At a reasonable price.

Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines webpage:

<https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

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

12. Prohibition on Contracting for Covered Telecommunications Equipment or Services

Section 889(b)(1) of the [John S. McCain National Defense Authorization Act for Fiscal Year 2019 \(FY2019 NDAA\)](#) and 2 C.F.R. § 200.216, as implemented by [FEMA Policy 405-143-1](#), Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), prohibit the obligation or expending of federal award funds on certain telecommunication products or from certain entities for national security reasons. Effective August 13, 2020, FEMA recipients and subrecipients, as well as their contractors and subcontractors, *may not* obligate or expend any FEMA award funds to:

- a. Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- b. Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system; or
- c. Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

12.1 Applicability

For purchases in support of FEMA declarations and awards issued on or after November 12, 2020, all FEMA recipients and subrecipients, and their contractors and subcontractors, are required to include this contract provision in all FEMA-funded contracts and subcontracts, including any purchase orders.⁶¹ FEMA strongly encourages the use of this contract clause for any contracts where

⁶¹ 2 C.F.R. Part 200, Appendix II, § K (citing 2 C.F.R. § 200.216).

FEMA funding will be used regardless of whether the funding is from FEMA declarations or awards issued on or after November 12, 2020.

12.2 Suggested Language

The following provides a sample contract clause:

“Prohibition on Contracting for Covered Telecommunications Equipment or Services

- (a) *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—
- (b) *Prohibitions.*
 - (1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
 - (2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
 - (i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
 - (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.
- (c) *Exceptions.*
 - (1) This clause does not prohibit contractors from providing—
 - (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

- (ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- (2) By necessary implication and regulation, the prohibitions also do not apply to:
 - (i) Covered telecommunications equipment or services that:
 - i. Are *not used* as a substantial or essential component of any system; and
 - ii. Are *not used* as critical technology of any system.
 - (ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.
- (d) *Reporting requirement.*
 - (1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.
 - (2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:
 - (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
 - (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.
- (e) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.”

13. Domestic Preferences for Procurements

As appropriate, and to the extent consistent with law, NFEs should, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products or materials produced in the United States. This includes, but is not limited to, iron, aluminum, steel, cement, and other manufactured products.⁶²

13.1 Applicability

For purchases in support of FEMA declarations and awards issued on or after November 12, 2020, all FEMA recipients and subrecipients are required to include in all contracts and purchase orders for work or products a contract provision encouraging domestic preference for procurements.⁶³

13.2 Suggested Language

The following provides a sample contract clause:

“Domestic Preference for Procurements

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

For purposes of this clause:

Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.”

⁶² See 2 C.F.R. § 200.322.

⁶³ 2 C.F.R. Part 200, Appendix II, § L (citing 2 C.F.R. § 200.322). The requirements of 2 C.F.R. § 200.322 must also be included in all subawards.

FEMA Recommended Contract Provisions

Appendix II to Part 200 authorizes FEMA to require or recommend additional provisions for NFE contracts. Therefore, FEMA recommends the following:

1. Access to Records

NFEs and their contractors and subcontractors must give the Department of Homeland Security (DHS) and FEMA access to records associated with their awards during the federally required record retention period and as long as the records are retained.⁶⁴ All parties agree to comply with DHS provisions about accessing people, places, and things related to the federal financial award as necessary or as required by DHS regulations or other applicable laws and policies.⁶⁵ Additionally, for contracts entered into after August 1, 2017, under a major disaster or emergency declaration under Titles IV or V of the Robert T. Stafford Disaster Relief Act, FEMA is prohibited from funding any contracts that prevent audits or internal reviews by the FEMA Administrator or Comptroller General.⁶⁶

1.1 Suggested Language for All Procurements

The following provides a sample contract clause:

“The Contractor agrees to provide **(insert non-federal entity), (insert name of pass-through entity, if applicable)**, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

⁶⁴ 2 C.F.R. §§ 200.334, 200.337.

⁶⁵ See DHS Standard Terms and Conditions, available at <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.

⁶⁶ See Sections 1202 and 1225 of the Disaster Recovery Reform Act of 2018, Pub. L. No. 115-254.

1.2 Additional Suggested Language Applicable to Contracts Entered into After August 1, 2017 Under a Major Disaster or Emergency Declaration

The following provides a sample contract clause:

In compliance with section 1225 of the Disaster Recovery Reform Act of 2018, the **(insert name of the non-federal entity)** and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.”

