

# TRIBAL GOVERNMENT CHALLENGE

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**REQUEST FOR PROPOSAL (SECONDARY METHOD)**

## **STATEWIDE GAP ANALYSIS OF CALIFORNIA TRIBAL LANDS**

**CLEAN ENERGY, CLIMATE PLANNING, AND CLIMATE  
ADAPTATION AND RESILIENCE**

### **RFP Solicitation #SGC19155**

Available on the Cal eProcure Web Portal: <https://caleprocure.ca.gov/>

State of California

Strategic Growth Council in the Governor's Office of Planning and Research

March 13, 2020



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## I. INTRODUCTION

The Governor's Office of Planning and Research (OPR) / Strategic Growth Council (SGC) invites you to review and respond to the Request For Proposal (RFP) #SGC19155, titled, "Statewide Gap Analysis Of California Tribal Lands." In submitting your proposal, you must comply with the instructions found herein.

This RFP is published online in the California State Contracts Register (CSCR). To view and ensure receipt of any addenda to this RFP that may be issued, interested parties are encouraged to register online at Cal eProcure.

The SGC deadline for receipt of proposals is Friday, April 17, 2020 by 5:00 PM Pacific Daylight Time (PDT). Proposals received late will not be accepted. Proposal submissions must be submitted electronically by e-mail only. Proposals must have the RFP number in the subject line and be submitted to the following e-mail address:

[Contracts@sgc.ca.gov](mailto:Contracts@sgc.ca.gov)

In the opinion of the SGC, this RFP is complete and without need of explanation. However, if you have questions, notice any discrepancies or inconsistencies, or need any clarifying information, the contact person for this RFP is listed below. All questions must be submitted in accordance with the RFP instructions contained herein and sent via e-mail directly to the below listed contact person and not through the Cal eProcure system.

Contact: Blake A. Deering

Phone: 916-322-3714

E-mail: [Contracts@sgc.ca.gov](mailto:Contracts@sgc.ca.gov)

We appreciate your interest in this project and hope that you respond to this RFP.

The California Energy Commission (Energy Commission or CEC) has reallocated \$250,000 of revolving loan fund repayments awarded as part of the American Recovery and Reinvestment Act of 2009 (ARRA) to fund one contract agreement for a contractor to conduct a statewide gap analysis on California Tribal Lands. This effort is part of the Tribal Government Challenge, a partnership between the Energy Commission and the Strategic Growth Council (SGC). SGC will award a contract agreement to one bidder responding to this Request for Proposal (RFP), which will be administered by the Governor's Office of Planning and Research (OPR) on behalf of the SGC.

## BACKGROUND

California Native American Tribes (Tribes)<sup>1</sup> play a vital role in climate planning at the local level and in helping meet energy and climate goals. The California Energy Commission possesses American Recovery and Reinvestment Act of 2009 (ARRA) funds from past revolving loan fund repayments available for use on projects and programs related to the original ARRA guidelines. The funds for this project are from repayments from the highly successful California Rural Home Mortgage Finance Authority Homebuyers Fund, Moderate Income Sustainability Technology Program, which closed in 2012. The Energy Commission has legislative budget authority to spend up to \$2.5 million annually on ARRA-related energy efficiency programs.

The proposed Tribal Government Challenge Statewide Gap Analysis (Statewide Gap Analysis) aligns with the original ARRA guidelines for the Local Government Challenge. An interagency State Committee, minimally consisting of the Strategic Growth Council (SGC) and the California Energy Commission, will direct the Statewide Gap Analysis.

The State of California is exceptional in the sheer number and diversity of Tribes living here. For State government to better work with Tribes on energy and climate change policies, State agencies must understand tribal goals and needs related to climate and energy, including clean energy, energy efficiency, and impacts of climate change on tribal communities<sup>2</sup> and Tribal lands<sup>3</sup>.

The purpose of the Statewide Gap Analysis is to provide the State with a snapshot of Tribes' current renewable energy, climate change, and other relevant and related needs and priorities.

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<sup>1</sup> **California Native American Tribe:** A "California Native American Tribe" is a Native American Tribe that is on the contact list maintained by the Native American Heritage Commission (NAHC) for the purposes of Chapter 905 of the Statutes of 2004 (Pub. Resources Code, § 21073).

<sup>2</sup> **Tribal Communities:** Tribal communities are groups of people living within reservation or allotment boundaries, or that otherwise fall under the jurisdiction of a California Native American Tribe, regardless of whether or not those people are tribal members of one or another tribe, or are not tribal members.

<sup>3</sup> **Tribal land:** For the purposes of this RFP, tribal lands refers to lands located in the State of California that are tribally owned lands, buildings, or facilities, lands a Tribe exercises jurisdiction over, or lands that the Bureau of Indian Affairs holds in trust for Tribes, individual allottees, or public domain allottees, or lands managed through conservation easements or through lease agreement, or through co-management agreements, for the benefit of Tribes.

## PROGRAM GOALS

An integral part of the Statewide Gap Analysis is to support overarching climate goals for tribal communities with a focus on underlying issues to build sustainability and resilience, including energy access, energy reliability, and climate adaptation priorities. The goals of the Statewide Gap Analysis are to:

- Improve understanding and knowledge of needs related to tribal access to energy efficiency, clean energy generation, clean transportation, alternative fuel infrastructure, and energy resiliency,
- Improve understanding of past or ongoing tribal efforts and needs around climate change impacts to tribal communities, including any efforts around adaptation and building resilience in tribal communities.
- Improve State understanding of tribal environmental programs, including climate-related data collection, tribal research efforts, and which universities and other research institutions, as well as local and regional governments, have collaborative relationships with Tribes.
- Use OPR's Integrated Climate Adaptation and Resiliency Program (ICARP) [Adaptation Clearinghouse](#) and other communication tools to share recommendations, strategies, implementation guidelines, and best practices among State agencies and Tribes.
- Identify Tribes with interest in and capacity to organize regional tribal events on the above topics.
- Improve the State of California's understanding of the underlying issues related to tribal efforts on all of the topics listed in the bullets above, as well as tribal access to climate-related State funding opportunities.

A successful proposal for conducting the Statewide Gap Analysis must:

- Provide a Scope of Work that meets the goals of the program as described above.
- Describe relevant aspects of energy sustainability and climate adaptation and resiliency under consideration related to Tribes, including the goals described above.
- Present a data collection and analysis plan, describing data collection, any applicable "use of human subjects" considerations, data analysis, and reporting methods that meet the goals and objectives of the program.
- Present an approach for tribal outreach and engagement, including methods of engagement and how the contractor would leverage their relationships with Tribes or other organizations to effectively reach California Native American Tribes and related tribal communities. A State Committee will provide ongoing advice and oversight on outreach events to ensure any events uphold State responsibilities to adhere to executive orders and policy requiring State-Tribe consultations.
- Identify and describe the relevant expertise of the project team, including any sub-contractors, that would be engaged in carrying out the gap analysis.

## KEY ACTIVITIES AND DATES

Key activities including dates and times for this RFP are presented below ([Table 1, Key Activities and Dates](#)). The dates are subject to change.

**Table 1: Key Activities and Dates**

ACTIVITY	DATE
Release of the Request for Proposal	3/13/2020
Pre-Bid Webinar 2:00 PM – 3:00 PM PDT	3/25/2020
Deadline for Written Questions	3/30/2020
<b>Deadline to Submit Proposals by 5:00 PM PDT</b>	<b><u>4/17/2020</u></b>
Proposal evaluation period	4/18/2020 – 5/04/2020
Notice of Intent to Award Posted (5 Business Days)	5/06/2020 – 5/12/2020
DGS Review and Approval (10 Business Days)	5/13/2020 – 5/26/2020
Anticipated Begin Date (Upon DGS Approval)	5/27/2020
Tribal Energy and Climate Conference	Fall 2020
Review Committee Meetings	7/01/2020 – 3/31/2022
End Date	3/31/2022

## HOW AWARD IS DETERMINED

Bidders passing Administrative and Technical Screening will compete based on [Section VI, Evaluation Process and Criteria](#) and will be scored and ranked based on those criteria. The Review Committee will select the highest-scoring proposal for contract.

The contract resulting from this RFP will include Terms and Conditions that set forth the contract bidder's rights and responsibilities. SGC/OPR will not award the contract to non-complying entities. SGC/OPR reserve the right to modify the terms and conditions prior to executing the contract.

## MAXIMUM CONTRACT AMOUNT AND CONTRACT PERIOD

The Request for Proposal will fund up to \$250,000 for a single contract to conduct the Statewide Gap Analysis. A Standard Contract Agreement, providing cost-reimbursements, will be the method used to execute this contract.

All funds administered through this program must be spent by March 31, 2022. SGC/OPR require that the contractor completes all project work by January 31, 2022, so the SGC/OPR can finalize deliverables and invoices to the California Energy Commission.

## APPLICABLE STATE AND FEDERAL GUIDELINES AND REQUIREMENTS

### Federal Guidelines

[U.S. Department of Energy \(US DOE\) Quarterly Reporting through the online reporting portal Performance and Accountability for Grants in Energy \(PAGE\)](#).

**Single Audit Act:** Bidders must comply with requirements of the Single Audit Act. The Single Audit Act and Office of Management and Budget Circular A-133, *Audits of State, Local Governmental, and Non-profit Organizations*, require entities that expend equal to or in excess of \$750,000 in a fiscal year to have an audit performed in accordance with the Act. For additional information on specific requirements, please visit the Single Audit Requirement webpage on the State Controller's Office web portal,

[https://www.sco.ca.gov/aud\\_single\\_audit\\_requirement.html](https://www.sco.ca.gov/aud_single_audit_requirement.html). The successful bidder must verify compliance with the Single Audit Act, if applicable, prior to SGC/OPR approval of a contract agreement.

**National Environmental Policy Act (NEPA):** The Statewide Gap Analysis would entail data collection and analysis from records, individuals, and entities, as well as meetings; there will be no alteration of the physical environment. As such, this RFP falls under the Department of Energy's categorical exclusion A9 and is not subject to NEPA (see [36 C.F.R., Part 1021, Subpart D](#)).

**National Historic Preservation Act (NHPA):** This RFP is for the conduct of an analysis and production of a report. The Statewide Gap Analysis would entail data collection and analysis from records, individuals, entities, and meetings; there shall be no alteration of the physical environment. Funding of the Statewide Gap Analysis is a type of activity that does not have the potential to cause effects on historic properties (see 36 C.F.R., §§ 800.3(a)(1), 800.16(i). Therefore, Section 106 of the NHPA does not apply to this RFP.

### **Federal Registration Requirements**

All bidders must register and be in good standing in accordance with the requirements below:

**Dun & Bradstreet Data Universal Number System (DUNS):** Prior to beginning work, bidders must obtain a DUNS number or, if necessary, update their organization's information. A DUNS number is a unique identifier used by the federal government to track distributions of federal funds. To obtain a DUNS number or to update information, please go online, <https://www.dnb.com/duns-number.html>, or contact the Dun & Bradstreet Government Customer Response Center at 1-866-705-5711.

**System for Award Management (SAM):** All bidders must maintain current registration in the SAM. Administered by the General Services Administration, the SAM database is the federal government's primary registrant database. It collects, validates, stores, and disseminates data in support of federal grants, cooperative agreements, and other forms of assistance. To register, visit the SAM website at <https://www.sam.gov/SAM>. For assistance, contact the Federal Service Desk at 1-866-606-8220. A DUNS Number is one of the requirements for registration in the SAM.

### **State Registration Requirements**

All bidders must register and be in good standing in accordance with the requirements below:

**California Secretary of State's Office:** California business entities as well as non-California business entities conducting intrastate business in California are required to register and be in good standing with the California Secretary of State to enter into a contract agreement with the SGC/OPR. If not currently registered with the California Secretary of State, Bidders are encouraged to contact the Secretary of State's Office as soon as possible to avoid potential delays in beginning the proposed analysis (should the proposal be successful). For more information, contact the Secretary of State's Office via its website at <http://www.sos.ca.gov/>.

### **State Guidelines**

**California Environmental Quality Act (CEQA):** The Statewide Gap Analysis is statutorily exempt from the provisions of CEQA (Cal. Code Regs., tit. 14, § 15262). The Gap Analysis would entail data collection and analysis from records, individuals, entities, and meetings; there shall be no alteration of the physical environment.



## II. BIDDER INFORMATION

### BIDDER ADMONISHMENT

This RFP contains the instructions governing the requirements for a firm quotation to be submitted by interested bidders, the format in which the technical information is to be submitted, the material to be included, the requirements that must be met to be eligible for consideration, and bidder responsibilities.

It is Bidder's responsibility to:

- Carefully read the entire RFP,
- Submit questions in a timely manner, if clarification is necessary,
- Electronically submit all required responses by the specified dates and times,
- Ensure that all procedures and requirements of the RFP are accurately followed and fully addressed, and
- Ensure the Proposal is free of errors and fully responds to the required information.

### COMMUNICATIONS AND CONTACTS

The State uses an online procurement system known as Cal eProcure to communicate with prospective Bidders. Information and ongoing communications for this RFP will be posted by the State on the Cal eProcure website at: [www.caleprocure.ca.gov](http://www.caleprocure.ca.gov).

Only questions submitted in writing and answered in writing by the Procurement Official will be binding and official. Written questions must be submitted by email to the Procurement Official identified below. All written questions submitted by the due date as stated in [Table 1: Key Activities and Dates](#) will be responded to at the same time with all questions and answers posted to Cal eProcure in the form of a question and answer set.

Verbal communications by agency/State entity officers and employees regarding this RFP shall not be binding on the State and shall in no way excuse Bidders of any obligations set forth in this RFP.

#### Procurement Official

The Procurement Official is the State's designated authorized representative regarding this procurement. Bidders are directed to communicate with, submit questions to, deliver proposals to, and submit all other formal correspondence regarding this procurement to the Procurement Official at the address below:

***Blake Deering, Senior Contracts Liaison***

Telephone: (916) 322-3714

Email: [contracts@sgc.ca.gov](mailto:contracts@sgc.ca.gov)

#### Questions Regarding the Request for Proposal Document

If Bidders require clarification of the intent, terms and conditions, content of this RFP, or on procedural matters regarding the competitive bid process, they may request clarification by submitting questions in an email (using the RFP identification information from the Request for Proposal title page) to the Procurement Official listed above, and not through the Cal eProcure system. To ensure a response, questions must be received in writing no later than the scheduled date(s) listed in [Table 1: Key Activities and Dates](#). Question and answer sets will be provided to all Bidders without identifying the submitter. At the sole discretion of the State, questions may be paraphrased by the State.

Additionally, staff will answer questions at the March 25th Pre-Bid Webinar. Question and answer sets will be e-mailed to all parties who participate in the Pre-Bid Webinar.

If a Bidder desires clarification or further information on the content of the RFP, but its questions relate to the proprietary aspect of its proposal and disclosure exposes its proposal to other Bidders, the question may be submitted using the process listed above with the notation "CONFIDENTIAL." The Bidder must explain why the question is sensitive in nature. If the State concurs that the disclosure of the question or response would expose the proprietary nature of the proposal, the question will be answered and both the question and answer will remain confidential. If the State does not concur with the proprietary aspect of the question, the question and answer will not remain confidential and Bidder will be so notified.

## **HOW TO SUBMIT PROPOSALS**

The SGC deadline for submitting proposals is Friday, April 17, 2020 by 5:00 PM Pacific Daylight Time (PDT). Proposals received late will not be accepted. Proposal submissions must be submitted electronically by e-mail only. Proposals must have the RFP number in the subject line and be submitted to the following e-mail address: [contracts@sgc.ca.gov](mailto:contracts@sgc.ca.gov). Proposals not received by the date and time specified shall be rejected.

## **PACKAGING AND LABELING**

Bidders must submit all proposal documents at the same time within a single email. The body of the email shall include the following information in the order listed:

- Bidder's Name, Organization, and Contact Information (email, telephone, and address)
- The RFP Number
- Submission Components attached, which should consist of a:
  - Proposal Cover Page
  - Table of Contents
  - Scope of Work and Schedule
  - Project Team Qualifications
  - Previous Work Products
  - References
  - Budget Forms and Information
- Attachments must be clearly labeled and uploaded using an allowable file format. See [Section V, Proposal Organization](#) for additional information about formatting.

## **SUBMISSION DEADLINE**

The SGC deadline for receipt of proposals is Friday, April 17, 2020 by 5:00 PM Pacific Daylight Time (PDT). Proposals not received by the date and time specified shall be rejected.

## **PRE-BID WEBINAR**

There will be one Pre-Bid Webinar. Participation in this meeting is optional but encouraged. The Pre-Bid Webinar will be held through a WebEx Webinar and conference call at the date, time, and location listed below. Please visit the California Energy Commission's Tribal Program website for more information and to confirm the date and time: <https://www.energy.ca.gov/programs-and-topics/programs/tribal-program>.

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**Statewide Gap Analysis of California Tribal Lands  
Pre-Bid Webinar Information**

March 25, 2020  
2:00 PM – 3:00 PM

Go to:

<https://energy.webex.com/energy/j.php?MTID=m55b3ca8c13cb2a7b3a47883c781a2960>

Meeting Number: 920 622 913

Password: GapAnalysis2020!

Call-in toll-free number (US/Canada): 1-866-469-3239

Access code: 920 622 913

### **Remote Attendance**

You may participate in this meeting through WebEx. Presentations will appear on your computer screen, and you may listen to audio via your computer or telephone. Please be aware that the meeting may be recorded.

### **To Join the Meeting:**

VIA COMPUTER: Go to [energy.webex.com](https://energy.webex.com) and enter the unique meeting number: [920 622 913]. When prompted, enter your name and the following meeting password: [GapAnalysis2020!]

The “Join Conference” menu will offer you a choice of audio connections:

To call into the meeting: Select “I will call in” and follow the on-screen directions.

1. International Attendees: Click on the “Global call-in number” link.
2. To have WebEx call you: Enter your phone number and click “Call Me.”
3. To listen over the computer: If you have a broadband connection and a headset or a computer microphone and speakers, you may use VoIP (Internet audio) by going to the Audio menu, clicking on “Use Computer Headset,” then “Call Using Computer.”]

VIA TELEPHONE ONLY (no visual presentation): Call 1-866-469-3239 (toll-free in the U.S.). When prompted, enter the unique meeting number/access code: [920 622 913].

VIA MOBILE ACCESS: Access to WebEx meetings is now available from your mobile device. To download an app, go to [www.webex.com/overview/mobile-meetings.html](http://www.webex.com/overview/mobile-meetings.html).

If you have difficulty joining the meeting, please call the WebEx Technical Support number at 916-651-2939.

### **BIDDER’S COST**

Costs for developing proposals are entirely the responsibility of Bidders and shall not be chargeable to the State.

### **ERRORS**

If a Bidder discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, the Bidder shall immediately notify SGC/OPR of such error in writing and request modification or

clarification of the document. Modifications or clarifications will be given by written notice of all parties who requested the RFP, without divulging the source of the request for clarification. SGC/OPR shall not be responsible for failure to correct errors.

## **IMMATERIAL DEFECT**

The SGC/OPR may waive any immaterial defect or deviation contained in a bidder's submittal. The SGC/OPR waiver shall in no way modify the bid or excuse the successful bidder from full compliance.

## **GROUND TO DISQUALIFY AN APPLICATION**

In addition to the Screening Criteria identified in [Section VI, Evaluation Process and Criteria](#) the SGC/OPR reserves the right to disqualify a bid or cancel a contract if at any time during the bidding or agreement process the following circumstances are discovered:

- It contains false or intentionally misleading statements or references that do not support an attribute or condition contended by the bid,
- The bid is intended to erroneously and fallaciously mislead the State in its evaluation of the bid and the attribute, condition, or capability is a requirement of this RFP, or
- It does not literally comply or contains caveats that conflict with the RFP, and the variation or deviation is material or it is otherwise non-responsive.

## **DISPOSITION OF BIDDER'S DOCUMENTS**

On the Notice of Proposed Award posting date all proposals and related material submitted in response to this RFP become property of the State and public record. Bidders who want any work examples they submitted with their proposals returned to them shall make this request.

## **MODIFYING OR WITHDRAWAL OF PROPOSAL**

A Bidder may, by letter to the Procurement Official at the SGC/OPR, withdraw or modify a submitted Proposal before the deadline to submit proposals. Proposals cannot be changed after that date and time. A Proposal cannot be "timed" to expire on a specific date. For example, a statement such as the following is non-responsive to the RFP: "This proposal and the cost estimate are valid for 60 days."

## **PROTEST PROCEDURES**

A Bidder may file a protest against the proposed awarding of a contract. Once a protest has been filed, the contract will not be awarded until either the protest is withdrawn, the SGC/OPR cancels the RFP, or the Department of General Services decides the matter.

Please note: Protests are limited to the grounds contained in the California Public Contract Code Section 10345.

- During the five **working** days that the Notice of Proposed Award (NOPA) is posted, protests must be filed with the DGS Legal Office and the SGC/OPR Contracts Office.
- Within five **calendar** days after filing the protest, the protesting Bidder must file with the DGS and the SGC/OPR Contracts Office a full and complete written statement specifying the grounds for the protest.

If the protest is not withdrawn or the RFP is not canceled, DGS will decide the matter. There may be a formal hearing conducted by a DGS hearing officer or there may be briefs prepared by the Bidder and the SGC/OPR for the DGS hearing officer's consideration.

### **DISPOSITION OF BIDDERS' DOCUMENTS**

The entire evaluation process from receipt of bids up to the posting of the NOPA is confidential. On the NOPA posting date, or date of RFP cancellation, all bids and related material submitted in response to this RFP become property of the State and public record.

### **NO CONTRACT UNTIL SIGNED AND APPROVED**

No contract between the SGC/OPR and the successful bidder is in effect until the signed contract is approved by the Department of General Services, Office of Legal Services.

The SGC/OPR reserves the right to modify the award documents prior to executing the contract.

### **III. PROGRAM SCOPE**

The contractor will conduct a Statewide Gap Analysis to understand California Native American Tribes' (Tribes) underlying climate change and energy-related barriers with respect to meeting overarching climate-related goals. The focus is on identifying underlying issues for tribal communities related to energy access, reliability, and sustainability; climate action planning, climate adaptation and resiliency needs; and access to both energy and climate-related State funding opportunities.

The scope of the Statewide Gap Analysis will include all of the approximately 171 California Native American tribes. The scope should include a kickoff meeting, collaboration with the State Committee on tribal outreach, developing a project work plan, establishing and executing any necessary subcontracts, collecting and analyzing data related to tribal climate and energy-related efforts, and preparing draft and final reports. The final report shall include an executive summary, recommendations, and strategies for the State to implement to support tribal sustainability priorities and needs. Scoping parameters for each possible task are below for bidders' consideration; please integrate these possible parameters into the scope of work submitted using additional guidance in Appendix A.

#### **TASK 1. KICK OFF AND QUARTERLY STATUS MEETINGS**

To ensure that the contractor receives adequate agency guidance and remains in regular communication with the contracting and participating agencies, the contractor shall anticipate an agency-contractor kickoff meeting. Additionally, the contractor shall assume participation in quarterly meetings with the State Committee for the duration of the contract. Participation will be a combination of conference calls and in-person meetings.

#### **TASK 2. DEVELOP PROJECT WORK PLAN**

The contractor will prepare an outline, draft, and final work plan that will be reviewed and approved by the State Committee. The project work plan should clearly meet the overall goals of the Gap Analysis and include concise sections on the outreach and engagement strategy as well as research and data collection methods.

The State Committee will facilitate introductions to tribal contacts as needed, and the contractor will have access to the California Energy Commission's confidential California Native American Tribal Contacts Database for the duration of the contract. This database is a Microsoft Excel spreadsheet that provides contact information for California Native American tribes. The work plan shall account for the following outreach and engagement activities:

1. A minimum of forty (40) individual tribal interactions (face-to-face meetings).
2. A minimum of forty (40) telephone or web-ex conference call meetings with tribes.
3. At least two (2) intertribal events (organized primarily by the State Committee).
4. Several (~4) statewide tribal mail-out and response communications.
5. A minimum of ten (10) face-to meetings with other federal and state agencies, associations, or organizations that support tribal energy or tribal climate initiatives,
6. A minimum of ten (10) telephone or web-ex conference call meetings with other federal and state agencies, associations, or organizations that support tribal energy or tribal climate initiatives.
7. A minimum of twenty (20) tribal follow-up data verification meetings (face to face or teleconference).

Research and data collection methodologies within the work plan shall be clearly explained and shall include strategies for acceptable sampling methods and protocols, as well as how the data will be standardized and otherwise managed. Possible data collection approaches may include questionnaires/surveys, in-person interviews, telephone interviews, webinar interviews, or larger meetings/conferences. The agencies strongly discourage reliance on only desktop techniques (e.g. websites and email). The contractor will consider the pros and cons of employing singular versus multiple data collection methods. Should any data collection methods involve compliance with federal or state "Use of Human Subjects" laws, then the work plan shall provide information on how the contractor will comply with these laws.

**Deliverable(s):**

- Work plan outline
- Draft work plan
- Final work plan

### **TASK 3. COLLABORATION WITH STATE COMMITTEE ON TRIBAL OUTREACH**

Following completion of the work plan, the State Committee will notify Tribes of the Statewide Gap Analysis and introduce them to the contractor, effectively transferring the project to the contractor. For this purpose, the contractor will have access to the Energy Commission's confidential California Native American Tribal Contacts Database. The contractor will be responsible for implementing the work plan in concert with the State Committee.

The contractor will be responsible for one-on-one interactions with tribal staff, tribal leadership, and tribal community members. The State Committee retains the prerogative to participate in any interactions with Tribes it deems as necessary to facilitate information exchange, conduct State-Tribal consultation obligations, or to conduct a deeper inquiry than what is anticipated in the scope of work.

The State Committee will be responsible for introducing this project and contractor to a larger tribal audience at a State-organized event in Fall 2020. Additionally, the State Committee will also be responsible for vetting a final report at an inter-tribal event, at a date and location to be determined. The contractor shall attend all of these events.

The contractor will be responsible for requesting and collecting tribal comments and making any necessary edits to the draft report.

**Deliverable(s):**

- Outreach tracking sheet, which shall include a timeline, contact information for all interactions, and types of data/information gathered.

### **TASK 4. DATA COLLECTION**

The contractor will execute the work plan to collect data required for analysis. The contractor will enter data obtained into the Tribal Energy Database. The contractor may need to alter the database to accommodate and reflect the project's data collection efforts and results.

Data should be gathered on topics related to:

- Energy efficiency opportunities for existing and newly constructed buildings

- Clean transportation, including electric vehicles, charging infrastructure, and bike/pedestrian infrastructure
- Clean energy development and related electric infrastructure needs or priorities
- Connectivity issues with electric and gas utilities (e.g., reliance on firewood or propane for power and heating)
- Climate change preparedness efforts and programs
- Climate impacts, projected risks for tribal communities, any climate-related work ongoing, and/or priorities identified by tribal communities
- Tribal research efforts, and/or partnerships with research institutions and local governments to address tribal environmental, climate, and/or energy priorities
- Tribal interest in State funding programs to support climate and energy-related efforts
- Tribal technical assistance needs

## **TASK 5. ANALYSIS AND SYNTHESIS**

The contractor will use the Tribal Energy Database, identified in Task 1 above, to identify data patterns, themes, and trends. The contractor will present and discuss these findings with the State Committee. Subsequent to these discussions, the contractor will identify secondary data sources to complement the first data collection effort. Secondary data sources could include literature reviews, websites, journal articles, other federal or state government agencies, and non-governmental organizations. The contractor shall update the Tribal Energy Database with pertinent information from secondary data sources. In addition, the agencies will permit and direct the contractor to consult the Energy Commission's Geospatial data archive for statewide utility and climate change datasets. Other statewide and web accessed databases such as California Natural Resources Agency Open Data-Portal, Cal-Adapt, and Cal-Enviro Screen 3.0 may also be used. A final stage of analysis involves an iterative follow-up with some tribes to reconfirm or further verify previously collected data.

## **TASK 6. PREPARE DRAFT AND FINAL REPORTS**

The contractor will develop the Statewide Gap Analysis outline for State Committee review and approval. After outline approval, the contractor will develop the draft Statewide Gap Analysis for further review and approval. After draft report approval, the contractor will finalize the Statewide Gap Analysis for final review and approval.

Only after State Committee approval will the final Statewide Gap Analysis be deemed complete. The Statewide Gap Analysis final report shall document the methods, consultations, and findings of the analysis. It should also include an Executive Summary.

The contractor must complete the Statewide Gap Analysis final report and provide the Energy Commission with the updated Tribal Energy Database by January 31, 2022. It will be the State Committee's responsibility to vet the final draft report with interested tribes and to distribute the final report to tribes, agencies, organizations and the general public.

### **Deliverable(s):**

- Final Report Outline
- Draft Final Report
- Final Report



## **IV. ELIGIBILITY REQUIREMENTS**

### **QUALIFICATIONS**

Eligible bidders will have expertise in:

- Data collection and analysis, and using industry standard and proven methodologies to conduct a gap analysis related to clean energy, climate planning, adaptation, and resilience
- Producing analyses and studies with actionable recommendations and strategies
- Climate change impacts on tribal communities and tribal approaches to environmental management and planning
- Climate adaptation and resiliency approaches and strategies
- Renewable energy and energy efficiency strategies
- Tribal government and community outreach
- History of and current practices in tribal governance
- Tribal laws, regulations, and policies at state and federal levels
- The intersection of government policy formation and climate change
- Tribal renewable energy development goals and practices

### **MATCH FUNDING REQUIREMENTS**

There is no match share requirement under this RFP.

# V. PROPOSAL SUBMISSION COMPONENTS

## PROPOSAL ORGANIZATION

Proposal Cover Page

Table of Contents

- (A) Scope of Work and Schedule (See [Appendix A](#))
- (B) Project Team Qualifications
- (C) Previous Work Products
- (D) References
- (E) Budget Forms and Information (See [Appendix B](#))
- (F) Quality Assurance Statement

### Proposal Format

The following table summarizes formatting and page limit requirements:

<b>Format</b>	<b>Font:</b> 11-point, Arial (excluding Microsoft Excel spreadsheets, original template headers and footers, and commitment or support letters). <b>Margins:</b> No less than one inch on all sides (excluding headers and footers). <b>Spacing:</b> Single-spaced, with a blank line between each paragraph. <b>Pages:</b> Numbered and printed double-sided (when determining page limits, each printed side of a page counts as one page). <b>Signatures:</b> Manual (i.e., not electronic). <b>File Format:</b> Microsoft Word version 2007 or later (.doc or .docx format) or PDF files, excluding Microsoft Excel spreadsheets and commitment or support letters.
	<b>Proposal Cover Page:</b> One page <b>Table of Contents:</b> One page <b>Scope of Work and Schedule:</b> Ten pages, including figures, tables, graphics and charts ( <a href="#">Appendix A</a> ) <b>Project Team Qualifications:</b> One-page description of the project team and one-page resume for each key participant in the gap analysis project <b>Previous Work Products:</b> Two pages per related project in portfolio <b>References:</b> One page for each reference, maximum of three references <b>Budget Forms and Information:</b> No page limits for the Budget Forms ( <a href="#">Appendix B</a> )

### Proposal Cover Page

The Proposal Cover Page must include:

- The Responsible Party's last name [hyphen] a brief (one sentence) project description

- The name, affiliation, and contact information (address, telephone, and email) for each partnering entity
- Requested budget amount
- Proposed period for conducting study (start date/end date)
- Contact information for the following individuals responsible for executing a contract:
  - Authorized Official: the individual with the authority to sign a contract that makes it a legal binding contract agreement for the institution receiving a contract award
  - Administrative Contact: the individual responsible for administrative and reporting duties related to the contract award
  - Authorized Financial Contact: the individual responsible for any financial, accounting, or invoicing related inquiries
- The Responsible Party's signature line (including printed/typed name and date)

### **Table of Contents**

The Table of Contents should identify each section and page number for each part of the bid consistent with Application Organization above.

### **Scope of Work and Schedule ([Appendix A](#))**

The Scope of Work must detail the bidder's plan and approach to conducting the Statewide Gap Analysis for tribal needs related to the program goals and topic areas listed under [Section I, Introduction, Program Goals](#). The Scope of Work must include the following information, separated into different sections:

- A description of the elements of the Statewide Gap Analysis, and how these elements work together to deliver a meaningful analysis
- Project management and reporting structure, including partnerships/ subcontractors and assigned roles and responsibilities
- Important benchmarks, milestones, and metrics to track progress

A project schedule must be included in the Scope of Work, which identifies the tasks required to complete the Statewide Gap Analysis, as well as interim and final products and meetings, with start and end dates. This shall include metrics that measures results featuring research, outreach, and other specific milestones. All work must be scheduled for completion by January 31, 2022.

### **Project Team Qualifications**

Bidders should submit a one-page description of the project team and its organizational and reporting structure. Bidders should submit a one-page resume for each key participant in the Statewide Gap Analysis project included in the proposal. The resumes should clearly describe the relevant expertise of key personnel and describe examples of prior gap analyses or tribal assessments completed.

## Previous Work Projects

Proposals shall include brief descriptions of the bidder's prior work in areas related to the program goals and topic areas listed under [Section I, Introduction, Program Goals](#). Summaries of previous projects shall explicitly state the relevance of the work to the goals of this RFP.

## References

Three references shall be included related to the goals of this RFP. It is recommended that at least one reference come from a California tribal government or tribal organization.

## Budget Forms and Information ([Appendix B](#))

The budget should outline how the contract funds will be expended by task.

The template in this appendix provides budget forms in Microsoft Excel format and instructions on developing budget justifications. Complete and submit information on all budget worksheets. The salaries, rates, and other costs entered on the worksheets will become a part of the final contract agreement.

- All expenditures must be made within the approved term stated in the contract. The entire term of the contract agreement and projected rates must be considered when preparing the budget.
- The budget must reflect estimates for actual costs to be incurred during the term of the contract. The SGC/OPR may only approve and reimburse for actual costs that are properly documented in accordance with the contract Terms and Conditions. Rates and personnel shown must reflect the rates and personnel the proposer would include if selected as the Contractor.
- The proposed rates are considered capped and may not change during the term of the contract. The contractor will only be reimbursed for actual rates up to the rate caps.
- Any subcontractors that will work on the project must be identified and all associated costs included in the budget.
- The budget must allow for the expenses of all meetings and products described in the Scope of Work. Meetings may be conducted at the SGC office or by conference call, as determined by the SGC's Contract Agreement Manager.
- Travel will only be reimbursed up to the rates specified by CalHR and found at <http://www.calhr.ca.gov/employees/pages/travel-reimbursements.aspx>
- Equipment purchases are not an allowable expense under this program.
- The budget must NOT include program funds spent outside of California.

## Quality Assurance Statement

The QAS shall discuss efforts involving data collection or processing, conducting surveys, modeling, method development, or the development of tools or technology. The QAS outlines the internal processes that will be put in place to ensure that project deliverables satisfy the intended project objectives. Applicants may substitute a QAS with a lab or institution's Plan for data management or with a relevant National Science Foundation Data Management Plan. The statement should include the following elements:

- Individual(s) who will be responsible for the project's quality assurance (QA) and quality control (QC) along with a brief description of this person's functions, experience, and authority within the organization.

- General approach for conducting a quality analysis discussing QA (management activities to ensure necessary quality) and QC (activities that measures the attributes and performance of a process or item against standards to verify that they meet those stated requirements).
- Quantitative and/or qualitative procedures that will be used to evaluate the success of the project outcomes, including quality objectives and hypotheses to be tested. Include any plans for reviews of analytical methods.
- As applicable, address any of the following components that will be used in the project:
  - Collection of new/primary data.
  - Use of existing/secondary data (e.g., data previously collected for other purposes or from other sources).
  - Scope and application of methods, tests, or measurements to be conducted that support the project, including the type of instrumentation that will be used and any required instrument conditions (e.g., calibration frequency), planned QC checks and associated criteria (e.g., spikes, replicates, blanks), and tests to verify the method's performance.
  - Development or refinement of models.
  - Development or operation of tools/technology.
  - Conducting surveys: the justification for both the overall research project and all sub-samples for specific treatments or tests. Identify and explain the rationale for the proposed statistical techniques (e.g., evaluation of statistical power).
- Discuss data management activities (e.g., record-keeping procedures, data-handling procedures, and the approach used for data storage and retrieval on electronic media). Include any required computer hardware and software and address any specific performance requirements for the hardware/software.

## VI. EVALUATION PROCESS AND CRITERIA

Proposals will be evaluated and scored based on responses to the information requested in this RFP. To evaluate submissions, the SGC will organize an Evaluation Committee consisting of representatives from State agencies and departments. Each bid is considered on its own merits. Ranking is based on the outcome of the Technical Evaluation Criteria Review.

### INTAKE AND SCREENING

SGC staff will screen submission packages for compliance with the Screening Criteria in Table 2. Submissions that fail any of the Screening Criteria will be disqualified, without notice to the bidder.

**Table 2: Screening Criteria**

Screening Criteria	Yes/No
<i>Proposal Submission Packages must pass ALL criteria to progress to Stage Two.</i>	
1. The SGC receives the bid package through the <a href="mailto:contracts@sgc.ca.gov">contracts@sgc.ca.gov</a> email address by the due date and time specified <a href="#">Table 1, Key Activities and Dates</a> .	
2. The submission's Proposal Cover Page includes the signature of the Responsible Party.	
3. The submission is responsive to areas of understanding for California Native American tribes' needs as related to the goals and topic areas described in <a href="#">Section I, Introduction, Program Goals</a> .	

### TECHNICAL EVALUATION CRITERIA REVIEW

Proposals that pass all of the Screening Criteria will be evaluated using the scoring scale identified in [Table 3, Technical Evaluation Criteria Review Scoring Scale](#). Each criterion has an assigned percentage and is divided into multiple sub-criteria. The sub-criteria are not equally weighted. The Scope of Work and Schedule ([Appendix A](#)) must respond to each sub-criterion, unless otherwise indicated.

#### Scoring Scale

**Table 3: Technical Evaluation Criteria Review Scoring Scale**

Possible Points	Scale	Explanation for Ranking
0–30	Poor	The response does not adequately address the criteria.  There are one or more omissions, flaws, or defects or the criteria are addressed in a limited way that results in a low degree of confidence in the proposed solution.
40–60	Fair	The response adequately addresses the criteria.  Any omissions, flaws, or defects are inconsequential and acceptable.
70	Adequate	The response fully addresses the criteria with a good degree of confidence in the proposer's response or proposed solution.

Possible Points	Scale	Explanation for Ranking
		There are no identified omissions, flaws, or defects. Any identified weaknesses are minimal, inconsequential, and acceptable.
80–90	Good	The response fully addresses the criteria with a high degree of confidence in the proposer’s response or proposed solution.  The proposer offers one or more enhancing features, methods, or approaches that exceed basic expectations.
100	Excellent	All criteria are addressed with the highest degree of confidence in the proposer’s response or proposed solution.  The response exceeds the requirements in providing multiple enhancing features, a creative approach, or an exceptional solution.

### TECHNICAL EVALUATION CRITERIA (100 POSSIBLE POINTS)

The Scope of Work and Schedule ([Appendix A](#)) must respond to each criterion below, unless otherwise indicated. The responses must directly relate to the RFP requirements and focus on the goals and topic areas as stated in [Section I, Introduction](#), and [Section III, Program Scope](#).

**Table 4: Technical Evaluation Scoring Criteria**

Technical Evaluation Scoring Criteria	Scoring Weight
<p><b>1. Technical Merits</b></p> <ul style="list-style-type: none"> <li>a. The degree to which the bidder has clearly described the overall soundness, adequacy, and completeness of the proposed submission addressing tasks identified in the Program Scope.</li> <li>b. The bid demonstrates clarity in framing potential gaps. It reflects reasonable methods for soliciting tribal input, leading to producing recommendations and strategies for understanding tribal achievements, needs, and aspirations</li> <li>c. The degree to which the project team is qualified by education, training, and/or experience to execute the proposed tasks and products.</li> </ul>	30
<p><b>2. Meaningful Engagement</b></p> <ul style="list-style-type: none"> <li>a. The degree to which the bidder proposes to involve California Native American tribes consistent with State Committee guidance and oversight.</li> <li>b. The bid’s outreach component reflects a willingness, and ambitious and feasible plan, to engage Tribes through various modes of communication.</li> <li>c. The bid reflects a plan to work with, travel to, and otherwise engage with a diversity of Tribes that exist in California.</li> </ul>	40
<p><b>3. Organizational Capacity and Cost Effectiveness</b></p>	30

Technical Evaluation Scoring Criteria	Scoring Weight
<ul style="list-style-type: none"> <li>a. Describes the organizational and reporting structure of the bidder and project team.</li> <li>b. Identifies key team members, including the project manager and sub-contractors</li> <li>c. Includes resumes for key participants in the Statewide Gap Analysis project.</li> <li>d. Explains how the various tasks will be managed and coordinated, and how the project manager's technical expertise will support the effective management and coordination of all activities in the bid.</li> <li>e. Describes the team's history of successfully completing projects and deploying results.</li> <li>f. Overall project cost is consistent with the proposed work and products to be provided.</li> <li>g. Personnel rates/costs, operating expenses, and overhead rates/costs are reasonable for the proposed work and consistent with the experience of the project team.</li> </ul>	

**COST EVALUATION CRITERIA (50 POSSIBLE POINTS)**

Proposers may receive a maximum of 50 cost points. This criterion allows staff to evaluate and compare the budgets of each proposal relative to those of its competitors. The budgeted amount is the maximum allowable amount for this contract in accordance with the State Contracting Manual, Vol. 1, Section 5.25. Any proposals submitted that are over the expected expenditure/budgeted amount will be disqualified.

Each Proposer's cost score will be calculated based on the ratio of the lowest cost proposal to the Proposer's cost, multiplied by the maximum number of cost points available, as shown in the calculation below:

$$\frac{\text{(Lowest Total Cost Proposal)} \times \text{(50 Total Cost Points Possible)}}{\div \text{Proposer Total Cost}}$$

Example: To help illustrate this process, refer to table below, for an example of the cost score calculation process. Cost figures in the example below explain the calculations and have no other significance.

Cost Evaluation (50 Points Possible)



BIDDER	GRAND TOTAL COST	CALCULATION	COST POINTS AWARDED
A	\$40,000	$\$30,000 \times 50 / \$40,000$	37.5
B	\$35,000	$\$30,000 \times 50 / \$35,000$	42.9
C	\$30,000	$\$30,000 \times 50 / \$30,000$	50.0

Final Scoring Methodology

BIDDER	TECHNICAL SCORE (OUT OF 100)	COST SCORE (OUT OF 50)	TOTAL POINTS AWARDED
A	84	37.5	121.5
B	76	42.8	118.8
C	92	50	142.0

In this case the highest scored proposal is from Bidder C, and would be the intended awardee.

## **VII. BUSINESS PARTICIPATION PROGRAMS (PREFERENCES/INCENTIVES)**

A Bidder may qualify for preferences/incentives as described below. Each Bidder passing Stage One screening will receive the applicable preference/incentive. This section describes the following business participation programs:

- Disabled Veteran Business Enterprise Participation Compliance Requirements
- Small Business / Microbusiness Preference
- Non-Small Business Preference
- Target Area Contract Act Preference

### **DISABLED VETERAN BUSINESS ENTERPRISE (DVBE)**

#### ***DVBE Participation Optional***

This solicitation does not require a minimum amount of DVBE participation. However, you are strongly encouraged either to become certified, if eligible, or to subcontract a portion of the work to a certified DVBE.

#### ***Two Methods to Meet DVBE Participation Requirement***

- If Bidder is a DVBE, then Bidder has satisfied the participation requirements if it commits to performing at least 3% of the contract with the Bidder's firm, or in combination with other DVBE(s).
- If Bidder is not a DVBE, Bidder can satisfy the requirement by committing to use certified DVBE subcontractors for at least 3% of the contract.

#### ***Required Forms*** ([Appendix I](#))

Bidders must complete forms 1, 3 and 4 to document DVBE participation. If Bidder does not include these forms, the Bid is considered non-responsive and shall be rejected.

- 1) Contractor Status Form
- 2) Under the paragraph entitled: "Disabled Veteran Business Enterprise Participation Acknowledgement", make sure to check the "yes" "DVBE Participation" box
- 3) DVBE Declarations Std. Form 843
- 4) Bidder Declaration Form GSPD-05-105)

#### ***DVBE Definition***

For DVBE certification purposes, a "disabled veteran" is:

- A veteran of the U.S. military, naval, or air service;
- The veteran must have a service-connected disability of at least 10% or more; and
- The veteran must be domiciled in California.

#### **DVBE Certification and Eligibility**

To be certified as a DVBE, your firm must meet the following requirements:

- Your business must be at least 51% owned by one or more disabled veterans;
- Your daily business operations must be managed and controlled by one or more disabled veterans
- The disabled veterans who exercise management and control are not required to be the same disabled veterans as the owners of the business; and
- Your home office must be located in the U.S. (the home office cannot be a branch or subsidiary of a foreign corporation, foreign firm, or other foreign based business).
- DVBE limited liability companies must be wholly owned by one or more disabled veterans

Each DVBE firm listed on the DVBE Declarations Std. form 843 and on the Bidder Declaration form GSPD-05-105 (See [Appendix I, DVBE Forms](#)) must be formally certified as a DVBE by the Office of Small Business and DVBE Services (OSDS). The DVBE program is not a self-certification program. Bidder must have submitted application to OSDS for DVBE certification by the Bid due date to be counted in meeting participation requirements.