2. Changes

To be allowable under a FEMA grant or cooperative agreement award, the cost of any contract change, modification, amendment, addendum, change order, or constructive change must be necessary, allocable, within the scope of the grant or cooperative agreement, reasonable for the scope of work, and otherwise allowable.⁶⁷

2.1 Applicability

FEMA recommends that all contracts include a changes clause that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may depend on the nature of the contract and the procured item(s) or service(s). The NFE should also consult their servicing legal counsel to determine whether and how contract changes are permissible under applicable state, local, or tribal laws or regulations.

3. DHS Seal, Logo, and Flags

Recipients must obtain permission before using the DHS seal(s), logos, crests, reproductions of flags, or likenesses of DHS agency officials.⁶⁸

3.1 Applicability

FEMA recommends that all NFEs include in their contracts a statement that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without FEMA’s pre-approval.

3.2 Suggested Language

The following provides a sample contract clause:

⁶⁷ See 2 C.F.R. § 200.403.

⁶⁸ See DHS Standard Terms and Conditions, available at <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.

“The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. The contractor shall include this provision in any subcontracts.”

4. Compliance with Federal Law, Regulations, And Executive Orders and Acknowledgement of Federal Funding

The NFEs and its contractors are required to comply with all federal laws, regulations, and executive orders. Additionally, recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.⁶⁹

4.1 Applicability

FEMA recommends that all NFEs include in their contracts a statement acknowledging that FEMA funding will be used in the contract, as well as a requirement that contractors will comply with all applicable federal law, regulations, executive orders, and FEMA policies, procedures, and directives.

4.2 Suggested Language

The following provides a sample contract clause:

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

5. No Obligation by Federal Government

FEMA is not a party to any transaction between a NFE and its contractor. Therefore, FEMA is not subject to any obligations or liable to any party for any matter relating to the contract between an NFE and its contractor.⁷⁰

5.1 Applicability

FEMA recommends that the NFE include a statement in its contract that the federal government *is not* a party to the contract and, thus, *is not* subject to any obligations or liabilities to any party resulting from the contract.

⁶⁹ See DHS Standard Terms and Conditions, available at <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.

⁷⁰ See, e.g., 2 C.F.R. § 200.318(k) (stating that the NFE alone is responsible for the settlement of all contractual and administrative issues arising out of procurements).

5.2 Suggested Language

The following provides a sample contract clause:

“The federal government is not a party to this contract 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.”

6. Program Fraud and False or Fraudulent Statements or Related Acts

NFEs must comply with the requirements of the False Claims Act which prohibits submitting false or fraudulent claims for payment to the federal government.⁷¹ As a part of the contract with a NFE, contractors must acknowledge that 31 U.S.C. Chap. 38, regarding administrative remedies for false claims and statements,⁷² applies to their actions under their contract.⁷³

6.1 Applicability

FEMA recommends that contracts include a provision prohibiting making false or fraudulent claims to the federal government.

6.2 Suggested Language

The following provides a sample contract clause:

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

7. Affirmative Socioeconomic Steps

For procurements under FEMA declarations and awards issued on or after November 12, 2020, all NFEs are required to take the six affirmative steps to ensure use of small and minority businesses, women’s business enterprises, and labor surplus area firms when possible. One of the six steps is to require the prime contractor, if subcontracts are to be let, to take the five other affirmative steps,⁷⁴ For procurements under FEMA declarations and awards issued between December 26, 2014, and November 12, 2020, this requirement *only* applies to non-state entities.

⁷¹31 U.S.C. §§ 3729-3733.

⁷² 31 U.S.C. §§ 3801-3812 (detailing the administrative remedies for false claims and statements made).

⁷³ See DHS Standard Terms and Conditions, available at <https://www.dhs.gov/publication/fy15-dhs-standard-terms-and-conditions>.

⁷⁴ See 2 C.F.R. § 200.321; compare 2 C.F.R. § 200.317 (2019), with 2 C.F.R. § 200.317 in Office of Management and Budget, Guidance for Grants and Agreements, 85 Fed. Reg. 49,506, 49,552 (Aug. 13, 2020).

7.1 Applicability

FEMA recommends that applicable NFEs include in their contracts a statement requiring prime contractors, if subcontracts are to be let, to take the required affirmative socioeconomic steps.

7.2 Suggested Language

The following provides a sample contract clause:

“If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.”

8. Copyright and Data Rights

An NFE is required by 2 C.F.R. § 200.315 to provide certain licenses with respect to copyright and data to the federal awarding agency. 2 C.F.R. § 200.315(b) provides to the federal awarding agency “a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use [any work that is subject to copyright] for federal purposes, and to authorize others to do so.” 2 C.F.R. § 200.315(d) provides to the federal government the rights to “obtain, reproduce, publish, or otherwise use” data produced under a federal award and to authorize others to do the same.