### ***Printing / Copying Services Not Eligible***

DVBE subcontractors cannot provide printing/copying services. For more information, see section VI Administration, which states that printing services are not allowed in proposals.

### ***To Find Certified DVBEs***

Access the list of all certified DVBEs by using the Department of General Services, Procurement Division (DGS-PD), online certified firm database at <https://caleprocure.ca.gov/pages/PublicSearch/supplier-search.aspx>. Search by “Keywords” or “United Nations Standard Products and Services Codes” (UNSPSC) that apply to the elements of work you want to subcontract to a DVBE. Check for subcontractor ads that may be placed on the California State Contracts Register (CSCR) for this RFP prior to the closing date. You may access the CSCR at: <https://caleprocure.ca.gov/pages/LPASearch/lpa-search.aspx>. For questions regarding the online certified firm database and the CSCR, please call the OSDS at (916) 375-4940 or send an email to: OSDCHelp@dgs.ca.gov.

### ***Commercially Useful Function***

DVBEs must perform a commercially useful function relevant to this RFP, in order to satisfy the DVBE program requirements. California Code of Regulations, Title 2, Section 1896.62(l) provides “Commercially Useful Function (CUF) means a DVBE contractor or subcontractor that contributes to the fulfillment of contract requirements as determined by awarding departments in § 1896.71, and does all of, but is not limited to, the following:

- (1) Is responsible for the execution of a distinct element of work for the contract;
- (2) Carries out contractual obligations by actually performing, managing, or supervising the work involved;
- (3) Performs work that is normal for its business services and functions;
- (4) Is not further subcontracting a portion of the work that is greater than expected to be subcontracted by normal industry practices;
- (5) Is responsible, with respect to products, inventories, materials, and supplies required for the contract, for negotiating price, determining quality and quantity, ordering, installing, if applicable, and making payment; and,

- (6) Its role is not an extra participant in the transaction, contract or project through which funds are passed in order to obtain the appearance of DVBE participation.”

### **Information Verified**

Information submitted by the Bidder to comply with this RFP’s DVBE requirements will be verified. If evidence of an alleged violation is found during the verification process, the State shall initiate an investigation, in accordance with the requirements of PCC Section 10115, et seq., and Military & Veterans Code Section 999 et seq., and follow the investigatory procedures required by California Code of Regulations Title 2, Section 1896.90 et. seq. Contractors found to be in violation of certain provisions may be subject to loss of certification, sanctions and/or contract termination.

### **DVBE Report**

Upon completion of the contract for which a commitment to achieve DVBE participation was made, the contractor that entered into a subcontract with a DVBE must certify in a report to the SGC/OPR: 1) the total amount the prime contractor received under the contract; 2) the name and address of the DVBE(s) that participated in the performance of the contract; 3) the amount each DVBE received from the prime contractor; 4) that all payments under the contract have been made to the DVBE(s); and 5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. Military & Veterans Code Section 999.5(d).

### **The Office of Small Business and DVBE Services (OSDS)**

OSDS offers program information and may be reached at:

Department of General Services  
Office of Small Business and DVBE Services  
707 3rd Street, 1st Floor, Room 400  
West Sacramento, CA 95605  
<http://www.dgs.ca.gov/pd/Programs/OSDS.aspx>  
Phone: (916) 375-4940  
Fax: (916) 375-4950  
E-mail: [OSDSHelp@dgs.ca.gov](mailto:OSDSHelp@dgs.ca.gov)

### **DVBE Law**

- Public Contract Code Section 10115 et seq.
- Military & Veterans Code Section 999 et. seq.
- California Code of Regulations Title 2, Section 1896.60 et. seq.

### **DVBE INCENTIVE**

The information below explains how the incentive is applied and how much of an incentive will be given.

#### **Incentive Application**

Award Based on High Point: The Incentive is applied by adding the incentive points to the Proposal for Bidders that include more than the minimum required 3.00% DVBE participation. In other words, if a Bidder includes 3.01% DVBE participation or greater, it will receive the DVBE incentive. If you include 3% DVBE participation, you will not receive the incentive. You will only receive the incentive, if you include 3.01% or greater DVBE participation. Incentive points cannot be used to achieve any applicable minimum point requirements. The DVBE incentive is only applied during the Proposal evaluation process and only to responsive Proposals from responsible Bidders.

### ***Incentive amount***

For awards based on low price, the incentive will vary in conjunction with the percentage of DVBE participation. The DVBE Incentive Program may be used in conjunction with the Small Business preference which gives a 5% preference to small business Bidders or 5% to non-small business Bidders committed to subcontracting 25% of the overall Bid with small businesses.

**Table 5: DVBE Incentive Program Points**

<b>Proposed DVBE Participation Level</b>	<b>DVBE Incentive % Point Preference*</b>	<b>DVBE Incentive Points</b>
3.01% - 3.99%	1%	<b>1</b> (CO fill in points based on total points possible for RFP)
4.00% - 4.99%	2%	<b>2</b> (CO fill in points based on total points possible for RFP)
5.00% - 5.99%	3%	<b>3</b> (CO fill in points based on total points possible for RFP)
6.00% - 6.99%	4%	<b>4</b> (CO fill in points based on total points possible for RFP)
7.00% or over	5%	<b>5</b> (CO fill in points based on total points possible for RFP)

\* The percentage is based on the total possible available points not including preference points for small/micro business, non-small business or TACPA.

### ***Required Forms*** ([Appendix I, DVBE Forms](#)):

- Contractor Status Form.
- Under the paragraph entitled: “Disabled Veteran Business Enterprise Participation Acknowledgement”, make sure to check the “yes” “DVBE Incentive Participation” box.
- DVBE Declarations Std. Form 843
- Bidder Declaration Form GSPD-05-105

### ***DVBE Incentive Law***

- Military & Veterans Code Section 999.5(a)
- California Code of Regulations Title 2, Section 1896.99.100 et. seq.

## **SMALL BUSINESS / MICROBUSINESS / NON-SMALL BUSINESS**

### **Small Business / Microbusiness**

#### ***Preference***

Bidders who qualify as a State of California certified small/microbusiness will receive a cost preference of five percent (5%) of the lowest cost or price offered by the lowest responsible Bidder who is not a certified small/microbusiness, by deducting this five percent from the small/microbusiness Bidder’s cost, for the purpose of comparing costs for all Bidders.

#### ***Required Forms***

- Submit a copy of your Small Business Certification
- Contractor Status Form
- Complete the “Small Business Preference Claim” section
- Bidder Declaration Form GSPD-05-105

### **Certification**

A business must be formally certified by the Department of General Services, Office of Small Business and DVBE Services (OSDS), in order to receive the small/microbusiness preference.

### **Non-Profit Veteran Service Agency**

Bidders that qualify as a Non-Profit Veteran Service Agency can be certified as a small business and are entitled to the same benefits as a small business.

### **Definitions**

- *Small business* means a business certified by the Office of Small Business Disabled Veteran Services (OSDS) in which:
  - (1) It is independently owned and operated; and
  - (2) The principal office is located in California; and
  - (3) The officers of the business in the case of a corporation; officers and/or managers, or in the absence of officers and/or managers, all members in the case of a limited liability company; or the owner(s) in all other cases, are domiciled in California; and
  - (4) It is not dominant in its field of operation(s), and
  - (5) It is either:
    - (A) A business that, together with all affiliates, has 100 or fewer employees, and annual gross receipts of fourteen million dollars (\$14,000,000) or less as averaged for the previous three tax years, as adjusted by the Department pursuant to Government Code § 14837(d)(3); or
    - (B) A manufacturer as defined herein that, together with all affiliates, has 100 or fewer employees.
- *Microbusiness* means a small business certified by OSDS, which meets all of the qualifying criteria as a small business, and is:
  - (1) A business that, together with all affiliates, has annual gross receipts of three million, five hundred thousand dollars (\$3,500,000) or less as averaged for the previous three tax years, as adjusted by the Department pursuant to Government Code §14837(d)(3); or
  - (2) A manufacturer as defined herein that, together with all affiliates, has 25 or fewer employees.
- *Non-Profit Veteran Service Agency* means an entity that:
  - (1) Is a community-based organization,
  - (2) Is a nonprofit corporation (under Section 501(c)(3) of the Internal Revenue Code), and
  - (3) Provides housing, substance abuse, case management, and employment training services (as its principal purpose) for:
    - low income veterans,
    - disabled veterans, or
    - homeless veterans and their families

### **Commercially Useful Function**

A certified small business or microbusiness shall provide goods or services that contribute to the fulfillment of the contract requirements by performing a “commercially useful function” defined as follows:

- (1) The contractor or subcontractor is responsible for the execution of a distinct element of the work of the contract; carrying out its obligation by actually performing, managing or supervising the work involved; and performing work that is normal for its business services and functions;
- (2) The contractor or subcontractor is not further subcontracting a greater portion of the work than would be expected by normal industry practices;
- (3) The contractor or subcontractor is responsible, with respect to materials and supplies provided on the subcontract, for negotiating price, determining quality and quantity, ordering the material, installing (when applicable), and paying for the material itself;
- (4) A contractor or subcontractor will not be considered as performing a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to achieve the appearance of small business participation.

### ***Late Payment of Invoices***

Certified small/microbusinesses are entitled to greater interest penalties paid by the state for late payment of invoices than for non-certified small business/microbusiness.

### ***Small Business / Microbusiness Law***

- Government Code section 14835 et. seq.
- California Code of Regulations, Title 2 Section 1896 et. seq.

### ***Non-Small Business***

#### Preference

The preference to a non-small business Bidder that commits to small business or microbusiness subcontractor participation of twenty-five percent (25%) of its net Bid price shall be five percent (5%) of the lowest, responsive, responsible Bidder's price. A non-small business that qualifies for this preference may not take an award away from a certified small business.

#### ***Required Forms*** ([Appendix I, DVBE Forms](#)):

- Submit a copy of the subcontractor's Small Business Certification
- Contractor Status Form
- Complete the "Small Business/Non-Small Business Preference Claim" section
- Bidder Declaration Form GSPD-05-105

### ***Certification***

A subcontractor business must be formally certified by the Department of General Services, Office of Small Business and DVBE Services (OSDS), in order to receive the Non-Small Business Preference.

### ***Non-Small Business Law***

- Government Code section 14838 (b)
- California Code of Regulations, Title 2 Section 1896 et. seq.

## TARGET AREA CONTRACT PREFERENCE ACT

### **Note on TACPA:**

- The following TACPA preference applies to a contract if the total is more than \$100,000 and the work site is not fixed. **Remove if IFB is for \$100,000 or less or if the work site is fixed.**
- These paragraphs apply to all types of solicitations in this template:
  - Regular RFP
  - RFPs for DVBEs only
  - RFPs for Small/Microbusiness only

The following preference will be granted for this solicitation. Bidders wishing to take advantage of this preference will need to review the website stated below and submit the appropriate response with their Bid.

The TACPA program was established to stimulate economic growth and employment opportunities in designated Areas throughout the state of California. (GC4530)

The Department of General Services (DGS), Procurement Division (PD), Dispute Resolution Unit (DRU) oversees the TACPA program and evaluates all TACPA applications.

This RFP contains (TACPA) preference request forms. Please carefully review the forms and requirements. Bidders are not required to apply for these preferences. Denial of the TACPA preference request is not a basis for rejection of the bid.

The State as part of its evaluation process reserves the right to verify, validate, and clarify all information contained in the bid. This may include, but is not limited to, information from bidders, subcontractors and any other sources available at the time of the bid evaluation. Bidder refusal to agree to and/or comply with these terms, or failure to provide additional supporting information at the State's request may result in denial of preference requested.

Contracts awarded with applied preferences will be monitored throughout the life of the contract for compliance with statutory, regulatory, and contractual requirements. The State will take appropriate corrective action and apply sanctions as necessary to enforce preference programs.

Any questions regarding the TACPA preference should be directed to the Department of General Services, Procurement Division at (916) 375-4609.

TACPA Preference Request (STD 830):

<http://www.documents.dgs.ca.gov/dgs/fmc/pdf/std830.pdf>

Bidder's Summary of Contract Activities and Labor Hours:

<http://www.documents.dgs.ca.gov/pd/edip/bidsum526.pdf>



## VIII. ADMINISTRATION

### RFP DEFINED

The competitive method used for this procurement of services is a Request for Proposal (RFP). A Proposal submitted in response to this RFP will be scored and ranked based on the Evaluation Criteria. Every Proposal must establish in writing the Bidder's ability to perform the RFP tasks.

### DEFINITION OF KEY WORDS

Important definitions for this RFP are presented below:

**Table 6: Definitions of Key Words**

<b>Word/Term</b>	<b>Definition</b>
Administrative Contact	The individual responsible for administrative and reporting duties related to the contract award
ARRA	American Recovery and Reinvestment Act of 2009
Authorized Financial Contact	The individual responsible for any financial, accounting, or invoicing related inquiries
Authorized Official	The individual with the authority to sign a contract that makes it a legal binding contract agreement for the institution receiving a contract award
Bid	Formal written response to this document from bidder
Bidder	Respondent to this RFP
California Native American Tribe	A Native American Tribe located in California that is on the contact list maintained by the Native American Heritage Commission for the purposes of Chapter 905 of the Statutes of 2004" (Pub. Resources Code, § 21073).
Contractor	Respondent to this RFP that is selected for funding
Days	"Days" refers to calendar days
DGS	Department of General Services
DOE	Department of Energy
DVBE	Disabled Veteran Business Enterprises
Energy Commission	California Energy Commission
Evaluation Committee	Agencies that will score bids and award NOPA
NOPA	Notice of Proposed Award
OPR	Governor's Office of Planning and Research
RFP	Request for Proposal, this entire document, including appendices

<b>Word/Term</b>	<b>Definition</b>
SGC	Strategic Growth Council
State Committee	An interagency committee, comprised of staff representing at minimum the SGC, OPR, and the Energy Commission responsible for directing the Statewide Gap Analysis, including providing ongoing advice and oversight on outreach events, and ensuring that events adhere to executive orders and policy requiring State-Tribe consultations.
Tribal Communities	Groups of people living within reservation or allotment boundaries, or that otherwise fall under the jurisdiction of a California Native American Tribe, regardless of whether or not those people are tribal members of one or another tribe or are not tribal members.
Tribal Land	Lands located in the State of California that are: <ul style="list-style-type: none"> <li>• Tribally owned lands, buildings, or facilities, lands a Tribe exercises jurisdiction over, or</li> <li>• Lands that the Bureau of Indian Affairs holds in trust for Tribes, individual allottees, or public domain allottees, or</li> <li>• Lands managed through conservation easements or through lease agreement, or through co-management agreements, for the benefit of Tribes.</li> </ul>

## **SOFTWARE APPLICATION DEVELOPMENT**

If this scope of work includes any software application development, including but not limited to databases, websites, models, or modeling tools, contractor shall utilize the following standard Application Architecture components in compatible versions:

- Microsoft ASP.NET framework (version 3.5 and up) Recommend 4.0
- Microsoft Internet Information Services (IIS), (version 6 and up) Recommend 7.5
- Visual Studio.NET (version 2008 and up) Recommend 2010
- C# Programming Language with Presentation (UI), Business Object and Data Layers
- SQL (Structured Query Language)
- Microsoft SQL Server 2008, Stored Procedures Recommend 2008 R2
- Microsoft SQL Reporting Services Recommend 2008 R2
- XML (external interfaces)

Any exceptions to the Electronic File Format requirements above must be approved in writing by the SGC/OPR Information Technology Services Staff.

## **DARFUR CONTRACTING ACT OF 2008**

Effective January 1, 2009, all solicitations must address the requirements of the Darfur Contracting Act of 2008 (Act). (Public Contract Code sections 10475, *et seq.*; Stats. 2008, Ch. 272). The Act was

passed by the California Legislature and signed into law by the Governor to preclude State agencies generally from contracting with “scrutinized” companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in Public Contract Code section 10475.

A scrutinized company is a company doing business in Sudan as defined in Public Contract Code section 10476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (Public Contract Code section 10477(a)).

Therefore, Public Contract Code section 10478 (a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a “scrutinized” company when it submits a bid or proposal to a State agency. (See # 1 on [Appendix H, Darfur Contracting Certification](#))

A scrutinized company may still, however, submit a bid or proposal for a contract with a State agency for goods or services if the company first obtains permission from the Department of General Services (DGS) according to the criteria set forth in Public Contract Code section 10477(b). (See # 2 on [Appendix H, Darfur Contracting Certification](#))

## **CALIFORNIA CIVIL RIGHTS LAWS**

Prior to bidding on, submitting a proposal or executing a contract or renewal for a State of California contract for goods or services of \$100,000 or more, a bidder or proposer must certify that it is in compliance with the Unruh Civil Rights Act (Section 51 of the Civil Code) and the Fair Employment and Housing Act (Section 12960 of the Government Code). Additionally, if a vendor has an internal policy against a sovereign nation or peoples recognized by the United States government, the Contractor must certify that such policies are not used in violation of the Unruh Civil Rights Act (Section 51 of the Civil Code) or the Fair Employment and Housing Act (Section 12960 of the Government Code). See attached form DGS OLS 04 to be included in your proposal.

## **RFP CANCELLATION AND AMENDMENTS**

If it is in the State’s best interest, the SGC/OPR reserves the right to do any of the following:

- Cancel this RFP;
- Amend this RFP as needed; or
- Reject any or all Proposals received in response to this RFP.

If the RFP is amended, the SGCSGC/OPR will send an addendum to all parties who requested the RFP and will also post it on the Department of General Services’ Web Site <http://www.caleprocure.ca.gov>.

## **NOTICE OF PROPOSED AWARD**

The results of the SGC/OPR decision for contract award will be posted in a Notice of Proposed Award (NOPA). SGC/OPR will post the NOPA at OPR headquarters in Sacramento and will email the NOPA to all parties that submitted a bid.

## **DEBRIEFINGS**

Unsuccessful bidders may request a debriefing after the release of the NOPA. A request for debriefing must be received no later than 15 days after the NOPA is released.

## **CONTRACT AGREEMENT REQUIREMENTS**

The content of this RFP shall be incorporated by reference into the final contract agreement. [See Appendices [E](#) and [F](#), General and Special Terms and Conditions.]

The SGC/OPR reserves the right to negotiate with Bidders to modify the project scope, the level of funding, or both. If the SGC/OPR is unable to successfully negotiate and execute a contract with a bidder, the SGC/OPR, at its sole discretion, reserves the right to cancel the pending award and fund the next highest ranked eligible bid.

The SGC/OPR will send the approved contract, including the general Terms and Conditions and any additional terms and conditions, to the contract recipient for review, approval, and signature. Once the contract recipient signs, the SGC/OPR will fully execute the contract. The Contractor is approved to begin the project only after contract approval by the Department of General Services, Office of Legal Services.

### **Terms and Conditions**

The contract agreement must comply in full with the State's General Terms and Conditions [GTC 04/2017](#) along with the Contractor's Certification Clauses [CCC 04/2017](#). See Appendices [E](#) and [F](#), General and Special Terms and Conditions.

### **No Contract Until Signed & Approved**

No contract agreement between the SGC/OPR and the successful Bidder is in effect until the contract is signed by the Contractor, approved by the SGC's Executive Director, and approved by the Department of General Services, Office of Legal Services.

### **Contract Amendment**

The contract executed as a result of this RFP will be able to be amended by mutual consent of the SGC/OPR and the Contractor. The contract may require amendment as a result of project review, changes and additions, changes in project scope, or availability of funding.

## **GOVERNMENT ALLIANCE ON RACE & EQUITY (GARE)**

SGC is a member of the [Government Alliance on Race and Equity's California Capitol Collaborative](#). In April of 2019, the Council adopted a [racial equity action plan](#) that outlines action steps toward increasing equity through organizational commitments, stakeholder engagement practices, workforce development, program planning, and other priorities. The plan aims to diversify grant review panels; provide guidance on measuring, tracking, and scoring for racial equity priority topics; increase opportunities to expand access to SGC contracts by smaller, community based, and minority-owned contractors; investigate and remove barriers to apply for or to spend grant funding; and introduce the racial equity action plan to and share best practices with grant recipients. Staff continues to work with leadership and member agencies to implement this action plan.

## APPENDIX A: SCOPE OF WORK AND SCHEDULE

The Scope of Work (or work plan) and Schedule should provide sufficient detail for a reader to understand how the tasks will progress. The scope must identify specific information about the flow of work, break down how the stages (or tasks) will occur, define a list of expected interim and final deliverables responsive to the deliverables outlined in the tasks above, and propose a timeline that anticipates the timing of each stage and when milestones or outcomes are expected to occur. This document should present information in a segmented fashion that contains a graphic timeline, as well as a table of objectives, activities, and responsibilities. The elements of the Scope of Work should include:

Background. Provide overarching statements that characterize the goals, objectives, and actions related to the purpose of the Gap Analysis; and any practical information, technological requirements or specifications, and legal limitations that may apply.

Specific Tasks or Phases of Work. Outline the specific tasks (or phases) that are being proposed, breaking down the order of how each stage will occur, and tying each segment to objectives, approaches, methodologies, and/or strategies that will be employed:

- Describe the items, products, or results to be delivered
- Discuss the roles and responsibilities of the Bidder, and/or sub-contractors
- Identify planned outreach or engagement
- Provide information about delivery of completed progress reports, interim and final products, or other applicable materials

Timeline and Schedule of Deliverables. Submit a chart that identifies performance timelines or completion dates and includes anticipated start and completion times for each task/phase of the project. In addition, include a schedule of deliverables that indicates the expected completion date for each task deliverable. Please use the template below for the schedule of deliverables.

**Template 1: Schedule of Deliverables**

Task	Deliverable	Description	Due Date

## APPENDIX B: Budget Forms and information

BidderName: _____				From: _____		7/1/2020		7/1/2021		<b>TOTAL</b>
				To: _____		6/30/2021		6/30/2022		
<b>BUDGET CATEGORY</b>						Year 1		Year 2		
PERSONNEL: <i>Salary and fringe benefits.</i>							\$0		\$0	\$0
<i>First</i>	<i>Last</i>	<i>Classification</i>	<i>Salary</i>	<i>Benefit Rate</i>	<i>Time (Hr/%)</i>	<i>Time</i>	<i>Amount</i>	<i>Time</i>	<i>Amount</i>	
							\$0		\$0	\$0
							\$0		\$0	\$0
							\$0		\$0	\$0
							\$0		\$0	\$0
TRAVEL							\$0		\$0	\$0
			<i>Type: day/night/miles</i>	<i>Rate</i>		<i>#</i>	<i>Amount</i>	<i>#</i>	<i>Amount</i>	
Hotel							\$0		\$0	\$0
Airfare							\$0		\$0	\$0
Per Diem							\$0		\$0	\$0
Mileage							\$0		\$0	\$0
Ground Transportation							\$0		\$0	\$0
MATERIALS & SUPPLIES						0.00	\$0	0.00	\$0	\$0
EQUIPMENT						0.00	\$0	0.00	\$0	\$0
CONSULTANT						0.00	\$0	0.00	\$0	\$0
SUBRECIPIENT						0.00	\$0	0.00	\$0	\$0
OTHER DIRECT COSTS (ODC)										
	ODC #1					0.00	\$0	0.00	\$0	\$0
	ODC #2					0.00	\$0	0.00	\$0	\$0
	ODC #3					0.00	\$0	0.00	\$0	\$0
<b>TOTAL DIRECT COSTS</b>						<b>0.00</b>	<b>\$0</b>	<b>0.00</b>	<b>\$0</b>	<b>\$0</b>
Indirect (F&A) Costs						0.00				
						<b>0.00</b>	<b>\$0</b>	<b>0.00</b>	<b>\$0</b>	<b>\$0</b>
<b>TOTAL COSTS PER YEAR</b>						<b>0.00</b>	<b>\$0</b>	<b>0.00</b>	<b>\$0</b>	<b>\$0</b>
<b>TOTAL COSTS FOR PROPOSED PROJECT PERIOD</b>										<b>\$0</b>

## **BUDGET JUSTIFICATION**

### **Personnel**

Name. Starting with the Project Manager, list the names of all known personnel who will be involved on the project for the proposed project period. Include all collaborators, individuals in training, technical and support staff or include as "to be determined" (TBD).

Role on Project. For all personnel by name, position, function, and a percentage level of effort (as appropriate), including "to-be-determined" positions.

### **Fringe Benefits.**

Explain the costs included in the budgeted fringe benefit percentages used.

### **Travel**

Itemize all travel requests separately by trip and justify in accordance with State travel guidelines. Provide the purpose, destination, travelers (name or position/role), and duration of each trip. Include detail on airfare, lodging and mileage expenses, if applicable. Should the application include a request for travel outside of the state of California, justify the need for those out-of-state trips separately and completely. State policy requires a "mission critical" purpose for approving travel outside of California.

### **Materials and Supplies**

Itemize materials supplies in separate categories. Include a complete justification of the project's need for these items. Theft sensitive equipment (under \$5,000) must be justified and tracked separately in accordance with State Contracting Manual Section 7.29. All outreach and engagement costs should be included under this category. Please note: The State will not reimburse a vendor for meals, snacks, etc. provided as part of outreach.

### **Equipment**

Equipment is NOT an eligible cost for this contract.

### **Consultant Costs**

Consultants are individuals/organizations who provide expert advisory or other services for brief or limited periods and do not provide a percentage of effort to the project or program. Consultants are not involved in the direction of the project as a whole.

Provide the names and organizational affiliations of all consultants. Describe the services to be performed, and include the number of days of anticipated consultation, the expected rate of compensation, travel, per diem, and other related costs.

### **Sub-Contractor Costs**

Each participating sub-contractor must submit a separate detailed budget for the project period. Include a complete justification for the need for any contractor listed in the response to the RFP.

### **Other Direct Costs**

Itemize any other expenses by category and cost. Specifically justify costs that may typically be treated as indirect costs. For example, if insurance, telecommunication, or IT costs are charged as a direct expense, explain reason and methodology

## APPENDIX C: EXHIBIT B INTRODUCTION AND BUDGET TERMS

### I. Introduction to All Terms and Conditions

For purposes of this Agreement, the following terms have the following meaning:

1. "Agreement" means this entire agreement between SGC and Contractor and all of its incorporated provisions.
2. "ARRA" means the American Recovery and Reinvestment Act of 2009.
3. "CEC" means the California Energy Commission.
4. "CFR" means the Code of Federal Regulations.
5. "CMLA" means the Cash Management Improvement Act.
6. "Contracting Officer" in Exhibit E and its Attachments means DOE's Contracting Officer.
7. "Contractor" means [insert entity's name]
8. "DGS" means the California Department of General Services.
9. "DOE," "U.S.DOE," or any derivations thereof mean the United States Department of Energy.
10. "EERE" means DOE's Office of Energy Efficiency and Renewable Energy.
11. "NEPA" means the National Environmental Policy Act.
12. "SAM" means System of Award Management.
13. "SEP" means State Energy Program.
14. "SGC" means the means Strategic Growth Council within the Office of Planning and Research.
15. "Subrecipient" has the meaning in 2 CFR § 200.93.
16. "USC" means United States Code.
17. "Vendor" has the meaning in 2 CFR § 200.23 which is the definition for "Contractor." CEC's ARRA funds predate the federal change from "Vendor" to "Contractor" and this Agreement uses Contractor to mean [insert entity's name from 7 above]. So to prevent confusion within these terms, this Agreement still uses Vendor.

This Agreement uses federal funds from the American Recovery and Reinvestment Act of 2009 (ARRA). The federal government provided the ARRA funds to the California Energy Commission (CEC). The CEC, in turn, is providing them to the Strategic Growth Council within the Office of Planning and Research (SGC).

Because this Agreement uses federal funds, the CEC is required to include certain federal terms. The Department of General Services (DGS), which has authority over state contracts, also requires state agencies to include certain terms in Agreements like this one. The CEC and SGC also have terms that they include in their agreements. Accordingly, the terms of this Agreement, include the following:

1. This Exhibit B and any included budget documents.
2. Exhibit C, which is comprised of DGS's GTC 04/2017 and CCC 04/2017 incorporated by reference, which can be found at <https://www.dgs.ca.gov/OLS/Resources/Page-Content/Office-of-Legal-Services-Resources-List-Folder/Standard-Contract-Language#@ViewBag.JumpTo>
3. Exhibit D, State Special Terms and Conditions.
4. Exhibit E, Federal Special Terms and Conditions, and its following attachments:
  - Exhibit E, Attachment 1, Reporting Requirements.
  - Exhibit E, Attachment 2, Intellectual Property Rights.
  - Exhibit E Attachment 3, 2 CFR 200.326 Requirements, and its two forms:
    - Form 1, Certifications.



- Form 2, Disclosure of Lobbying Activities.
- Exhibit E, Attachment 4, SEP ARRA Requirements.
- Exhibit E, Attachment 5, NEPA Determination.

Some of the above exhibits, in turn, incorporate other terms and law into this Agreement, which are incorporated by reference into this Agreement.

## II. Budget Detail and Payment Provisions

### 1. Allowable Costs:

- A. Allowable costs shall be determined in accordance with the provisions in this Agreement, including those in Exhibit E.
- B. The Contractor recognizes that 10 420.18 places limitations on the use of funds available under this Agreement. SGC shall comply with these limitations. These limitations include not using the funds under this Agreement “for development or demonstration of energy efficiency or renewable energy techniques and technologies not commercially available.” (10 CFR § 420.18(a)(5).)
- C. Contractor shall not use any the funds provided under this Agreement to improve or otherwise do work or make any physical change on any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. However, funds can be used for planning and feasibility studies that are comprehensive for a given Tribe’s infrastructure, even if that infrastructure happens to include any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

### 2. Invoicing Procedures

- A. For funds under this Agreement, and upon receipt and approval of the invoices, SGC will pay for actual expenditures incurred in accordance with the approved budget and other Agreement requirements. The following certification shall be included on each invoice and signed by an authorized official of the Contractor:

I certify that this invoice is correct and proper for payment, and reimbursement for these costs complies with all Agreement requirements, including not exceeding 20% of administrative costs, including office supplies, library materials, and other equipment, is otherwise in compliance with Code of Federal Regulations (CFR) section 420.18, and will not be received from any other sources, including but not limited to a government entity contract, subcontract or other procurement method.

Invoices shall be submitted to:

Governor’s Office of Planning and Research  
ATTN: Accounts Payable Office of the Governor  
1400 Tenth Street  
Sacramento, CA 95814

Submit electronic Invoices to: [accountspayable@opr.ca.gov](mailto:accountspayable@opr.ca.gov)

- B. Payment Request Format

SGC will accept computer generated or electronically transmitted invoices, provided Contractor sends a paper copy the same day to SGC. The date of “invoice receipt” shall be the date the SGC receives the paper copy.

A request for payment shall consist of, but not be limited to, the following:

- 1) Agreement number, date prepared, and billing period.

- 2) Any progress reports and deliverables that were due during the invoice period, as detailed in Exhibit A.
- 3) Actual expenditures to be reimbursed.
- 4) Receipts for all expenditures except labor, indirect costs, and fringe benefits.

### **3. Budget Contingency Clause**

It is mutually agreed that funding for this Agreement is dependent upon a federal agreement that is subject to the following provisions:

- A. This Agreement is subject to any additional restrictions, limitations or conditions enacted by Congress or any statute enacted by Congress that may affect the provisions, terms or funding of this Agreement.
- B. Funding for this Agreement is subject to the approval of United States Department of Energy (DOE) and to any additional restrictions, limitations, or conditions imposed by DOE, federal law, federal court judgments, and/or federal agency orders which may affect the provisions or terms of this Agreement.
- C. If Congress does not appropriate sufficient funds for the program or the federal government requests the return of the funds, in addition to any other rights and actions available to SGC, this Agreement can be amended to reflect any reduction in funds or SGC can unilaterally terminate this Agreement without cause by providing 10 days written notice.

### **4. Travel and Per Diem Rates**

SGC must provide written approval, which can be as simple as an email, before any travel is taken for which reimbursement will be sought under this Agreement. Contractor and any entities receiving funds from it under this agreement shall only be reimbursed for travel and per diem expenses using the same rates provided to non-represented state employees. SGC is not responsible for expenses in excess of these rates. Contractor may obtain current rates from SGC upon request.

### **5. Retention**

SGC shall retain 10 percent of each payment request or 10 percent of the total contract at the end of the project. SGC has the sole discretion to decide which of these methods of retention will be used in this Agreement. The Contractor must submit a completed payment request requesting release of the retention within the required timeframe (see Section 6 (Payment Terms and Conditions) part D below). The CEC Agreement Manager will review the project file and, when satisfied that the terms of the funding Agreement have been fulfilled, will authorize SGC to release of the retention.

Retention may be released upon completion of tasks that are considered separate and distinct (i.e., the task is a stand-alone piece of work and could be completed without the other tasks). Tasks for administration or management of the Agreement and/or Subrecipients and Vendors are not considered separate and distinct tasks. The tasks for which retention may be released prior to the end of the Agreement must be identified in the Agreement's budget.

When the SGC withholds 10% retention from each invoice, the Contractor can choose to flow down the retention requirement to its Subrecipients and Vendors subject to the following restrictions and any other requirements in this Agreement:

- The Contractor shall not flow down retention requirements to U.S. Department of Energy national laboratories.
- The retention flowed down to Subrecipients and Vendors can only be up to a total of 10% of the amount of SGC funds the Subrecipient and Vendor is to receive. The Contractor is responsible for carrying the retention for its funded portion of the entire Agreement and cannot pass its share of retention to Subrecipients and Vendors. Here are three examples:

- i. A Subrecipient submits an invoice for \$100,000 to the Contractor, and the Contractor in turn submits it to the SGC. The SGC will only pay \$90,000 of the invoice and the Contractor can elect to pay only \$90,000 to the Subrecipient.
- ii. The Subrecipient is the U.S. Department of Energy national laboratory and it submits an advance request for \$100,000 to the Contractor, including any other documents required in this Agreement. The Contractor in turn submits the advance requests to the SGC for payment. The SGC will pay the full amount of the advance requests to the Contractor and the Contractor must pay the full amount to the U.S. Department of Energy.
- iii. The Contractor submits an invoice for its own staff in the amount of \$20,000. The SGC will only pay \$18,000 to the Contractor, and the Contractor cannot withhold the \$2,000 difference from Subrecipient and Vendor reimbursements.

These requirements apply to all levels of Subrecipient and Vendor (e.g., a Vendor to a Subrecipient).

## 6. Payment Terms and Conditions

- A. Each invoice is subject to written approval by the SGC.
- B. Payments shall only be made to Contractor for undisputed invoices.
- C. In accordance with 31 USC sections 3335, 6501, and 6503 (the Cash Management Improvement Act, or CMIA) and implementing regulations at 31 CFR Part 205, Contractor shall minimize the time elapsing between the drawdown of funds from SGC and the disbursement of funds. Contractor shall request reimbursement to occur as close as possible to the disbursement.

Contractor agrees that it has reviewed the applicable CMIA rules and regulations, and will follow their requirements in handling funds received pursuant to this Agreement.

- D. SGC must receive the final invoice no later than ninety (90) calendar days after the Agreement end date or [SGC to fill in], whichever is earlier. SGC needs time to process the final invoice and submit it to the State Controller's Office, which issues the checks. If Contractor misses this deadline for submitting the final invoice, it does so at its own risk of not receiving payment. Accordingly, time is of the essence in submitting this final invoice.
- E. No payment will be made for costs identified in Contractor invoices that have or will be reimbursed by any other source, including but not limited to a government entity contract or subcontract.
- F. Contractor is not allowed to profit from its agreements with other entities receiving funds from it under this Agreement.
- G. Contractor shall not be reimbursed for more than 10% profit or the amount listed in the budget, whichever is less. Any entity Contractor enters into an agreement with under this Agreement cannot profit from its agreement with a lower-tiered entity (e.g., Subrecipient).

## 7. Prompt Payment Act

SGC shall ensure it complies with the Prompt Payment Act (California Government Code, section 927 et seq.) under this Agreement.

## 8. Budget Detail

[See [Appendix B, Budget Forms](#)]

# APPENDIX D: STANDARD CONTRACT AGREEMENT (STD 213)

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES  
**STANDARD AGREEMENT**  
 STD 213 (Rev. 03/2019)

AGREEMENT NUMBER	PURCHASING AUTHORITY NUMBER (If Applicable)
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1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

CONTRACTOR NAME

2. The term of this Agreement is:

START DATE

THROUGH END DATE

3. The maximum amount of this Agreement is:

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
Exhibit A	Scope of Work	
Exhibit B	Budget Detail and Payment Provisions	
Exhibit C	General Terms and Conditions	
+		
-		

Items shown with an exhibit #, are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/DLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HEAETO.

### CONTRACTOR

CONTRACTOR NAME (If other than an individual, state whether a corporation, partnership, etc.)

CONTRACTOR BUSINESS ADDRESS	CITY	STATE	ZIP
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PRINTED NAME OF PERSON SIGNING	TITLE
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CONTRACTOR AUTHORIZED SIGNATURE	DATE SIGNED
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### STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

CONTRACTING AGENCY ADDRESS	CITY	STATE	ZIP
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PRINTED NAME OF PERSON SIGNING	TITLE
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CONTRACTING AGENCY AUTHORIZED SIGNATURE	DATE SIGNED
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CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL	EXEMPTION (If Applicable)
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# APPENDIX E: GENERAL TERMS AND CONDITIONS

## EXHIBIT C (GTC 04/2017)

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).
5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.
6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.
7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.
8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. **RECYCLING CERTIFICATION:** The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post-consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).
10. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, Contractor and its subcontractors shall not deny the contract's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they discriminate unlawfully against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. Contractor shall insure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12900 et seq.), the regulations promulgated thereunder (Cal. Code Regs., tit. 2, §11000 et seq.), the provisions of Article 9.5, Chapter 1, Part 1, Division 3, Title 2 of the Government Code (Gov. Code §§11135-11139.5), and the regulations or standards adopted by the awarding state agency to implement such article. Contractor shall permit access by representatives of the Department of Fair Employment and Housing and the awarding state agency upon reasonable notice at any time during the normal business hours, but in no case less than 24 hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or Agency shall require to ascertain compliance with this clause. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement. (See Cal. Code Regs., tit. 2, §11105.) Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.
11. **CERTIFICATION CLAUSES:** The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 04/2017 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.
12. **TIMELINESS:** Time is of the essence in this Agreement.
13. **COMPENSATION:** The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.
14. **GOVERNING LAW:** This contract is governed by and shall be interpreted in accordance with the laws of the State of California.
15. **ANTITRUST CLAIMS:** The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below. a. The

Government Code Chapter on Antitrust claims contains the following definitions: 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code. 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550. b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552. c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553. d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that: a. The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and b. The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.
17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.
18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.
19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING REQUIREMENTS: a. If for this Contract Contractor made a commitment to achieve small

business participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.) b. If for this Contract Contractor made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Contractor must within 60 days of receiving final payment under this Contract (or within such other time period as may be specified elsewhere in this Contract) certify in a report to the awarding department: (1) the total amount the prime Contractor received under the Contract; (2) the name and address of the DVBE(s) that participated in the performance of the Contract; (3) the amount each DVBE received from the prime Contractor; (4) that all payments under the Contract have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

20. LOSS LEADER: If this contract involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)



## CONTRACTOR CERTIFICATION CLAUSE (CCC 04/2017)

### Certification

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

Contractor/Bidder Firm Name (Printed)		Federal ID Number
By (Authorized Signature)		
Printed Name and Title of Person Signing		
Date Executed	Executed in the County of	

### CONTRACTOR CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE: Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 11102) (Not applicable to public entities.)
2. DRUG-FREE WORKPLACE REQUIREMENTS: Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:
  - a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
  - b. Establish a Drug-Free Awareness Program to inform employees about:
    - 1) the dangers of drug abuse in the workplace;
    - 2) the person's or organization's policy of maintaining a drug-free workplace;
    - 3) any available counseling, rehabilitation and employee assistance programs; and,
    - 4) penalties that may be imposed upon employees for drug abuse violations.
  - c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)
4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that Contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.
6. SWEATFREE CODE OF CONDUCT:
  - 1) All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal

sanction, abusive forms of child labor or exploitation of children in sweatshop labor.

The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at [www.dir.ca.gov](http://www.dir.ca.gov), and Public Contract Code Section 6108.

- 2) The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).
7. DOMESTIC PARTNERS: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.3.
8. GENDER IDENTITY: For contracts of \$100,000 or more, Contractor certifies that Contractor is in compliance with Public Contract Code section 10295.35.

## **DOING BUSINESS WITH THE STATE OF CALIFORNIA**

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1) For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2) For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)
3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)
4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.
5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:
  - a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
  - b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.
  - c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.
6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.
7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

## APPENDIX F: SPECIAL TERMS AND CONDITIONS

### Exhibit D, State Special Terms and Conditions

#### 1. Audit

Audit rights under this Agreement are contained Exhibit C DGS's GTC 04/2017, Section 4, and Exhibit E, Term 22. In addition, the CEC and SGC and any of their designated representatives shall have the same audit rights as contained in Exhibit C DGS's GTC 04/2017, Section 4, of the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representatives.

#### 2. Subrecipient and Vendor Agreements

A. Nothing contained in this Agreement or otherwise shall create any contractual relation between the CEC or SGC and any other entities with which Contractor enters into an agreement. Except for its duty to pay Contractor as set forth in this Agreement, SGC shall have no obligation to pay or to enforce the payment of any monies to any other entity.

B. The CEC is a third-party beneficiary of this Agreement.

C. Subaward Documentation

1) In addition to any federal requirements in this Agreement related to wages, Contractor shall comply, and ensure all Subrecipients and Vendors comply, with all applicable public works requirements, including the payment of prevailing wages.

2) Subrecipient and Vendor Agreements and Public Works Including Prevailing Wage Determinations

(a) Contractor must submit (1) below and include flow-down provisions to ensure that they submit (2) below to the SGC within thirty (30) days or less of execution of the agreements:

(1) The complete, executed Subrecipient or Vendor agreement.

(2) The applicable wage determinations, if any, for all labor and mechanic work to be performed under the Subrecipient or Vendor agreement.

SGC must approve the executed Subrecipient or Vendor agreement and applicable wage determinations prior to the commencement of any work under the Subrecipient or Vendor agreement. Any costs incurred prior to SGC's approval of the Subrecipient or Vendor agreement and wage determinations are not reimbursable under this Agreement.

D. Contractor shall flow-down all applicable terms and requirements from this Agreement, which include but are not be limited to, the following for Subrecipients:

1) All terms in Exhibit B except sections II. 2 (Invoicing Procedures), 5 (Retention), and 7 (Prompt Payment Act).

2) All terms in Exhibit C, DGS's GTC 04/2017 except sections 1 (Approval), 2 (Amendment), 3 (Assignment), and 7 (Termination for Cause).

3) All terms in Exhibit C, DGS's CCC 04/2017 except section 4 (because no subrecipient agreement should be for legal services over \$50,000).

- 4) All terms in this Exhibit D except section 2 (Subrecipient and Vendor Agreements) part B.
  - 5) All of Exhibit E, including all attachments E-1 through E-5, including Forms 1 and 2 of Attachment E-3.
- E. Contractor shall flow-down all applicable terms and requirements from this Agreement, which include but are not be limited to, the following for Vendors:
- 1) Exhibit B, sections II. 1. (Allowable Costs), and if the Vendor will travel then section 4 (Travel and Per Diem Rates).
  - 2) Exhibit C, DGS's GTC 04/2017 sections 4 (Audit), 5 (Indemnification), 8 (Independent Contractor), 9 (Recycling Certification), 10 (Non-Discrimination Clause), 14 (Governing Law), 15 (Antitrust Claims), 16 (Child Support Compliance Act), 18 (Priority Hiring Considerations), and 20 (Loss Leader).
  - 3) All terms in Exhibit C, DGS's CCC 04/2017 except section 4 (no subrecipient should be for legal services over \$50,000).
  - 4) This Exhibit D, sections 1 (Audit), 2 (Subrecipient and Vendor Agreements), 12 (Independent Capacity), 13 (Survival of Provisions) to the extent any of these flowed down provisions are listed in section 13, 14 (Indemnification).
  - 5) All terms in Exhibit E, Federal Special Terms and Conditions, except terms 7 (NEPA REQUIREMENTS), 8 (HISTORIC PRESERVATION), and 11 (REPORTING REQUIREMENTS).
  - 6) All of Exhibit E, Attachment E-1 except for section 3 (Quarterly Progress Reports).
  - 7) All of Exhibit E, Attachment E-2.
  - 8) All of Exhibit E, Attachment E-3 including Forms 1 and 2, except section 2 (Termination With and Without Cause and Settlement Authority).
  - 9) All of Exhibit E, Attachment E-4.

### 3. **Equipment and Supplies**

See Exhibit E, sections 18 Equipment and 19 Supplies.

### 4. **Confidentiality**

#### A. Submittal of Unanticipated Confidential Information as a Deliverable

Neither SGC nor Contractor anticipate that any deliverable will contain any confidential information. SGC and Contractor agree that during this Agreement, it is possible that Contractor may develop data or information not originally anticipated as a confidential deliverable. If this occurs, SGC shall first find out from the CEC Agreement Manager if the CEC wants the information as a deliverable, and if so, SGC and Contractor will then follow the procedures for a designation of Confidential Information specified in 20 California Code of Regulations section 2505.