8.1 Applicability

When an NFE enters into a contract requiring a contractor or subcontractor to produce copyrightable subject matter and/or data for the NFE under the award, the NFE should include appropriate copyright and data licenses to meet its obligations under 2 C.F.R. § 200.315(b) and (d), respectively. Work that is subject to copyright, or copyrightable subject matter, includes any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works.⁷⁵

8.2 Suggested Language

The following provides a sample contract clause:

“License and Delivery of Works Subject to Copyright and Data Rights”

The Contractor grants to the (insert name of the non-federal entity), a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify

⁷⁵ See 17 U.S.C. § 102.

such data and grant to the **(insert name of the non-federal entity)** or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the **(insert name of the non-federal entity)** data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the **(insert name of the non-federal entity).**”

Appendix

Acronyms

AFG: Assistance to Firefighter Grants

CAGE: Commercial and Government Entity

CFR: Code of Federal Regulations

DHS: U.S. Department of Homeland Security

DRRA: Disaster Recovery and Reform Act of 2018

EPA: U.S. Environmental Protection Agency

FEMA: Federal Emergency Management Agency

GPD: Grant Programs Directorate

HQ: FEMA Headquarters

NDAA: National Defense Authorization Act

NFE: Non-Federal Entity

NOFO: Notice of Funding Opportunity

OMB: Office of Management and Budget

PA: Public Assistance Program

PNP: Private Non-Profit

PDAT: Procurement Disaster Assistance Team

SAM: System for Award Management

SAT: Simplified Acquisition Threshold

USC: United States Code

Definitions

- **Contract:** A legal instrument by which a FEMA award recipient or subrecipient purchases property or services needed to carry out the project or program under a federal award.⁷⁶ A contract, for the purposes of this Guide, does not mean a federal award or subaward.
- **Contractor:** *Contractor* means an entity that receives a contract.⁷⁷
- **Cooperative agreement:** A legal instrument of financial assistance between a federal awarding agency or pass-through entity and a non-Federal entity, that is consistent with 31 U.S.C. 6302-6305.⁷⁸
- **Federal awarding agency:** The federal agency that provides a federal award directly to a non-Federal entity (NFE). The federal awarding agency discussed in this Guide is FEMA.
- **Federal Emergency Management Agency (FEMA):** *FEMA's* statutory mission is to reduce the loss of life and property and protect the Nation from all hazards, including natural disasters, acts of terrorism, and other man-made disasters, by leading and supporting the Nation in a risk-based, comprehensive emergency management system of preparedness, protection, response, recovery, and mitigation.⁷⁹ Among other things:
 - FEMA administers its programs and carries out its activities through its headquarters offices in Washington, D.C.; ten Regional Offices; Area Offices for the Pacific, Caribbean, and Alaska; various Recovery Offices; and temporary Joint Field Offices (JFO).
 - FEMA administers numerous assistance programs annually for on a regular basis to increase the Nation's preparedness, readiness and resilience to all hazards. These assistance programs are typically available to NFEs including, but not limited to, states, local governments, Indian Tribes, universities, hospitals, and certain private nonprofit organizations.
 - Each program is governed by the applicable federal law, regulations, executive orders and FEMA program-specific policies. As the Federal awarding agency for these programs, FEMA is responsible for the proper management and administration of these programs as otherwise required by law and enforcing the terms of the agreements it enters with NFEs that receive FEMA financial assistance, consistent with the requirements at 2 C.F.R. Part 200.

⁷⁶ 2 C.F.R. § 200.1 *Contracts*.

⁷⁷ 2 C.F.R. § 200.1 *Contractor*.

⁷⁸ 2 C.F.R. § 200.1 *Cooperative agreement*.

⁷⁹ See Homeland Security Act of 2002, Pub. L. No. 107-296, § 503 (2002) (codified as amended at 6 U.S.C. § 313).

- **Federal award:** The financial assistance that an NFE receives either directly from a Federal awarding agency or indirectly from a pass-through entity.⁸⁰ In this Guide, the term is used interchangeably with “FEMA Award,” “grant,” and “financial assistance.”
- **Grant agreement:** A legal instrument of financial assistance between a Federal awarding agency or pass-through entity and an NFE that, consistent with 31 U.S.C. §§ 6302, 6304: Is used to transfer anything of value from the Federal awarding agency or pass-through entity to the NFE to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. § 6101(3)); and does not include an agreement that provides only:
 - Direct United States government cash assistance to an individual;
 - A loan;
 - A loan guarantee; or
 - A subsidy;
 - Insurance.
- **Indian tribe (or “federally recognized Indian tribe”):** *Indian tribe* means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. Chapter 33), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians (25 U.S.C. 450b(e)).⁸¹ See annually published [Bureau of Indian Affairs list of Indian Entities Recognized and Eligible to Receive Services](#). For the purposes of this Guide, used interchangeably with “Indian Tribal government”.
- **Local government:** *Local government*⁸² means any unit of government within a state, including a:
 - County
 - Borough
 - Municipality
 - City
 - Town
 - Township
 - Parish
 - Special district
 - School District
 - Intrastate district
 - Council of governments, whether incorporated or not as a nonprofit corporation under state law
 - Local public authority, including any public housing agency under the United States Housing Act of 1937
 - Any other agency or instrumentality of a multi-regional, or intra-state or local government