#### B. Confidential Deliverables: Labeling and Submitting Confidential Information

If confidential information is allowed under this Agreement, Contractor shall mark any information designated as confidential as "Confidential" on each page containing the confidential information, and if submitting it to the SGC as a deliverable, Contractor shall submit it separately from non-confidential deliverables

### 5. **Enforceability**

Contractor agrees that if it or one of its Subrecipients or Vendors fails to comply with any applicable Federal and State requirement, including those governing the use of ARRA funds, SGC may withhold or suspend, in whole or in part, funds awarded under this Agreement, or recover misspent funds. This provision is in addition to all other rights and remedies available to SGC.

**6. Waiver**

No waiver of any breach of this Agreement shall be held to be a waiver of any other or subsequent breach. All remedies afforded in this Agreement shall be taken and construed as cumulative, meaning in addition to every other remedy provided therein or by law. The failure of the SGC to enforce at any time any of the provisions of this Agreement, or to require at any time performance by SGC of any of the provisions, shall in no way be construed to be a waiver of those provisions, nor in any way affect the validity of this Agreement or any part of it or the right of the SGC to thereafter enforce each and every such provision.

**7. Captions**

The clause headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference and do not define, limit, or extend the scope or intent of the clauses.

**8. Notice**

This section applies to situations where notice is required to be given by this Agreement, or the Parties are asserting their legal rights and remedies. This paragraph is not intended to apply to normal, daily communication between the Parties related to progress of the work.

SGC and the Contractor must give legal notice using any of the following delivery methods: U.S. Mail, overnight mail, or personal delivery, providing evidence of receipt to the person identified in Exhibit F of this Agreement for legal notices. Delivery by fax or e-mail is not considered legal notice for the purpose of this section.

Notice shall be effective when received, unless a legal holiday for the State commences on the date of the attempted delivery. In this event, the effective date shall be postponed until the next business day.

**9. Stop Work Order**

SGC personnel may, at any time, by written notice to Contractor, require Contractor to stop all or any part of the work tasks in this Agreement. Stop Work Orders may be issued for reasons such as this project exceeding budget, standard of performance, out of scope work, delay in project schedule, and misrepresentations.

- A. Compliance: Upon receipt of such stop work order, Contractor shall immediately take all necessary steps to comply with the order and to minimize the incurrence of costs allocable to work stopped.
- B. Revoking a Stop Work Order: Contractor shall resume the stopped work only upon receipt of written instructions from SGC personnel canceling the stop work order.

**10. Severability**

If any provision of this Agreement is unenforceable or held to be unenforceable, all other provisions of this Agreement will remain in full force and effect.

**11. Governing Law**



Except as provided in Exhibit E, Term 4, this Agreement is governed by the laws of the State of California as to interpretation and performance.

**12. Independent Capacity**

In the performance of this Agreement, Contractor and its employees, agents, Subrecipients, and Vendors will act in an independent capacity and not as officers, employees, or agents of the SGC or CEC.

**13. Survival of Provisions**

The following Terms survive the end of this Agreement, even if the agreement ends (e.g., termination) before reaching the stated end date:

- A. Exhibit B, Part II, sections 1 (Allowable Costs) and 6 (Payment Terms and Conditions).
- B. Exhibit C, DGS's GTC 04/2017, sections 4 (Audit), 5 (Indemnification), 14 (Governing Law), 17 (Unenforceable Provision), and 19 (Small Business Participation and DVBE Participation Reporting Requirements).
- C. This Exhibit D, sections 1 (Audit), 2 (Subrecipient and Vendor Agreements) part B, 5 (Enforceability), 6 (Waiver), 7 (Captions), 8 (Notice), 10 (Severability), 11 (Governing Law), 12 (Independent Capacity), and 14 (Indemnification).
- D. Exhibit E, Terms 3 (COMPLIANCE WITH FEDERAL, STATE, AND MUNICIPAL LAW), 6 (FEDERAL INVOLVEMENT), 12 (LOBBYING), 13 (PUBLICATIONS), 17 (REAL PROPERTY), 18 (EQUIPMENT), 19 (SUPPLIES), 20 (PROPERTY TRUST RELATIONSHIP), 21 (RECORD RETENTION), 22 (AUDITS), 26 (REFUND OBLIGATION), 27 (ALLOWABLE COSTS), 28 (INDIRECT COSTS), 29 (DECONTAMINATION AND/OR DECOMMISSIONING (D&D) COSTS), 38 (NONDISCLOSURE AND CONFIDENTIALITY AGREEMENTS ASSURANCES), and as applicable to this Agreement 42 (SEP ARRA FUNDED FINANCING PROGRAM REQUIREMENTS). In addition, Exhibit E on page 1 before the table of contents incorporates many laws by reference. Contractor agrees to continue to comply with them relative to this Agreement.
- E. Exhibit E, Attachment E-1, sections 1 (no title) and 4 (Special Status Reports).
- F. Exhibit E, Attachment E-2, the entire document.
- G. Exhibit E, Attachment E-3, sections 1 (Violation or Breach of Agreement), 2 (the settlement portion of the term), 6 (Rights of Inventions Made Under a Contract or Agreement), and 9 (Byrd Anti-Lobbying Amendment).
- H. Exhibit E, Attachment E-4, the entire document.

**14. Indemnification**

To ensure there is no misunderstanding, Contractor agrees that the word "State" in the "INDEMNIFICATION" term incorporated by reference in DGS's GTC 04/2017, section 5, includes but is not limited to both the CEC and SGC, and that the terms also applies to any and all claims and losses accruing or resulting to Subrecipients and Vendors.<sup>4</sup> In addition, Contractor agrees to afford the same rights to the federal government, which includes but is not limited to DOE.

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<sup>4</sup> The DGS term includes a list of "all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation" and the intent is to make clear it also includes Subrecipients and Vendors.

## EXHIBIT E, SPECIAL TERMS AND CONDITIONS – FEDERAL

The CEC initially received federal funds under the American Recovery and Reinvestment Act of 2009 (“ARRA”) via agreement DE-EE0000221, as amended, with USDOE. USDOE has since closed agreement DE-EE0000221, and now federal requirements, including those specific to ARRA, come from agreement DE-EE0008283, including amendments, between the CEC and USDOE.

Under agreement DE-EE0008283, the CEC had to flow-down certain requirements to SGC, and SGC must in turn flow down certain requirements in its agreements, like this one, and so forth to each lower tier agreement. The CEC and SGC have included in some of these terms rights for itself to avoid having separate terms on the same topic.

The following are incorporated into this Agreement by reference and Contractor agrees to adhere to them:

- a) The State Energy Program statutes under the Energy Policy and Conservation Act, as amended (42 U.S.C. § 6321 et seq.).
- b) Applicable program regulations, including but not limited to 10 CFR Part 420 – State Energy Program at <http://eCFR.gov>.
- c) DOE Assistance Regulations, 2 CFR part 200 as amended by 2 CFR part 910 at <http://www.eCFR.gov>.
- d) National Policy Assurances to be incorporated as Award Terms in effect on date of award at <http://www.nsf.gov/awards/managing/rtc.jsp>.
- e) All other applicable laws.

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## **SUBPART A. GENERAL PROVISIONS**

**Term 1. [RESERVED]**

**Term 2. FLOW DOWN REQUIREMENT**

Contractor agrees to apply the terms and conditions of this Agreement, as applicable, including the Intellectual Property Provisions, to all Subrecipients (and subcontractors and Vendors, as appropriate) as required by 2 CFR 200.101 and to require their strict compliance therewith. Further, the Contractor must apply the Agreement terms as required by 2 CFR 200.326 to all subrecipients (and subcontractors and Vendors, as appropriate) and to require their strict compliance therewith.

**Term 3. COMPLIANCE WITH FEDERAL, STATE, AND MUNICIPAL LAW**

Contractor is required to comply with applicable Federal, California, and local laws and regulations for all work performed under this Agreement. Contractor is required to obtain all necessary Federal, state, and local permits, authorizations, and approvals for all work performed under this Agreement.

**Term 4. [RESERVED]**

**Term 5. [RESERVED]**

**Term 6. FEDERAL INVOLVEMENT  
[a and b Reserved]**

c. Site Visits.

Authorized representatives from EERE, the CEC, and SGC have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. Contractor must provide, and must require subrecipients to provide, reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives, including those of the CEC and SGC, in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

d. SGC, CEC, and EERE Access.

Contractor must provide any information, documents, site access, or other assistance requested by the SGC, CEC, or EERE for the purpose of their respective State and Federal stewardship or substantial involvement.

**Term 7. NEPA REQUIREMENTS**

a. Authorization.

DOE must comply with the National Environmental Policy Act (NEPA) prior to authorizing the use of Federal funds. EERE has determined that certain activities that fall under the Bounded Categories defined in Exhibit E - Attachment 5, "NEPA Determination" are categorically excluded and require no further NEPA review, absent extraordinary circumstances, cumulative impacts, or connected actions that may lead to significant impacts on the environment, or any inconsistency with "integral elements" (as contained in 10 C.F.R. Part 1021, Appendix B) as they relate to a particular project. Contractor is thereby authorized to use Agreement funds for project activities that fall within the Bounded Categories defined in Exhibit E - Attachment 5, subject to the conditions listed in paragraph b. "Conditions" directly below.

b. Conditions.

- 1) The activities must comply with the restrictions set forth for each of the Bounded Categories. See Exhibit E- Attachment 5;
- 2) [Reserved]
- 3) This authorization does not include activities where the following elements exist: extraordinary circumstances, cumulative impacts, or connected actions that may lead to significant impacts on the environment, or any inconsistency with the "integral elements" (as contained in 10 C.F.R. Part 1021, Appendix B) as they relate to a particular project;
- 4) Contractor must identify and promptly notify SGC, CEC, and DOE of extraordinary circumstances, cumulative impacts, or connected actions that may lead to significant impacts on the environment, or any inconsistency with the "integral elements" (as contained in 10 C.F.R. Part 1021, Appendix B) as they relate to a particular project;
- 5) The Contractor must document in writing its review of projects to determine there are no extraordinary circumstances, cumulative impacts, or connected actions that may lead to significant impacts on the environment, or any inconsistency with the "integral elements" (as contained in 10 C.F.R. Part 1021, Appendix B) as they relate to a particular project and compliance with Section 106 of the National Historic Preservation Act (NHPA), as applicable;
- 6) Contractor must document that project activities do not occur in a floodplain or wetland. If the project activities do occur in a floodplain or wetland, (except those under Bounded Categories 1-6 as listed in the Program Year 2019 SEP Formula Guidance), those project activities are subject to additional NEPA review and approval by DOE; and
- 7) This authorization excludes any activities that are otherwise subject to a restriction set forth elsewhere in this Agreement.

c. Modifications/Activities Outside the Bounded Categories.

If Contractor later intends to undertake activities/projects that do not fall within the Bounded Categories, those activities/projects are subject to additional NEPA review by DOE and are not authorized for funding unless and until SGC, the CEC, and DOE's Contracting Officer provide written authorization for those additions or modifications. Should Contractor elect to undertake activities/projects prior to such written authorization, Contractor does so at the risk of not receiving funding for those activities/projects, and such costs may not be recognized as allowable cost match.

**Term 8. HISTORIC PRESERVATION**

a. Authorization.

DOE must comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA) prior to authorizing the use of Federal funds. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. Because CEC has a DOE-executed Programmatic Agreement (PA), Contractor must comply with the requirements identified in paragraph B. Conditions below.

b. Conditions.

## States with a DOE executed PA for Historic Preservation

(AL, AK, AS, AZ, CA, CO, CT, DE, DC, FL, GA, HI, ID, IL, IN, IA, KS, LA, ME, MD, MA, MI, MN, MO, MT, ND, NE, NV, NH, NJ, NM, NY, NC, OH, OK, PA, PR, SC, SD, TN, TX, UT, VT, VA, WA, WI, WY)

Because the CEC has a DOE executed historic preservation Programmatic Agreement (PA), which is incorporated by reference into this Agreement, Contractor must adhere to all the Stipulations in the PA. All DOE executed PAs are available on the Weatherization and Intergovernmental Programs website: <https://www.energy.gov/eere/wipo/historic-preservation-executed-programmatic-agreements>.

In addition to the Stipulations in the PAs, Contractor must notify the CEC in writing and EERE via [GONEPA@ee.doe.gov](mailto:GONEPA@ee.doe.gov) whenever:

- Either the Contractor or the State Historic Preservation Office (SHPO)/Tribal Historic Preservation Office (THPO) believes that the Criteria of Adverse Effect pursuant to 36 CFR § 800.5, apply to the proposal under consideration by EERE;
- There is a disagreement between an Applicant, or its authorized representative, and the SHPO/THPO about the scope of the area of potential effects, identification and evaluation of historic properties and/or the assessment of effects;
- There is an objection from a consulting party or the public regarding their involvement in the review process established by 36 CFR Part 800, Section 106 findings and determinations, or implementation of agreed upon measures; or
- There is the potential for a foreclosure situation or anticipatory demolition as defined under 36 CFR §800.9 (b) and 36 CFR § 800.9 (c).

## Term 9. PERFORMANCE OF WORK IN UNITED STATES

### a. Requirement.

All work performed under this Agreement must be performed in the United States unless the Contracting Officer and the CEC provide a waiver. This requirement does not apply to the purchase of supplies and equipment. However, Contractor should make every effort to purchase supplies and equipment within the United States. Contractor must flow down this requirement to its subrecipients.

### b. Failure to Comply.

If Contractor fails to comply with the Performance of Work in the United States requirement, SGC, in addition to any other rights and remedies, may deny reimbursement for the work conducted outside the United States and such costs may not be recognized as allowable Contractor cost share regardless if the work is performed by Contractor, subrecipients, vendors or other project partners.

### c. Waiver for Work Outside the U.S.

All work performed under this Agreement must be performed in the United States. However, the Contracting Officer and the CEC may approve Contractor to perform a portion of the work outside the United States under limited circumstances. Contractor must obtain a waiver from both the Contracting Officer and the CEC prior to conducting any work outside the U.S. To request a waiver, the Contractor must submit a written waiver request to SGC (and SGC will in turn pass it along to the CEC), which includes the following information:

- The rationale for performing the work outside the U.S.;

- A description of the work proposed to be performed outside the U.S.;
- Proposed budget of work to be performed; and
- The countries in which the work is proposed to be performed.

For the rationale, Contractor must demonstrate to the satisfaction of the Contracting Officer and the CEC that the performance of work outside the United States would further the purposes of the FOA that the DOE Award to the CEC was selected under and is in the economic interests of the United States. The Contracting Officer and the CEC may require additional information before considering such request.

**Term 10. NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS – SENSE OF CONGRESS**

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Agreement should be American-made.

**Term 11. REPORTING REQUIREMENTS**

a. Requirements.

The reporting requirements for this Agreement are identified Exhibit E, Attachment E-1. In addition to any other rights and remedies available to SGC, CEC, and DOE, failure to comply with these reporting requirements is considered a material noncompliance with the terms of this Agreement. Noncompliance may include but not be limited to withholding of future payments, suspension, or termination of the current Agreement, and withholding of future agreements. A willful failure to perform, a history of failure to perform, or unsatisfactory performance of this and/or other financial assistance awards, may also result in a debarment action to preclude future awards by State and Federal agencies.

b. Dissemination of scientific/technical reports.

Scientific/technical reports submitted under this Agreement will be disseminated on the Internet via the DOE Information Bridge ([www.osti.gov/bridge](http://www.osti.gov/bridge)), unless the report contains patentable material, protected data or SBIR/STTR data. Citations for journal articles produced under this Agreement will appear on the DOE Energy Citations Database ([www.osti.gov/energycitations](http://www.osti.gov/energycitations)).

c. Restrictions.

Reports submitted to the DOE Information Bridge must not contain any Protected Personal Identifiable Information (PII), limited rights data (proprietary data), classified information, information subject to export control classification, or other information not subject to release.

**Term 12. LOBBYING**

By accepting funds under this Agreement, Contractor agrees that none of the funds obligated on the Agreement shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. § 1913. This restriction is in addition to those prescribed elsewhere in statute, regulation, and this Agreement.

**Term 13. PUBLICATIONS**

Contractor is encouraged to publish or otherwise make publicly available the results of work performed under this Agreement. Contractor is required to include the following

acknowledgement in publications arising out of, or relating to, work performed under this Agreement, whether copyrighted or not:

- *Acknowledgment:* “This material is based upon work supported by the U.S. Department of Energy’s, Office of Energy Efficiency and Renewable Energy (EERE), under the State Energy Program Award Numbers DE-EE0000221 and DE-EE0008283.”
- *Disclaimer:* “This report was prepared as an account of work sponsored by an agency of the United States Government and provided through the California Energy Commission and the Office of Planning and Research’s Strategic Growth Council. The United States Government, the State of California, nor any agency of either (including the California Energy Commission and the Office of Planning and Research), nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government, the State of California, or any agency of either, including the California Energy Commission and the Office of Planning and Research. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government, the State of California, or any agency of either, including the California Energy Commission and Office of Planning and Research.”

**Term 14. [RESERVED]**

**Term 15. PROPERTY STANDARDS**

The Contractor is not allowed to purchase, or allow any of its subrecipients or vendors to purchase, real property under this Agreement. Beyond this restriction and to the extent otherwise applicable, the complete text of the Property Standards can be found at 2 CFR 200.310 through 200.316. Also see 2 CFR 910.360 for additional requirements for real property and equipment for For-Profit entities.

**Term 16. INSURANCE COVERAGE**

See 2 CFR 200.310 for insurance requirements for real property (which is not allowed to be purchased under this Agreement) and equipment acquired or improved with Federal funds. Also see 2 CFR 910.360(d) for additional requirements for real property and equipment for For-Profit entities.

**Term 17. REAL PROPERTY**

The Contractor is not allowed to purchase, or allow any of its Subrecipients or Vendors to purchase, real property under this Agreement. Beyond this restriction and to the extent otherwise applicable, subject to the conditions set forth in 2 CFR 200.311, title to real property acquired or improved under a Federal award will conditionally vest upon acquisition in the non-Federal entity. The non-Federal entity cannot encumber this property and must follow the requirements of 2 CFR 200.311 before disposing of the property.

Except as otherwise provided by Federal statutes or by the Federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose. When real property is no longer needed for the originally authorized purpose, the non-Federal entity must obtain disposition instructions from DOE or pass-through entity. The instructions must provide for one of the following alternatives: (a) retain title after compensating DOE as



described in 2 CFR 200.311(c)(1);(b) Sell the property and compensate DOE as specified in 2 CFR 200.311(c)(2); or (c) transfer title to DOE or to a third party designated/approved by DOE as specified in 2 CFR 200.311(c)(3).

See 2 CFR 200.311 for additional requirements pertaining to real property acquired or improved under a Federal award. Also see 2 CFR 910.360 for additional requirements for real property for For-Profit entities.

### **Term 18. EQUIPMENT**

Contractor must obtain prior written permission from the SGC before purchasing any equipment.

Equipment is generally defined as an item with an acquisition cost greater than \$5,000 and a useful life expectancy of more than one year.<sup>5</sup>

Subject to the conditions provided in 2 CFR 200.313 and 200.439, title to equipment acquired by Contractor under this Agreement will conditionally vest upon acquisition with SGC.

Contractor and SGC shall comply with 2 CR 200.313 and 200.439, which include but are not limited to:

- a. Contractor must use equipment purchased under this Agreement for this Agreement long as the equipment is needed, whether or not the project or program continues to be supported by the Federal award. When no longer needed for this Agreement, the equipment may be used by programs supported by DOE in the priority order specified in 2 CFR 200.313(c)(1)(i) and (ii).
- b. Management requirements, including inventory and control systems, for equipment are provided in 2 CFR 200.313(d).
- c. When equipment acquired under this Agreement is no longer needed, SGC must obtain, through the CEC, disposition instructions from DOE.
- d. Disposition will be made as follows: (a) items of equipment with a current fair market value of \$5,000 or less may be retained, sold, or otherwise disposed of with no further obligation to DOE; (b) SGC may retain title or sell the equipment in accordance with applicable California state equipment requirements after compensating DOE as described in 2 CFR 200.313(e)(2); or (c) transfer title to DOE or to an eligible third party as specified in 2 CFR 200.313(e)(3).

See 2 CFR 200.313 for additional requirements pertaining to equipment acquired under a Federal award. Also see 2 CFR 910.360 for additional requirements for equipment for For-Profit entities. See also 2 CFR 200.439 equipment and other capital expenditures.

### **Term 19. SUPPLIES**

Supplies are generally defined as an item with an acquisition cost of \$5,000 or less and a useful life expectancy of less than one year. Supplies are generally consumed during the project performance.<sup>6</sup>

See 2 CFR 200.314 for requirements pertaining to supplies acquired under a Federal award. See also 2 CFR 200.453 materials and supplies costs, including costs of computing devices.

### **Term 20. PROPERTY TRUST RELATIONSHIP**

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<sup>5</sup> From agreement DE-EE0008283, Attachment 3, p. 6 of 7.

<sup>6</sup> From agreement DE-EE0008283, Attachment 3, p. 6 of 7.

Real property (which is not allowed to be purchased under this Agreement), equipment, and intangible property, that are acquired or improved under this Agreement must be held in trust by the Contactor as trustee for the beneficiaries of the project or program under which the property was acquired or improved. See 2 CFR 200.316 for additional requirements pertaining to real property, equipment, and intangible property acquired or improved under this Agreement.

**Term 21. RECORD RETENTION**

Consistent with 2 CFR 200.333 through 200.337, Contractor is required to retain records relating to this Agreement.

**Term 22. AUDITS**

a. Government-Initiated Audits.

In addition to the audit rights in Exhibit C, Section 2, Contractor is required to provide any information, documents, site access, or other assistance requested by the CEC, SGC, EERE, DOE or Federal auditing agencies (e.g., DOE Inspector General, Government Accountability Office) for the purpose of audits and investigations. Such assistance may include, but is not limited to, reasonable access to the Contractor's records relating to this Agreement.

Consistent with 2 CFR part 200 as amended by 2 CFR part 910, all of these entities may audit Contractor's financial records or administrative records relating to this Agreement at any time.

Contractor is responsible for its own costs of any audit.

All of these entities may conduct a final audit at the end of the project period (or the termination of the Agreement, if applicable).

Upon completion of any audit, Contractor is required to refund to SGC, CEC, or DOE, as applicable, any payments for costs that were determined to be unallowable.

If an audit has not been performed or completed prior to the closeout of the Agreement, DOE, SGC, and the CEC retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

All of these entities will provide reasonable advance notice of audits and will minimize interference with ongoing work, to the maximum extent practicable.

b. Annual Independent Audits (Single Audit or Compliance Audit).

Contractor is required to comply with the annual independent audit requirements in 2 CFR 200.500 through .521 for institutions of higher education, nonprofit organizations, and state and local governments (Single audit), and 2 CFR 910.500 through .521 for for-profit entities (Compliance audit). The annual independent audits are separate from Government-initiated audits discussed in paragraph A of this Term, and must be paid for by Contractor. To minimize expense, SGC may have a compliance audit in conjunction with its annual audit of financial statements. The financial statement audit is **not** a substitute for the compliance audit. If the audit (Single audit or Compliance audit, depending on Contractor entity type) has not been performed or completed prior to the closeout of the Agreement, DOE may impose one or more of the actions outlined in 2 CFR 200.338, Remedies for Noncompliance.

**SUBPART B. FINANCIAL PROVISIONS**

**Term 23. [RESERVED]**

**Term 24. [RESERVED]**

**Term 25. [RESERVED]**

**Term 26. REFUND OBLIGATION**

Contractor must refund any excess payments received under this agreement, including any costs determined unallowable by EERE, the CEC, or SGC. Upon the end of the project period (or the termination of this Agreement, if applicable), Contractor must refund to the CEC the difference between (i) the total payments received and (ii) the Federal share of the costs incurred. This is in addition to any other rights and remedies DOE, the CEC, or SGC may have.

**Term 27. ALLOWABLE COSTS**

EERE determines the allowability of costs through reference to 2 CFR part 200 as amended by 2 CFR part 910. All project costs must be allowable, allocable, and reasonable. Contractor must document and maintain records of all project costs, including, but not limited to, the costs paid by Federal funds, costs claimed by its Subrecipients and Vendors and project costs that Contractor claims as cost sharing, including in-kind contributions. Contractor is responsible for maintaining records adequate to demonstrate that costs claimed have been incurred, are reasonable, allowable and allocable, and comply with the cost principles. Upon request, Contractor is required to provide such records to EERE, the CEC, and SGC. Such records are subject to audit. In addition to any other rights and remedies available, failure to provide EERE, the CEC, or SGC adequate supporting documentation may result in a determination by EERE, the CEC, or SGC that those costs are unallowable.

Contractor is required to obtain the prior written approval of the CEC for any foreign travel costs.

**Term 28. INDIRECT COSTS**

[a and b Reserved]

c. Subrecipient and Vendor Indirect Costs.

Contractor must ensure its Subrecipient's and Vendor's indirect costs are appropriately managed, allowable and otherwise comply with the requirements of this Agreement and 2 CFR part 200 as amended by 2 CFR part 910.

**Term 29. DECONTAMINATION AND/OR DECOMMISSIONING (D&D) COSTS**

Notwithstanding any other provisions of this Agreement, the Government, including DOE, the CEC, and SGC, shall not be responsible for or have any obligation for (1) Decontamination and/or Decommissioning (D&D) of any facilities, or (2) any costs which may be incurred connection with the D&D of any of its facilities due to the performance of the work under this Agreement, whether said work was performed prior to or subsequent to the effective date of this Agreement.

**Term 30. USE OF PROGRAM INCOME**

If the Contractor earns program income during the project period as a result of this Agreement, the Contractor must add the program income to the funds committed to the Agreement and used to further eligible Agreement objectives.

**Term 31. [RESERVED]**

**Term 32. [RESERVED]**

**Term 33. [RESERVED]**

**Term 34. [RESERVED]**

**SUBPART C. MISCELLANEOUS PROVISIONS**

**Term 35. INSOLVENCY, BANKRUPTCY, OR RECEIVERSHIP**

- a. Contractor shall immediately, but no later than five days, notify the CEC and SGC of the occurrence of any of the following events: (1) Contractor or one of its Subrecipients or Vendors or Contractor's parent entity filing of a voluntary case seeking liquidation or reorganization under the Bankruptcy Act; (2) Contractor's consent to the institution of an involuntary case under the Bankruptcy Act against Contractor or any of its subrecipient's parent entity; (3) the filing of any similar proceeding for or against Contractor or any of its subrecipient parent entities, or Contractor's consent to the dissolution, winding-up or readjustment of its debts, appointment of a receiver, conservator, trustee, or other officer with similar powers over Contractor, under any other applicable state or Federal law; or (4) Contractor's insolvency due to its inability to pay debts generally as they become due.
- b. Such notification shall be in writing and shall: (1) specifically set out the details of the occurrence of an event referenced in paragraph A; (2) provide the facts surrounding that event; and (3) provide the impact such event will have on the project being funded by this Agreement.
- c. In addition to any other rights and remedies available, upon the occurrence of any of the four events described in paragraph A. of this term, EERE, the CEC, and SGC reserve the right to conduct a review to determine compliance with the required elements of this Agreement (including such items as cost share, progress towards technical project objectives, and submission of required reports). If the review determines that there are significant deficiencies or concerns with the performance, EERE, the CEC, and SGC, in addition to any other rights and remedies, reserve the right to impose additional requirements, as needed, including (1) change of payment method; or (2) institute payment controls.
- d. In addition to any other rights and remedies available to DOE, the CEC, or SGC, failure of Contractor to comply with this term may be considered a material noncompliance of this Agreement.

**Term 36. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION**

- a. Reporting of first-tier subawards.
  1. Applicability. Unless the Contractor is exempt as provided in paragraph d. of this award term, the Contractor must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).
  2. Where and when to report.
    - i. The Contractor must report each obligating action described in paragraph a.1. of this award term to the CEC and to <https://www.frs.gov>.
    - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
  3. What to report. The Contractor must report the information about each obligating

action that the submission instructions posted at <https://www.fsrs.gov> specify.

b. Reporting Total Compensation of Contractor Executives.

1. Applicability and what to report. The Contractor must report total compensation for each of its five most highly compensated executives for the preceding completed fiscal year, if

i. The total Federal funding authorized to date under this Award is \$25,000 or more;

ii. In the preceding fiscal year, the Contractor received;

(A) 80 percent or more of the Contractor's annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>).

2. Where and when to report. The Contractor must report executive total compensation described in paragraph b.1. of this award term:

i. As part of the Contractor's registration profile at <https://www.sam.gov>.

ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1. Applicability and what to report. Unless the Contractor is exempt as provided in paragraph d. of this award term, for each first-tier Subrecipient under this award, the Contractor shall report the names and total compensation of each of the Subrecipient's five most highly compensated executives for the Subrecipient's preceding completed fiscal year, if;

i. In the Subrecipient's preceding fiscal year, the Subrecipient received;

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>).

2. Where and when to report. The Contractor must report Subrecipient executive total compensation described in paragraph c.1. of this award term:

- i. To the CEC and SGC.
- ii. By the end of the month following the month during which the Contractor makes the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), the Contractor must report any required compensation information of the Subrecipient by November 30 of that year.

d. Exemptions.

If, in the previous tax year, the Contractor had gross income, from all sources, under \$300,000, it is exempt from the requirements to report:

- i. Subawards and;
- ii. The total compensation of the five most highly compensated executives of any Subrecipient.

e. Definitions. For purposes of this term:

1. Entity means all of the following, as defined in 2 CFR Part 25:

- i. A Governmental organization, which is a State, local government, or Indian tribe;
- ii. A foreign public entity;
- iii. A domestic or foreign nonprofit organization;
- iv. A domestic or foreign for-profit organization;
- v. A Federal agency, but only as a Subrecipient under an award or subaward to a non-Federal entity.

2. Executive means officers, managing partners, or any other employees in management positions.

3. Subaward:

- i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which the Contractor received this award and that the Contractor awards to an eligible Subrecipient.
- ii. The term does not include the Contractor's procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.501 Audit requirements, (f) *Subrecipients and Contractors* and/or 2 CFR 910.501 Audit requirements, (f) *Subrecipients and Contractors*).
- iii. A subaward may be provided through any legal agreement, including an agreement that the Contractor or a Subrecipient considers a contract.

4. Subrecipient means an entity that:

- i. Receives a subaward from the Contractor under this award; and
- ii. Is accountable to the Contractor for the use of the Federal funds provided by the subaward.

5. Total compensation means the cash and noncash dollar value earned by the executive during the Contractor's or Subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

- i. Salary and bonus.
- ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar

amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings on deferred compensation which is not tax-qualified.

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

**Term 37. SYSTEM FOR AWARD MANAGEMENT AND UNIVERSAL IDENTIFIER REQUIREMENTS**

a. [Reserved]

b. Requirement for Data Universal Numbering System (DUNS) Numbers

If Contractor is authorized to make subawards under this Agreement, Contractor:

1. Must notify potential Subrecipients that no entity (see definition in paragraph c. of this Agreement term directly below) may receive a subaward from Contractor unless the entity has provided its DUNS number to the Contractor.

2. May not make a subaward to an entity unless the entity has provided its DUNS number to SGC.

c. Definitions

For purposes of this Agreement:

1. [Reserved]

2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).

3. Entity, as it is used in this Agreement, means all of the following, as defined at 2 CFR Part 25, subpart C:

i. A Governmental organization, which is a State, local government, or Indian Tribe;

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization;

iv. A domestic or foreign for-profit organization; and

v. A Federal agency, but only as a Subrecipient under an award or subaward to a non-Federal entity.

4. Subaward:

i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which Contractor received this Agreement and that Contractor awards to an eligible Subrecipient.

ii. The term does not include Contractor procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.501

Audit requirements, (f) *Subrecipients and Contractors* and/or 2 CFR 910.501 Audit requirements, (f) *Subrecipients and Contractors*).

iii. A subaward may be provided through any legal agreement, including an agreement that Contractor considers a contract.

5. Subrecipient means an entity that:

i. Receives a subaward from Contractor under this Agreement; and

ii. Is accountable to Contractor for the use of the Federal funds provided by the subaward.

d. Contractor must obtain a DUNS number and provide it to the SGC and CEC before SGC will pay it any funds under this Agreement. The SGC will not pay any funds to Contractor for work performed before it obtains a DUNS number.

### **Term 38. NONDISCLOSURE AND CONFIDENTIALITY AGREEMENTS ASSURANCES**

By entering into this Agreement, Contractor attests that it **does not and will not** require its employees or Subrecipients or Vendors to sign internal nondisclosure or confidentiality agreements or statements prohibiting or otherwise restricting its employees or Subrecipients or Vendors from lawfully reporting waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

Contractor further attests that it **does not and will not** use any Federal or Agreement funds to implement or enforce any nondisclosure and/or confidentiality policy, form, or agreement it uses unless it contains the following provisions:

- i. *“These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.”*
- ii. The limitation above shall not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.
- iii. Notwithstanding provision listed in paragraph (a), a nondisclosure or confidentiality policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure or confidentiality forms shall also make it clear that they do not bar disclosures to Congress, or to an authorized official of an executive agency or the Department of Justice, that are essential to reporting a substantial violation of law.

### **Term 39. CONFERENCE SPENDING**



Contractor shall not expend any funds on a conference not directly and programmatically related to the purpose for which this Agreement was awarded that would defray the cost to the United States Government of a conference held by any federal Executive branch department, agency, board, commission, or office for which the cost to the United States Government would otherwise exceed \$20,000, thereby circumventing the required notification by the head of any such Executive Branch department, agency, board, commission, or office to the Inspector General (or senior ethics official for any entity without an Inspector General), of the date, location, and number of employees attending such conference.

## **Term 40.CONTRACTOR INTEGRITY AND PERFORMANCE MATTERS**

### **A. General Reporting Requirement**

If the total value of Contractor's currently active Financial Assistance awards, cooperative agreements, and procurement contracts from all Federal awarding agencies, including this Agreement, exceeds \$10,000,000 for any period of time during the period of performance of this Agreement, then Contractor during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this term. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

### **B. Proceedings About Which You Must Report**

Submit the information required about each proceeding that:

- i. Is in connection with this Agreement, the award or performance of a Financial Assistance, cooperative agreement, or procurement contract from the Federal Government;
- ii. Reached its final disposition during the most recent five year period; and
- iii. Is one of the following:
  1. A criminal proceeding that resulted in a conviction, as defined in paragraph E below of this Term 40;
  2. A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
  3. An administrative proceeding, as defined in paragraph E of below of this Term 40, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
  4. Any other criminal, civil, or administrative proceeding if:
    - a. It could have led to an outcome described in paragraph B.iii.1, 2, or 3 of this term;
    - b. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
    - c. The requirement in this term to disclose information about the proceeding does not conflict with applicable laws and

regulations.

**C. Reporting Procedures**

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph B of this term. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

**D. Reporting Frequency**

During any period of time when you are subject to the requirement in paragraph A above of this Term 40 you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. If Contractor has Federal contract, Financial Assistance awards, (including cooperative agreement awards) with a cumulative total value greater than \$10,000,000, including this Agreement, Contractor must disclose semiannually any information about the criminal, civil, and administrative proceedings.

**E. Definitions**

For purposes of this term:

- i. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or Financial Assistance awards. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- ii. Conviction means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of *nolo contendere*.
- iii. Total value of currently active Financial Assistance awards, cooperative agreements and procurement contracts includes—
  - 1. Only the Federal share of the funding under any Federal award, including this Agreement, with a Contractor cost share or match; and
  - 2. The value of all expected funding increments under a Federal award and options, even if not yet exercised.

**Term 41.SUBRECIPIENT CHANGE NOTIFICATION**

Contractor must notify the SGC in writing 30 days prior to the execution of new or modified Subrecipient agreements, including naming any To Be Determined Subrecipients. This notification does not constitute a waiver of the prior approval requirements outlined in 2 CFR part 200 as amended by 2 CFR part 910, nor does it relieve SGC from its obligation to comply with applicable Federal statutes, regulations, and executive orders.

In order to satisfy this notification requirement, Contractor's documentation must, as a minimum, include the following:

- A description of the research to be performed, the service to be provided, or the equipment to be purchased;
- Cost share commitment letter if the Subrecipient is providing cost share;
- An assurance that the process undertaken by Contractor to solicit the Subrecipient complies with their written procurement procedures as outlined in 2 CFR 200.317 through 200.329;
- An assurance that no planned, actual or apparent conflict of interest exists between Contractor and the selected Subrecipient and that Contractor’s written standards of conduct were followed<sup>7</sup>;
- A completed Environmental Questionnaire, if applicable;
- An assurance that the Subrecipient is not a debarred or suspended entity; and
- An assurance that all required Agreement provisions will be flowed down in the resulting Subrecipient agreement.

SGC is responsible for making a final determination if Contractor can award or modify Subrecipient agreements under this Agreement, and Contractor may not proceed with the Subrecipient agreement until the SGC determines, and provides Contractor written notification, that the information provided is adequate.

## **Term 42. SEP ARRA FUNDED FINANCING PROGRAM REQUIREMENTS**

- [Reserved]
- [Reserved]
- [Reserved]
- [Reserved]
- [Reserved]
- By accepting this Agreement, SGC agrees to comply with the provisions listed below for financing programs capitalized with Recovery Act funds (see Exhibit E, Attachment 4 for full text of provisions):
  - **SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (MAR 2009)**
  - **REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS (COVERED UNDER INTERNATIONAL AGREEMENTS)--SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**
  - **WAGE RATE REQUIREMENTS UNDER SECTION 1606 OF THE RECOVERY ACT**

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<sup>7</sup> It is DOE’s position that the existence of a “covered relationship” as defined in 5 CFR 2635.502(a)&(b) between a member of the Contractor’s owners or senior management and a member of a Contractor’s owners or senior management creates at a minimum an apparent conflict of interest that would require the Contractor to notify the Contracting Officer and provide detailed information and justification (including, for example, mitigation measures) as to why the Subrecipient agreement does not create an actual conflict of interest. Contractor must also notify the Contracting Officer of any new Subrecipient agreement with: (1) an entity that is owned or otherwise controlled by SGC; or (2) an entity that is owned or otherwise controlled by another entity that also owns or otherwise controls the SGC, as it is DOE’s position that these situations also create at a minimum an apparent conflict of interest.

- **RECOVERY ACT TRANSACTIONS LISTED IN SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS AND RECIPIENT RESPONSIBILITIES FOR INFORMING SUBRECIPIENTS**
- **HISTORIC PRESERVATION**
- **DAVIS BACON ACT AND CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**
- **RECIPIENT FUNCTIONS**

## EXHIBIT E-1, REPORTING REQUIREMENTS

The CEC's agreement with the Department of Energy requires the CEC to provide certain reporting.<sup>8</sup> Accordingly, the CEC requires certain reporting from SGC, and SGC in this Agreement requires certain reporting from Contractor.

1. Contractor shall not include any Protected Personally Identifiable Information (Protected PII) in its submissions to SGC. Protected PII is defined as any data that, if compromised, could cause harm to an individual such as identify theft. Protected PII includes:
  - Social Security Numbers in any form;
  - Place of Birth associated with an individual;
  - Date of Birth associated with an individual;
  - Mother's maiden name associated with an individual;
  - Biometric record associated with an individual;
  - Fingerprint;
  - Iris Scan;
  - DNA;
  - Medical history information associated with an individual;
  - Medical conditions, including history of disease;
  - Metric information, e.g., weight, height, blood pressure;
  - Criminal history associated with an individual;
  - Ratings;
  - Disciplinary actions;
  - Financial information associated with an individual;
  - Credit card numbers; and
  - Security clearance history or related information (not including actual clearances held).
2. Acknowledgement and Disclaimer  
Please see Exhibit E, Term 13 for required acknowledgement and disclaimer statements.

### 3. Quarterly Progress Reports

The CEC is required to provide Quarterly Progress Reports to DOE "[w]ithin 30 calendar days after the end of the quarterly reporting period (January 30, April 30, July 30, and October 30)."

Contractor shall prepare Quarterly Progress Reports. Contractor shall submit Quarterly Progress Reports to SGC so SGC has enough time to review and comment and Contractor has enough time to make any necessary revision, so that SGC can submit quarterly reports to the CEC by January 1, April 1, July 1, and October 1 of each year of this Agreement. Because Contractor must provide a Progress Reports with each invoice, the Quarterly Progress Reports

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<sup>8</sup> See agreement DE-EE0008283, Attachment 2. Page 10 of Attachment 2 states in terms of reporting the ARRA funds are "subject to the terms and conditions of the SEP formula award and the Recovery Act terms and conditions set forth in the grantee's original Recovery Act award." But there is no statement about the applicability of the new SEP agreement terms if they do not conflict with old SEP ARRA terms. Thus, this Exhibit contains a combination of the requirements of both SEP agreements.

only have to provide information for the period of each reported quarter not covered by submitted Progress Reports.

Quarterly Progress Reports shall include, but do not have to limited to the following:

- Report submission date.
- Reporting Period Start and End Date
- A concise narrative assessment of the status of work.
- A written comparison of the actual project accomplishments with the project goals and objectives established for the reporting period; if goals and/or objectives for the reporting period were not met, a detailed description of the variance shall be provided.
- A discussion of what was accomplished under these goals and objectives established for this reporting period, including major activities, significant results, major findings or conclusions, key outcomes, or other achievements. This section should not contain any proprietary data or other information not subject to public release. If such information is important to reporting progress, do not include the information, but include a note in the report advising the reader to contact the Principal Investigator or the Project Director for further information.
- Cost Status. A comparison of the approved budget by budget period and the actual costs incurred during the reporting period shall be provided. If cost sharing is required, the cost breakdown shall show the DOE share, Contractor's share, and total costs.
- Schedule Status. List milestones, anticipated completion dates and actual completion dates. If you submitted a project management plan with your application, you must use this plan to report schedule and budget variances. You may use your own project management system to provide this information.
- Describe any changes during the reporting period in project approach and the reasons for these changes.
- Describe any actual or anticipated problems or delays and any actions taken or planned to resolve them.
- Describe any absence or changes of key personnel or changes in consortium/teaming arrangement during the reporting period.
- List and describe any product produced or technology transfer activities accomplished during this reporting period, such as:
  - i. Publications (list journal name, volume, issue); conference papers; or other public releases of results. Attach or send copies of public releases to the DOE Program Manager identified in Block 15 of the Assistance Agreement Cover Page.
  - ii. Web site or other Internet sites (list the URL) that reflect the results of this project.
  - iii. Networks or collaborations fostered.
  - iv. Technologies/Techniques (Identify and Describe).
  - v. Inventions/Patent Applications (Identify and Describe with date of application)
  - vi. Other products, such as data or databases, physical collections, audio or video, software or NetWare, models, educational aid or curricula, instruments or equipment (Identify and Describe).

#### 4. Special Status Reports

If any of the following events arise under this Agreement (including the tribal grant awards and the gap analysis contract), Contractor shall report them in writing to the SGC within 5 days after the event:

- Any notices or claims of patent or copyright infringement;
- Refusal of a Subrecipient to accept flowdown terms;
- Potential or actual violations of federal, state, and municipal laws;
- Any improper claims or excess payments;
- Potential or actual violations of any match share requirements;
- Potential or actual noncompliance with requirements;
- Potential or actual violations of the lobbying restrictions; and
- Potential or actual bankruptcy/insolvency.

#### 5. Final Property Report

By no later than the end date of this Agreement, Contractor must submit a final inventory of Government-furnished property, and property acquired with Agreement funds, whether the property is in the possession of the Contractor, SGC, or any other entity. Contractor must submit a completed SF-428B, available at [http://www.whitehouse.gov/omb/grants\\_forms](http://www.whitehouse.gov/omb/grants_forms), to the SGC. The inventory must include a description of the property, tag number, acquisition date, and acquisition cost, if purchased with Agreement funds. The location of property should be listed under the Comments section. Any property with a fair market value below \$5,000 may be omitted from the inventory.

The CEC must, in turn, submit this information to DOE. The EERE Contracting Officer has sole and exclusive authority to approve disposition plans and requests.

#### 6. Annual Cost Incurred Proposal

Contractor must submit an Annual Incurred Cost Proposal, reconciled to its financial statements unless its Agreement is based on a predetermined or fixed indirect rate(s) or a fixed amount for indirect or facilities and administration (F&A) costs. Contractor must submit its Annual Incurred Cost Proposal to the SGC by no later than September 1<sup>9</sup> of each year of the Agreement.

#### 7. Single Audit: States, Locals, Tribal Governments, and Non-Profits

As required by 2 CFR 200 Subpart F, non-federal entities that expend \$750,000 or more during its fiscal year in federal awards must have a single or program-specific audit conducted. The single audit must be conducted in accordance with 2 CFR §200.514 Scope of audit, except when it elects to have a program-specific audit conducted.

For most single audits, the requirement is for annual single audits. However, there are occasions where a single audit is not required annually. Per 2 CFR 200.504 - Frequency of audits, a state, local government, or Indian tribe that is required by constitution or statute to undergo its audits less frequently than annually, is permitted to undergo its audits biennially. Also, any nonprofit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its single audits biennially.

For a program-specific audit, when an entity expends federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the

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<sup>9</sup> Because the CEC must submit this information to DOE within "180 calendar days after the close of the state's fiscal year" the CEC requires SGC to provide it by October 31, which is 120 days after the end of the fiscal year, and SGC requires Contractor to provide it to SGC by September 1.

auditee may elect to have a program-specific audit conducted. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a Subrecipient, approves in advance a program specific audit.

The single audit report(s) must be submitted to DOE within the earlier of thirty days after receipt of the auditor's report(s) or nine months after the end of the audit period (Contractor's fiscal year-end). The compliance audit report must be submitted, along with audited financial statements (if applicable), to the Federal Audit Clearinghouse website.