⁸⁰ 2 C.F.R. § 200.1 *Federal award*.

⁸¹ 2 C.F.R. § 200.1 *Indian tribe*.

⁸² 2 C.F.R. § 200.1 *Local government*.

- **Non-Federal Entity (NFE):** A state, local government, Indian tribe, Institution of Higher Education, or eligible private nonprofit organization that carries out a federal award as a recipient or subrecipient.⁸³ In this Guide, NFEs include state and non-state entities.
- **Non-State Entity:** A *non-state entity* is an eligible FEMA award recipient or subrecipient that does not meet the definition of a “state under 2 CFR 200.1.
- **Nonprofit organization** (in this Guide, it is used interchangeably with “Private Nonprofit Organization or PNP”): *Nonprofit organization*⁸⁴ means any corporation, trust, association, cooperative, or other organization, not including Institutions of Higher Education, that:
- **Recipient:** An NFE that receives a federal award directly from a Federal awarding agency to carry out an activity under a federal program. The term recipient does not include subrecipients.⁸⁵ A recipient is responsible for administering the federal award in accordance with applicable federal laws. Examples of recipients include state, Indian tribe, or territorial governments.
- **Pass-through entity:** A recipient that provides a subaward to a subrecipient to carry out part of a federal program is known as the pass-through entity.⁸⁶ Pass-through entities are responsible for processing subawards to subrecipients and ensuring subrecipient compliance with the terms and conditions of the FEMA award agreement.
- **Political Subdivision:** A *political subdivision* means the unit of government that the State determines to have met the State’s legislative definition of a political subdivision.⁸⁷
- **Simplified Acquisition Threshold (SAT):** *Simplified acquisition threshold* means the dollar amount below which an NFE may purchase property or services using small purchase methods. NFEs adopt small purchase procedures to expedite the purchase of items costing less than the simplified acquisition threshold. The federal SAT is set by the FAR at 48 C.F.R. Subpart 2.1 (Definitions) and in accordance with [41 U.S.C. 1908](#).⁸⁸ As of June 2018, the federal SAT is \$250,000,⁸⁹ but is periodically adjusted for inflation.
- **State:** *State* means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any agency or instrumentality thereof exclusive of local governments.⁹⁰ In this Guide, state is used interchangeably with “state entity”.

⁸³ 2 C.F.R. § 200.1 *Non-Federal entity*.

⁸⁴ 2 C.F.R. § 200.1 *Nonprofit organization*.

⁸⁵ 2 C.F.R. § 200.1 *Recipient*.

⁸⁶ 2 C.F.R. § 200.1 *Pass-through entity*.

⁸⁷ 40 C.F.R. § 35.6015(a) *Political subdivision*

⁸⁸ 2 C.F.R. § 200.1 *Simplified acquisition threshold*.

⁸⁹ Section 805 codified at 41 U.S.C. § 134; OMB Memo (M-18-18), available at <https://www.whitehouse.gov/wp-content/uploads/2018/06/M-18-18.pdf>.

⁹⁰ 2 C.F.R. § 200.1 *State*. Some hospitals and IHEs as defined by 2 C.F.R. § 200.1 *Hospitals* and 2 C.F.R. § 200.1 *Institutions of Higher Education* respectively, may meet the definition of a State.

- **Subaward:** An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.⁹¹ In this Guide, the term is used interchangeably with “subgrant.”
- **Subrecipient:** An NFE that receives a subaward from a pass-through entity to carry out part of a federal program but does not include an individual that is a beneficiary of such program.⁹²
- **Uniform Rules:** The series of regulations found at 2 C.F.R. Part 200 that establishes *Uniform Administrative Requirements, Cost Principles, and Audit Requirements* for federal awards to NFEs. The *Uniform Rules* are referred to by several names throughout the remaining portions of this Guide. Some of the names include standards, requirements, rules, and regulations.

⁹¹ 2 C.F.R. § 200.1 *Subaward*.

⁹² 2 C.F.R. § 200.1 *Subrecipient*.