#### 8. Davis Bacon

As applicable, Contractor shall submit to the SGC weekly for each week in which any Agreement work is performed, a copy of all required payrolls so the SGC can provide them to the CEC, which can then can provide the information to DOE.



## **EXHIBIT E-2, INTELLECTUAL PROPERTY RIGHTS**

For purposes of this Agreement, Intellectual Property has the definition of “Intangible Property” under 2 CFR 200.59.

The CEC’s agreement with the DOE requires the CEC to provide certain Intellectual Property rights to DOE.<sup>10</sup> Other than those rights, the CEC and SGC intend to share rights to Intellectual Property.

Contractor expressly acknowledges that the work under this Agreement contributed by Contractor (for purposes of this Exhibit E, Attachment E-2, “Work”) is being specially ordered and commissioned by SGC. The Work contributed by Contractor shall be considered a "work made for hire" as defined by the copyright laws of the United States. Except for the rights reserved by the federal government in 2 CFR 200.315, SGC and CEC shall be the sole and exclusive owners and copyright holder of the Work and any rights, including but not limited to Intellectual Property rights, in it. If for any reason the Work is determined at any time not to qualify as a "work made for hire", Contractor hereby irrevocably transfers and assigns to SGC and CEC all rights, title and interest therein, including all copyrights and all other Intellectual Property rights, as well as all renewals and extensions.

Contractor agrees that SGC and CEC may make any changes or additions to the Work, including Intellectual Property, in ways including but not limited to the preparation of derivative works which SGC or CEC in its sole discretion may consider necessary, and may engage others to make changes to the Work, including Intellectual Property, with or without attribution to Contractor.

Contractor represents that, except with respect to material furnished to Contractor by SGC or CEC, Contractor its Subrecipients and Vendors are the sole author of the Work, including Intellectual Property, which is not copied in whole or in part from any other work. Contractor further represents that the Work, including Intellectual Property, does not violate the intellectual property rights of any person, firm or entity.

Contractor releases and discharges the State, including but not limited to SGC and the CEC, and the federal government, including but not limited to DOE, from any and all claims and demands arising out of, or in connection with, any use of the Work or its associated rights, such as Intellectual Property, including but not limited to, any and all claims of libel, moral rights and invasion of privacy, and/or any claims under the Visual Artists Rights Act. Contractor realizes that it cannot withdraw its consent after executing this Agreement, and acknowledges that this Agreement is binding on Contractor and his or her heirs, legal representatives and other assigns.

Contractor shall ensure its agreements with Subrecipients and Vendors include provisions effectuating all of these rights, interests, representations, releases and discharges.

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<sup>10</sup> See agreement DE-EE0008283, Attachment 4, incorporated by reference into this Agreement, of which 2 CFR 200.315 applies since 910.362 only applies to DOE agreements with for-profit entities and the CEC, which has the agreement with DOE, is not a for-profit entity.

## EXHIBIT E-3, 2 CFR 200.326 REQUIREMENTS

2 CFR 200.326 requires SGC to address in this Agreement applicable provisions from Appendix II to 2 CFR Part 200, which are contained in this Attachment E-3.

### 1. **Violation or Breach of Agreement**<sup>11</sup>

Should Contractor violate or breach this Agreement, the SGC and the CEC (as a third party beneficiary) can exercise any rights and remedies available to them, including administrative, contractual, or legal remedies such as disputing invoices, issuing stop work orders, terminating with or without cause, seeking further assurances, requesting additional documentation, conducting an audit, filing a claim with the Government Claims Program, or filing a lawsuit in court. These rights are in addition to, and not exclusive, of any other rights and remedies the SGC and CEC may have.

### 2. **Termination With and Without Cause and Settlement Authority**<sup>12</sup>

The Contractor agrees that because SGC is a state entity, SGC must be able to terminate this Agreement without cause. Accordingly, SGC may, at its option, terminate this Agreement without cause in whole or in part, upon giving thirty (30) days advance notice in writing. In such event, Contractor agrees to use all reasonable efforts to mitigate its expenses and obligations hereunder. In addition, either party may terminate this Agreement for cause in accordance with applicable state law upon giving fifteen (15) days advance notice in writing to the other. For any disputes that arise under this Agreement, the Contractor and SGC reserve all rights to settle the dispute in any appropriate and authorized manner. These rights are in addition to, and not exclusive, of any other rights and remedies the SGC and Contractor may have.

### 3. **Equal Employment Opportunity [RESERVED]**<sup>13</sup>

### 4. **Davis-Bacon Act [RESERVED]**<sup>14</sup>

### 5. **Contract Work Hours and Safety Standards Act**<sup>15</sup>

If Contractor employs any “mechanics or laborers” then Contractor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, Contractor shall compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40

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<sup>11</sup> This term is included to address the requirement in Appendix II to 2 CFR Part 200, part (A).

<sup>12</sup> This term is included to address the requirement in Appendix II to 2 CFR Part 200, part (B). Because this term is included here, a termination provision is not included in Exhibit D, the typical location in CEC contract terms for termination provisions.

<sup>13</sup> Appendix II to 2 CFR Part 200, part (C) is not required under this Agreement because this Agreement does not meet the definition of a “federally assisted construction contract.”

<sup>14</sup> Appendix II to 2 CFR Part 200, part (D) requires Davis-Bacon Act provisions for “all prime construction contracts in excess of \$2,000.” This Agreement will not involve a “construction contract” and Exhibit E and Exhibit E – Attachment 4 already require Davis-Bacon Act provisions to be included. Thus, no such provisions are included here.

<sup>15</sup> This term is included to address the requirement in Appendix II to 2 CFR Part 200, part (E).

hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

**6. Rights of Inventions Made Under a Contract or Agreement**

If Contactor enters into an agreement “with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that ‘funding agreement,’ [Contractor shall] comply with the requirements of 37 CFR Part 401, ‘Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,’ and any implementing regulations issued by the awarding agency.”

**7. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended**

Contractor shall “comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the [SGC, CEC, and] Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).”

**8. Debarment and Suspension (Executive Orders 12549 and 12689)**

Contractor shall not make a “contract award (see 2 CFR 180.220)” to “parties listed on the government wide exclusions 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.’ SAM Exclusions 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.”

**9. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)**

Contractor shall comply with 31 U.S.C. § 1352 and 10 CFR Part 601, including using attached Forms 1 and 2 to this Exhibit E – Attachment 3.

**10. Procurement of Recovered Materials (2 C.F.R. § 200.322)**

Contractor shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include but are not limited to procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

## **EXHIBIT E-3 – FORM 1, CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, AND DRUG FREE WORKPLACE REQUIREMENTS**

Contractor should review the instructions for certification included in the regulations cited in this paragraph before completing this form. Signature of this form is meant to provide compliance with certification requirements under 10 CFR Part 601 "New Restrictions on Lobbying," 10 CFR Part 606 "Governmentwide Debarment and Suspension (Nonprocurement)" and 10 CFR Part 607 "Governmentwide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the SGC executes this Agreement.

### **1. LOBBYING**

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying" in accordance with its instructions.

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file or amend 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.<sup>16</sup>

### **2. ADDITIONAL LOBBYING REPRESENTATION**

Applicant organizations which are described in section 501(c)(4) of the Internal Revenue Code of 1986 and engage in lobbying activities after December 31, 1995, are not eligible for the receipt of Federal funds constituting an award, grant, or loan.

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<sup>16</sup> Please note that although 31 USC § 1352 states "a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure," 10 CFR Appendix A to Part 601 states "Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$20,134 and not more than \$201,340 for each such failure."

As set forth in section 3 of the Lobbying Disclosure Act of 1995 as amended, (2 U.S.C. 1602), lobbying activities are defined broadly to include, among other things, contacts on behalf of an organization with specified employees of the Executive Branch and Congress with regard to Federal legislative, regulatory, and program administrative matters.

Check the appropriate block:

**The undersigned is an organization described in section 501(c)(4) of the Internal Revenue Code of 1986?**

\_\_\_\_\_ **Yes**

\_\_\_\_\_ **No**

If you checked "Yes" above, the undersigned represents that after December 31, 1995 it has not engaged in any lobbying activities as defined in the Lobbying Disclosure Act of 1995, as amended.

### **3. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

(1) The undersigned certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery; falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

### **4. DRUG-FREE WORKPLACE**

This certification is required by the Drug-Free Workplace Act of 1988 (Pub.L. 100-690, Title V, Subtitle D) and is implemented through additions to the Debarment and Suspension regulations, published in the Federal Register on January 31, 1989, and May 25, 1990.

#### ***ALTERNATE I (ETITIES OTHER THAN INDIVIDUALS)***

(1) The undersigned certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture,

distribution, dispensing, possession, or use of a controlled substance is prohibited in the entity's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about:

- (1) The dangers of drug abuse in the workplace;
- (2) The entity's policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
- (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the Agreement be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the Agreement, the employee will:

- (1) Abide by the terms of the statement; and
- (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace not later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within ten calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every officer or other designee on whose activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected agreement;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

- (1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
- (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a),(b),(c),(d),(e), and (f).

(2) The entity may insert in the space provided below the site(s) for the performance of work done in connection with the specific agreement:

Place of Performance: (Street address, city, county, state, zip code):

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\_\_\_\_\_ Check if there are workplaces on file that are not identified here.

**ALTERNATE II (INDIVIDUALS)**

(1) The individual certifies that, as a condition of the Agreement, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the Agreement.

(2) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any Agreement activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected agreement.

**5. SIGNATURE**

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

Name of Applicant: \_\_\_\_\_

Printed Name and Title of Authorized Representative: \_\_\_\_\_

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SIGNATURE

DATE

**EXHIBIT E-3 – FORM 2, DISCLOSURE OF LOBBYING ACTIVITIES**

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352 (See reverse for public burden disclosure)

<b>1. Type of Federal Action:</b> a. contract _____ b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	<b>2. Status of Federal Action:</b> a. bid/offer/application _____ b. initial award c. post-award	<b>3. Report Type:</b> a. initial filing _____ b. material change
<b>4. Name and Address of Reporting Entity:</b> _____ Prime _____ Subawardee Tier _____, if Known:   <b>Congressional District, if known:</b>		<b>5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:</b>     <b>Congressional District, if known:</b>
<b>6. Federal Department/Agency:</b>	<b>7. Federal Program Name/Description:</b>  CFDA Number, if applicable: _____	
<b>7. Federal Action Number, if known:</b>	<b>9. Award Amount, if known:</b>  \$	
<b>10. a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI):</b>	<b>b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):</b>	
<b>11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.</b>	<b>Signature:</b> _____  <b>Print Name:</b> _____  <b>Title:</b> _____  <b>Telephone No.:</b> _____ <b>Date:</b> _____	
<b>Federal Use Only</b>	<b>Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)</b>	



## INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.  
  
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

## EXHIBIT E – ATTACHMENT E-4, SEP ARRA REQUIREMENTS

Agreement DE-EE0008283 between DOE and the CEC states that the Energy Commission “must include these special terms and conditions in any subaward.”<sup>17</sup> The CEC flowed down these requirements to SGC, which in turn must also flow them down in this Agreement.

These “SEP ARRA Requirements” use the term “Recipient” and define it on page 2 as “any entity that receives Recovery Act funds directly from the Federal government (including Recovery Act funds received through grant, loan, or contract) other than an individual and includes a State that receives Recovery Act Funds.”

Contractor and any lower-tiered entity do not meet the definition of a Recipient because they are not receiving ARRA funds directly from the federal government. However, the CEC and now SGC must flow down these requirements, including Recipient requirements, to Contractor and require the same in any lower-tier subawards. For ease of not having to change the word “Recipient” in these “SEP ARRA Requirements,” Contractor agrees to comply with all of these requirements, including those applicable to a “Recipient” except for the following:<sup>18</sup>

- 1) Special Provision J, “Availability of Funds.”
- 2) Special Provision K, “Additional Funding Distribution and Assurance of Appropriate Use of Funds.”

### Preamble

The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act) was enacted to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive State and local tax increases. Recipients shall use grant funds in a manner that maximizes job creation and economic benefit.

The Recipient shall comply with all terms and conditions in the Recovery Act relating generally to governance, accountability, transparency, data collection and resources as specified in Act itself and as discussed below.

Recipients should begin planning activities for their first tier subrecipients, including obtaining a DUNS number (or updating the existing DUNS record), and registering with the Central Contractor Registration (CCR).

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting

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<sup>17</sup> In DE-EE0008283, see Appendix A, Special Provision A, p. 2.

<sup>18</sup> Although Appendix A requires the CEC and now SGC to include these terms in all subawards, not all of the provisions actually apply to all subawards. Thus, the CEC and SGC are complying by including the requirements, but exempting Contractor and lower-tiered subawards from the two provisions that do not apply to them.

requirements of the Recovery Act and related guidance. For projects funded by sources other than the Recovery Act, Contractors must keep separate records for Recovery Act funds and to ensure those records comply with the requirements of the Act.

The Government has not fully developed the implementing instructions of the Recovery Act, particularly concerning specific procedural requirements for the new reporting requirements. The Recipient will be provided these details as they become available. The Recipient must comply with all requirements of the Act. If the recipient believes there is any inconsistency between ARRA requirements and current award terms and conditions, the issues will be referred to the Contracting Officer for reconciliation.

#### Definitions

For purposes of this term, Covered Funds means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. Covered Funds will have special accounting codes and will be identified as Recovery Act funds in the grant, cooperative agreement or TIA and/or modification using Recovery Act funds. Covered Funds must be reimbursed by September 30, 2015.

Non-Federal employer means any employer with respect to covered funds -- the contractor, subcontractor, grantee, or recipient, as the case may be, if the contractor, subcontractor, grantee, or recipient is an employer; and any professional membership organization, certification of other professional body, any agent or licensee of the Federal government, or any person acting directly or indirectly in the interest of an employer receiving covered funds; or with respect to covered funds received by a State or local government, the State or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the State or local government; and does not mean any department, agency, or other entity of the federal government.

Recipient means any entity that receives Recovery Act funds directly from the Federal government (including Recovery Act funds received through grant, loan, or contract) other than an individual and includes a State that receives Recovery Act Funds.

#### Special Provisions

##### A. Flow Down Requirement

Recipients must include these special terms and conditions in any subaward.

##### B. Segregation of Costs

Recipients must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects.

##### C. Prohibition on Use of Funds

None of the funds provided under this agreement derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be used by any State or local government, or any

private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool. [Please see Exhibit B, part II. 1. C. for additional information about this requirement.]

#### D. Access to Records

With respect to each financial assistance agreement awarded utilizing at least some of the funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized --

- (1) to examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract that pertain to, and involve transactions that relate to, the subcontract, subgrant, grant, or subgrant; and
- (2) to interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.

#### E. Publication

An application may contain technical data and other data, including trade secrets and/or privileged or confidential information, which the applicant does not want disclosed to the public or used by the Government for any purpose other than the application. To protect such data, the applicant should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application with the following Notice as well as referring to the Notice on each page to which the Notice applies:

##### Notice of Restriction on Disclosure and Use of Data

The data contained in pages ---- of this application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE shall have the right to use or disclose the data here to the extent provided in the award. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source, including the applicant.

Information about this agreement will be published on the Internet and linked to the website [www.recovery.gov](http://www.recovery.gov), maintained by the Accountability and Transparency Board. The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under sections 552 and 552a of title 5, United States Code.

#### F. Protecting State and Local Government and Contractor Whistleblowers.

The requirements of Section 1553 of the Act are summarized below. They include, but are not limited to:

**Prohibition on Reprisals:** An employee of any non-Federal employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a

disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives information that the employee believes is evidence of:

- gross mismanagement of an agency contract or grant relating to covered funds;
- a gross waste of covered funds;
- a substantial and specific danger to public health or safety related to the implementation or use of covered funds;
- an abuse of authority related to the implementation or use of covered funds; or
- as violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

Agency Action: Not later than 30 days after receiving an inspector general report of an alleged reprisal, the head of the agency shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the employee to a prohibited reprisal. The agency shall either issue an order denying relief in whole or in part or shall take one or more of the following actions:

- Order the employer to take affirmative action to abate the reprisal.
- Order the employer to reinstate the person to the position that the person held before the reprisal, together with compensation including back pay, compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.
- Order the employer to pay the employee an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the employee for or in connection with, bringing the complaint regarding the reprisal, as determined by the head of a court of competent jurisdiction.

Nonenforceability of Certain Provisions Waiving Rights and remedies or Requiring Arbitration: Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

Requirement to Post Notice of Rights and Remedies: Any employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall post notice of the rights and remedies as required therein. (Refer to section 1553 of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, [www.Recovery.gov](http://www.Recovery.gov), for specific requirements of this section and prescribed language for the notices.).

G. Request for Reimbursement  
RESERVED

H. False Claims Act

Recipient and sub-recipients shall promptly refer to the [SGC, CEC, and] DOE or other appropriate Inspector General any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving those funds.

I. Information in Support of Recovery Act Reporting

Recipient may be required to submit backup documentation for expenditures of funds under the Recovery Act including such items as timecards and invoices. Recipient shall provide copies of backup documentation at the request of the Contracting Officer or designee.

J. Availability of Funds [Not Applicable]

Funds appropriated under the Recovery Act and obligated to this award are available for reimbursement of costs until September 30, 2015.

K. Additional Funding Distribution and Assurance of Appropriate Use of Funds [Not Applicable]

Certification by Governor -- Not later than April 3, 2009, for funds provided to any State or agency thereof by the American Reinvestment and Recovery Act of 2009, Pub. L. 111-5, the Governor of the State shall certify that: 1) the state will request and use funds provided by the Act; and 2) the funds will be used to create jobs and promote economic growth.

Acceptance by State Legislature -- If funds provided to any State in any division of the Act are not accepted for use by the Governor, then acceptance by the State legislature, by means of the adoption of a concurrent resolution, shall be sufficient to provide funding to such State.

Distribution -- After adoption of a State legislature's concurrent resolution, funding to the State will be for distribution to local governments, councils of government, public entities, and public-private entities within the State either by formula or at the State's discretion.

L. Certifications

With respect to funds made available to State or local governments for infrastructure investments under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, the Governor, mayor, or other chief executive, as appropriate, certified by acceptance of this award that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. Recipient shall provide an additional certification that includes a description of the investment, the estimated total cost, and the amount of covered funds to be used for posting on the Internet. A State or local agency may not receive infrastructure investment funding from funds made available by the Act unless this certification is made and posted.

**REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS (COVERED UNDER INTERNATIONAL AGREEMENTS)--SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

(a) Definitions. As used in this award term and condition--

#### Designated country --

- (1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Chinese Taipei (Taiwan), Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom);
- (2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore);
- (3) A United States-European Communities Exchange of Letters (May 15, 1995) country: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom; or
- (4) An Agreement between Canada and the United States of America on Government Procurement country (Canada).

#### Designated country iron, steel, and/or manufactured goods

- (1) Is wholly the growth, product, or manufacture of a designated country; or
- (2) In the case of a manufactured good that consist in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different manufactured good distinct from the materials from which it was transformed.

#### Domestic iron, steel, and/or manufactured good

- (1) Is wholly the growth, product, or manufacture of the United States; or
- (2) In the case of a manufactured good that consists in whole or in part of materials from another country, has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed. There is no requirement with regard to the origin of components or subcomponents in manufactured goods or products, as long as the manufacture of the goods occurs in the United States.

Foreign iron, steel, and/or manufactured good means iron, steel and/or manufactured good that is not domestic or designated country iron, steel, and/or manufactured good.

Manufactured good means a good brought to the construction site for incorporation into the building or work that has been

- (1) Processed into a specific form and shape; or
- (2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

Public building and public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels,

sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) Iron, steel, and manufactured goods.

(1) The award term and condition described in this section implements-

- (i) Section 1605(a) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) (Recovery Act), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States; and
- (ii) Section 1605(d), which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of section 1605 of the Recovery Act do not apply to designated country iron, steel, and/or manufactured goods. The Buy American requirement in section 1605 shall not be applied where the iron, steel or manufactured goods used in the project are from a Party to an international agreement that obligates the recipient to treat the goods and services of that Party the same as domestic goods and services. As of January 1, 2010, this obligation shall only apply to projects with an estimated value of \$7,804,000 or more.

(2) The recipient shall use only domestic or designated country iron, steel, and manufactured goods in performing the work funded in whole or part with this award, except as provided in paragraphs (b)(3) and (b)(4) of this section.

(3) The requirement in paragraph (b)(2) of this section does not apply to the iron, steel, and manufactured goods listed by the Federal Government as follows:

none

(4) The award official may add other iron, steel, and manufactured goods to the list in paragraph (b)(3) of this section if the Federal Government determines that--

- (i) The cost of domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, and/or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the overall cost of the project by more than 25 percent;
- (ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or



(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act.

(1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(4) of this section shall include adequate information for Federal Government evaluation of the request, including--

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost;

(E) Time of delivery or availability;

(F) Location of the project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(4) of this section.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(iii) The cost of iron, steel, or manufactured goods shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other appropriate actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods.. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or

manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds, as appropriate, by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods other than designated country iron, steel, and/or manufactured goods is noncompliant with the applicable Act.

(d) Data. To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the applicant shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Items Cost Comparison

**Table 7, Foreign and Domestic Items Cost Comparison**

Description	Unit of measure	Quantity	Cost (dollars)*
Foreign steel, iron, or manufactured good Item 1:	_____	_____	_____
Domestic steel, iron, or manufactured good Item 2:	_____	_____	_____
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____

[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[\*Include all delivery costs to the construction site.]

**WAGE RATE REQUIREMENTS UNDER SECTION 1606 OF THE RECOVERY ACT**

(a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

(b) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

## **RECOVERY ACT TRANSACTIONS LISTED IN SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS AND RECIPIENT RESPONSIBILITIES FOR INFORMING**

### **SUBRECIPIENTS**

(a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111--5) (Recovery Act) as required by Congress and in accordance with 2 CFR 215.21 "Uniform Administrative Requirements for Grants and Agreements" and OMB Circular A-102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds. OMB Circular A--102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A--133, "Audits of States, Local Governments, and Non-Profit Organizations," recipients agree to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF--SAC) required by OMB Circular A--133. OMB Circular A--133 is available at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF--SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF--SAC.

(c) Recipients agree to separately identify to each subrecipient, and document at the time of subaward and at the time of disbursement of funds, the Federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.

(d) Recipients agree to require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the Federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

### **HISTORIC PRESERVATION**

Prior to the expenditure of Federal funds to alter any structure or site, the Recipient is required to comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA), consistent with DOE's 2009 letter of delegation of authority regarding the NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. In order to fulfill the requirements of Section 106, the recipient must contact the State Historic Preservation Officer (SHPO), and, if applicable, the Tribal Historic Preservation Officer (THPO), to coordinate the Section 106 review outlined in 36 CFR Part 800. SHPO contact information is available at the following link:

<http://www.ncshpo.org/find/index.htm>. THPO contact information is available at the following link:

<http://www.nathpo.org/map.html>.

Section 110(k) of the NHPA applies to DOE funded activities. Recipients shall avoid taking any action that results in an adverse effect to historic properties pending compliance with Section 106.

Recipients should be aware that the DOE Contracting Officer will consider the recipient in compliance with Section 106 of the NHPA only after the Recipient has submitted adequate background documentation to the SHPO/THPO for its review, and the SHPO/THPO has provided written concurrence to the Recipient that it does not object to its Section 106 finding or determination. Recipient shall provide a copy of this concurrence to the Contracting Officer.

## **DAVIS BACON ACT AND CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

**Definitions:** For purposes of this article, Davis Bacon Act and Contract Work Hours and Safety Standards Act, the following definitions are applicable:

- (1) “Award” means any grant, cooperative agreement or technology investment agreement made with Recovery Act funds by the Department of Energy (DOE) to a Recipient. Such Award must require compliance with the labor standards clauses and wage rate requirements of the DavisBacon Act (DBA) for work performed by all laborers and mechanics employed by Recipients (other than a unit of State or local government whose own employees perform the construction) Subrecipients, Contractors and subcontractors.
- (2) “Contractor” means an entity that enters into a Contract. For purposes of these clauses, Contractor shall include (as applicable) prime contractors, Recipients, Subrecipients, and Recipients’ or Subrecipients’ contractors, subcontractors, and lower-tier subcontractors. “Contractor” does not mean a unit of State or local government where construction is performed by its own employees.”
- (3) “Contract” means a contract executed by a Recipient, Subrecipient, prime contractor or any tier subcontractor for construction, alteration, or repair. It may also mean (as applicable) (i) financial assistance instruments such as grants, cooperative agreements, technology investment agreements, and loans; and, (ii) Sub awards, contracts and subcontracts issued under financial assistance agreements. “Contract” does not mean a financial assistance instrument with a unit of State or local government where construction is performed by its own employees.
- (4) “Contracting Officer” means the DOE official authorized to execute an Award on behalf of DOE and who is responsible for the business management and non-program aspects of the financial assistance process.

(5) "Recipient" means any entity other than an individual that receives an Award of Federal funds in the form of a grant, cooperative agreement or technology investment agreement directly from the Federal Government and is financially accountable for the use of any DOE funds or property, and is legally responsible for carrying out the terms and conditions of the program and Award.

(6) "Subaward" means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a Recipient to an eligible Subrecipient or by a Subrecipient to a lower- tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include the Recipient's procurement of goods and services to carry out the program nor does it include any form of assistance which is excluded from the definition of "Award" above.

(7) "Subrecipient" means a non-Federal entity that expends Federal funds received from a Recipient to carry out a Federal program, but does not include an individual that is a beneficiary of such a program.

#### **(A) DAVIS BACON ACT**

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3) ), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

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

classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

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

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

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

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

(2) Withholding. The Department of Energy or the 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 the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to DavisBacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the Contract, the Department of Energy, Recipient, or Subrecipient, may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or

program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

- (ii) (A) The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the Department of Energy if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit the payrolls to the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner, as the case may be, for transmission to the Department of Energy. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Department of Energy if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit them to the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner, as the case may be, for transmission to the Department of Energy, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner).

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

- (1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of



Regulations, 29 CFR part 5, and that such information is correct and complete;

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

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

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

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 3729 of title 31 of the United States Code.

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

(4) Apprentices and trainees--

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

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

- (ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not

less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.
- (5) Compliance with Copeland Act requirements. The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.
- (6) Contracts and Subcontracts. The Recipient, Subrecipient, the Recipient's and Subrecipient's contractors and subcontractor shall insert in any Contracts the clauses contained herein in(a)(1) through (10) and such other clauses as the Department of Energy may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Recipient shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of the paragraphs in this clause.
- (7) Contract termination: debarment. A breach of the Contract clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- (8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.
- (9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Recipient, Subrecipient, the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
- (10) Certification of eligibility.
  - (i) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the DavisBacon Act or 29 CFR 5.12(a)(1).
  - (ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

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

**(b) Contract Work Hours and Safety Standards Act.** As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(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 \$10 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 Department of Energy or the 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 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) Contracts and Subcontracts. The Recipient, Subrecipient, and Recipient's and Subrecipient's contractor or subcontractor shall insert in any Contracts, 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 Recipient 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.

(5) 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. The records to be maintained under this paragraph shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Energy and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

## RECIPIENT FUNCTIONS


(1) This delegation of Department of Energy (DOE) functions to the Recipient applies only to DBA effort performed by Subrecipients and Contractors under this award. Those functions are not delegated to the Recipient for any DBA effort performed by employees of the Recipient under this award. On behalf of the Department of Energy (DOE), Recipient shall perform the following functions:

- (a) Obtain, maintain, and monitor all DBA certified payroll records submitted by the Subrecipients and Contractors at any tier under this Award;
- (b) Review all DBA certified payroll records for compliance with DBA requirements, including applicable DOL wage determinations;
- (c) Notify DOE of any non-compliance with DBA requirements by Subrecipients or Contractors at any tier, including any non-compliances identified as the result of reviews performed pursuant to paragraph (b) above;
- (d) Address any Subrecipient and any Contractor DBA non-compliance issues; if DBA noncompliance issues cannot be resolved in a timely manner, forward complaints, summary of investigations and all relevant information to DOE;
- (e) Provide DOE with detailed information regarding the resolution of any DBA non-compliance issues;
- (f) Perform services in support of DOE investigations of complaints filed regarding noncompliance by Subrecipients and Contractors with DBA requirements;
- (g) Perform audit services as necessary to ensure compliance by Subrecipients and Contractors with DBA requirements and as requested by the Contracting Officer; and
- (h) Provide copies of all records upon request by DOE or DOL in a timely manner.

(2) All records maintained on behalf of the DOE in accordance with paragraph (1) above are federal government (DOE) owned records. DOE or an authorized representative shall be granted access to the records at all times.

(3) In the event of, and in response to any Freedom of Information Act, 5 U.S.C. 552, requests submitted to DOE, Recipient shall provide such records to DOE within 5 business days of receipt of a request from DOE.

# EXHIBIT E-5, U.S. DOE: OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY - ENVIRONMENTAL QUESTIONNAIRE

PMC-ND (1.08.09.13)	<b>U.S. DEPARTMENT OF ENERGY</b> <b>OFFICE OF ENERGY EFFICIENCY AND RENEWABLE ENERGY</b> <b>NEPA DETERMINATION</b>	
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**RECIPIENT:** State Energy Program-Weatherization and intergovernmental Programs Office (WIPO)  
**STATE:** CO

**PROJECT TITLE:** State Energy Program - Program Year 2018 - Formula Awards - Administrative and Legal Requirements Document (ALRD)

**Funding Opportunity Announcement Number:** SEP-ALRD-2018

**Procurement Instrument Number**

**NEPA Control Number:** GFO-SEP-ALRD-2018

**CID Number**

**Based on my review of the information concerning the proposed action, as NEPA Compliance Officer (authorized under DOE Order 451.1A), I have made the following determination:**

**CX, EA, EIS APPENDIX AND NUMBER:**

**Description:**

<b>A9 Information gathering, analysis, and dissemination</b>	Information gathering (including, but not limited to, literature surveys, inventories, site visits, and audits), data analysis (including, but not limited to, computer modeling), document preparation (including, but not limited to, conceptual design, feasibility studies, and analytical energy supply and demand studies), and information dissemination (including, but not limited to, document publication and distribution, and classroom training and informational programs), but not including site characterization or environmental monitoring. (See also B3.1 of appendix B to this subpart.)
<b>A11 Technical advice and assistance to organizations</b>	Technical advice and planning assistance to international, national, state, and local organizations.
<b>B5.1 Actions to conserve energy or water</b>	(a) Actions to conserve energy or water, demonstrate potential energy or water conservation, and promote energy efficiency that would not have the potential to cause significant changes in the indoor or outdoor concentrations of potentially harmful substances. These actions may involve financial and technical assistance to individuals (such as builders, owners, consultants, manufacturers, and designers), organizations (such as utilities), and governments (such as state, local, and tribal). Covered actions include, but are not limited to weatherization (such as insulation and replacing windows and doors); programmed lowering of thermostat settings; placement of timers on hot water heaters; installation or replacement of energy efficient lighting, low-flow plumbing fixtures (such as faucets, toilets, and showerheads), heating, ventilation, and air conditioning systems, and appliances; installation of drip-irrigation systems; improvements in generator efficiency and appliance efficiency ratings; efficiency improvements for vehicles and transportation (such as fleet changeout); power storage (such as flywheels and batteries, generally less than 10 megawatt equivalent); transportation management systems (such as traffic signal control systems, car navigation, speed cameras, and automatic plate number recognition); development of energy-efficient manufacturing, industrial, or building practices; and small-scale energy efficiency and conservation research and development and small-scale pilot projects. Covered actions include building renovations or new structures, provided that they occur in a previously disturbed or developed area. Covered actions could involve commercial, residential, agricultural, academic, institutional, or industrial sectors.

	<p>Covered actions do not include rulemakings, standard-settings, or proposed DOE legislation, except for those actions listed in B5.1(b) of this appendix.</p> <p>(b) Covered actions include rulemakings that establish energy conservation standards for consumer products and industrial equipment, provided that the actions would not:</p> <ol style="list-style-type: none"> <li>(1) have the potential to cause a significant change in manufacturing infrastructure (such as construction of new manufacturing plants with considerable associated ground disturbance);</li> <li>(2) involve significant unresolved conflicts concerning alternative uses of available resources (such as rare or limited raw materials);</li> <li>(3) have the potential to result in a significant increase in the disposal of materials posing significant risks to human health and the environment (such as RCRA hazardous wastes); or</li> <li>(4) have the potential to cause a significant increase in energy consumption in a state or region.</li> </ol>
	<p>Conversion to, replacement of, or modification of combined heat and power or cogeneration systems (the sequential or simultaneous production of multiple forms of energy, such as thermal and electrical energy, in a single integrated system) at existing facilities, provided that the conversion, replacement, or modification would not have the potential to cause a significant increase in the quantity or rate of air emissions and would not have the potential to cause significant impacts to water resources.</p>
	<p>The installation, modification, operation, and removal of commercially available solar photovoltaic systems located on a building or other structure (such as rooftop, parking lot or facility, and mounted to signage, lighting, gates, or fences), or if located on land, generally comprising less than 10 acres within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.</p>
	<p>The installation, modification, operation, and removal of commercially available small scale solar thermal systems (including, but not limited to, solar hot water systems) located on or contiguous to a building, and if located on land, generally comprising less than 10 acres within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.</p>
	<p>The installation, modification, operation, and removal of a small number (generally not more than 2) of commercially available wind turbines, with a total height generally less than 200 feet (measured from the ground to the maximum height of blade rotation) that (1) are located within a previously disturbed or developed area; (2) are located more than 10 nautical miles (about 11.5 miles) from an airport or aviation navigation aid; (3) are located more than 1.5 nautical miles (about 1.7 miles) from National Weather Service or Federal Aviation Administration Doppler weather radar; (4) would not have the potential to cause significant impacts on bird or bat populations; and (5) are sited or designed such that the project would not have the potential to cause significant impacts to persons (such as from shadow flicker and other visual effects, and noise). Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices. Covered actions include only those related to wind turbines to be installed on land.</p>
	<p>The installation, modification, operation, and removal of commercially available small scale ground source heat pumps to support operations in single facilities (such as a school or community center) or contiguous facilities (such as an office complex) (1) only where (a) major associated activities (such as drilling and discharge) are regulated, and (b) appropriate leakage and contaminant control measures would be in place (including for cross-contamination between aquifers); (2) that would not have the potential to cause significant changes in subsurface temperature; and (3) would be located within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.</p>

<p><b>B5.20</b> <b>Biomass power plants</b></p>	<p>The installation, modification, operation, and removal of small-scale biomass power plants (generally less than 10 megawatts), using commercially available technology (1) intended primarily to support operations in single facilities (such as a school and community center) or contiguous facilities (such as an office complex); (2) that would not affect the air quality attainment status of the area and would not have the potential to cause a significant increase in the quantity or rate of air emissions and would not have the potential to cause significant impacts to water resources; and (3) would be located within a previously disturbed or developed area. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.</p>
<p><b>B5.22</b> <b>Alternative fuel vehicle fueling stations</b></p>	<p>The installation, modification, operation, and removal of alternative fuel vehicle fueling stations (such as for compressed natural gas, hydrogen, ethanol and other commercially available biofuels) on the site of a current or former fueling station, or within a previously disturbed or developed area within the boundaries of a facility managed by the owners of a vehicle fleet. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.</p>
<p><b>B5.23</b> <b>Electric vehicle charging stations</b></p>	<p>The installation, modification, operation, and removal of alternative fuel vehicle fueling stations (such as for compressed natural gas, hydrogen, ethanol and other commercially available biofuels) on the site of a current or former fueling station, or within a previously disturbed or developed area within the boundaries of a facility managed by the owners of a vehicle fleet. Covered actions would be in accordance with applicable requirements (such as local land use and zoning requirements) in the proposed project area and would incorporate appropriate control technologies and best management practices.</p>
<p><b>B2.2</b> <b>Building and equipment instrumentation</b></p>	<p>Installation of, or improvements to, building and equipment instrumentation (including, but not limited to, remote control panels, remote monitoring capability, alarm and surveillance systems, control systems to provide automatic shutdown, fire detection and protection systems, water consumption monitors and flow control systems, announcement and emergency warning systems, criticality and radiation monitors and alarms, and safeguards and security equipment).</p>

**Rationale for determination:**

The U.S. Department of Energy (DOE) administers the annually appropriated State Energy Program (SEP) as authorized by Title III, Energy Policy and Conservation Act, as amended. All grant awards made under this program shall comply with applicable laws and procedures including regulations contained in 10 CFR Part 420 and other procedures applicable to this regulation as DOE may prescribe for the administration of financial assistance. The goal of the SEP is to provide leadership to maximize the benefits of energy efficiency and renewable energy through communications and outreach activities, technology deployment, and accessing new partnerships and resources.

Under the SEP Formula Awards as outlined in the Administrative Legal Requirements Document, Program Year 2018, (SEP-ALRD-2018), DOE would provide approximately \$39M in formula-based awards to all 50 States, Territories, and the District of Columbia (hereinafter “States”). Estimated individual State allocations are included in the administrative legal requirements document. As matching funds to each award, States must contribute an amount no less than 20% of their total federal allocation; for the Territories the cost match requirement is waived.

DOE has determined the following bounded categories of activities that are funded by SEP-ALRD-2018 are categorically excluded from further NEPA review, absent extraordinary circumstances, cumulative impacts, or connected actions that may lead to significant impacts on the environment, or any inconsistency with “integral elements” (as contained in 10 C.F.R. Part 1021, Appendix B) as they relate to a particular project:

The Bounded Categories below only apply to projects funded under SEP-ALRD 2018. Bounded Categories:

1. Administrative activities associated with management of the designated State Energy Office and



management of programs and strategies to encourage energy efficiency and renewable energy, including energy audits.

2. Development and implementation of programs and strategies to encourage energy efficiency and renewable energy.
3. Development and implementation of training programs.
4. Development and implementation of building codes and inspection services, and associated training and enforcement of such codes in order to support code compliance and promote building energy efficiency.
5. Implementing financial incentive programs such as rebates and energy savings performance contracts for existing facilities or for energy efficient equipment, provided that the incentives are not so large that they would be deemed to be grants that create projects that would not otherwise exist. (For example, giving a wind farm that cost \$100 million a sum of \$50 million and calling it a rebate would not fall within this Bounded Category).
6. Funding energy efficiency upgrades, provided that projects adhere to the requirements of the respective state's programmatic agreement with its SHPO, and are limited to:
  - a. installation of insulation;
  - b. installation of energy efficient lighting;
  - c. HVAC upgrades (to existing systems);
  - d. weather sealing;
  - e. purchase and installation of ENERGY STAR appliances (includes, but not limited to, furnaces and air conditioners);
  - f. replacement of windows and doors; and
  - g. high efficiency shower/faucet upgrade.
7. Development, implementation, and installation of onsite renewable energy technology from renewable resources, provided that projects are installed in or on an existing structure or within the boundaries of a facility and limited to:
  - a. Solar Electricity/Photovoltaic - appropriately sized system or unit not to exceed 60 kW
  - b. Wind Turbine - 20 kW or smaller.
  - c. Solar Thermal (including solar thermal hot water) - system must be 20 kW or smaller.
  - d. Ground Source Heat Pump - 5.5 tons of capacity or smaller, horizontal/vertical, ground, closed-loop system.
  - e. Combined Heat and Power System - boilers sized appropriately for the buildings in which they are located.
  - f. Biomass Thermal - 3 MMBTUs per hour or smaller system with appropriate Best Available Control Technologies (BACT) installed and operated.
8. Development, implementation and installation of energy efficient or
9. renewable energy-powered systems (limited to lighting, cooling, heat) installed in existing buildings and facilities.
10. Installation of fueling pumps and systems for fuels such as compressed natural gas, hydrogen, ethanol and other commercially available biofuels, (but not storage tanks) installed on the site of a current fueling station.
11. Purchase of alternative fuel vehicles.
12. Installation of electric vehicle charging stations installed on existing facilities.

DOE is required to consider floodplain management and wetland protection as part of its environmental review process (Subpart B of 10 CFR 1022). As part of this required review, DOE determined

requirements set forth in Subpart B of 10 CFR 1022 are not applicable to the activities described in Bounded Categories 1-6g above that would occur in a floodplain or wetland because the activities would not have short-term or long-term adverse impacts to the floodplain or wetland. These activities are administrative or minor modifications of existing facilities to improve environmental conditions. All projects (except those under Bounded Categories 1-6g) must document that project activities do not occur in a floodplain or wetland. If the project activities do occur in a floodplain or wetland (except those under Bounded Categories 1-6g), those project activities are subject to additional NEPA review and approval by DOE.

Some Bounded Categories are more restrictive than the Categorical Exclusion. The restrictions must be followed for the Bounded Category to be applicable.

## **NEPA PROVISION**

DOE has made a final NEPA determination for this award.

Insert the following language in the award:

If the Recipient intends to make changes to the scope or objective of this project, the Recipient is required to contact the Project Officer, identified in Block 15 of the Assistance Agreement before proceeding. The Recipient must receive notification of approval from the DOE Contracting Officer prior to commencing with work beyond that currently approved. If the Recipient moves forward with activities that are not authorized for Federal funding by the DOE Contracting Officer in advance of a final NEPA decision, the Recipient is doing so at risk of not receiving Federal funding and such costs may not be recognized as allowable cost share.

Insert the following language in the award:

You are required to:

The State is responsible for informing DOE of any extraordinary circumstances, cumulative impacts, or connected actions that may lead to significant impacts on the environment, or any inconsistency with the “integral elements” (as contained in 10 C.F.R. Part 1021, Appendix B) as they relate to a particular Project.

States shall adhere to the restrictions of the programmatic agreement with their State Historic Preservation Office (SHPO). Additionally, documentation of the above reviews for NEPA and Section 106, must be available for DOE review at all times.

States must document that project activities do not occur in a floodplain or wetland. If the project activities do occur in a floodplain or wetland, (except those under Bounded Categories 1-6g as listed in the Program Year 2018 SEP Formula Guidance), those project activities are subject to additional NEPA review and approval by DOE.

For activities/projects requiring additional NEPA review, States must complete the environmental questionnaire (<https://www.eere-pmc.energy.gov/NEPA.aspx>).

Some Bounded Categories are more restrictive than the Categorical Exclusion. The restrictions must be followed for the Bounded Category to be applicable.

Any work proposed to be conducted at a DOE laboratory may be subject to additional NEPA review by the cognizant DOE NEPA Compliance Officer for the specific DOE laboratory prior to initiating such work. Further, any work conducted at a DOE laboratory must meet the laboratory’s health and safety requirements.

This NEPA determination applies only to projects funded by SEP-ALRD-2018. Contact your Project Officer for the NEPA determination on projects funded under previous ALRD’s.

**Note to Specialist:**

**Weatherization & Intergovernmental Programs Office - SEP**

This NEPA Determination requires a tailored NEPA provision.

NEPA review completed by Diana Heyder, 01/30/18

**SIGNATURE OF THIS MEMORANDUM CONSTITUTES A RECORD OF THIS DECISION.**

NEPA Compliance Officer Signature:  Date: 2/1/2018  
NEPA Compliance Officer

**FIELD OFFICE MANAGER DETERMINATION**

Field Office Manager review required

**NCO REQUESTS THE FIELD OFFICE MANAGER REVIEW FOR THE FOLLOWING REASON:**

- Proposed action fits within a categorical exclusion but involves a high profile or controversial issue that warrants Field Office Manager's attention.
- Proposed action falls within an EA or EIS category and therefore requires Field Office Manager's review and determination.

**BASED ON MY REVIEW I CONCUR WITH THE DETERMINATION OF THE NCO :**

Field Office Manager's Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Field Office Manager

# Appendix G – Payee Data Record

STATE OF CALIFORNIA-DEPARTMENT OF FINANCE

## PAYEE DATA RECORD

(Required when receiving payment from the State of California in lieu of IRS W-9 or W-7)

STD 204 (Rev. 10/2019)

<b>1</b>	<p><b>INSTRUCTIONS:</b> Type or print the information. Complete all information on this form. Sign, date, and return to the state agency (department/office) address shown in Box 6. Prompt return of this <b>fully completed</b> form will prevent delays when processing payments.</p> <p>Information provided in this form will be used by California state agencies to prepare Information Returns (Form 1099). See next page for more information and Privacy Statement.</p> <p><b>NOTE:</b> Governmental entities, i.e. federal, state, and local (including school districts), are not required to submit this form.</p>											
<b>2</b>	<p><b>BUSINESS NAME</b> (As shown on your income tax return)</p> <p>_____</p> <p><b>SOLE PROPRIETOR, SINGLE MEMBER LLC, INDIVIDUAL</b> (Name as shown on SSN or ITIN) Last, First, MI <b>E-MAIL ADDRESS</b></p> <p>_____</p> <p><b>MAILING ADDRESS</b> <b>BUSINESS ADDRESS</b></p> <p>_____</p> <p><b>CITY</b> <b>STATE</b> <b>ZIP CODE</b> <b>CITY</b> <b>STATE</b> <b>ZIP CODE</b></p> <p>_____</p>											
<b>3</b>	<p><b>ENTER FEDERAL EMPLOYER IDENTIFICATION NUMBER (FEIN):</b> _____</p> <p><input type="checkbox"/> <b>PARTNERSHIP</b> <input type="checkbox"/> <b>ESTATE OR TRUST</b></p> <p><b>CORPORATION:</b></p> <p><input type="radio"/> <b>MEDICAL</b> (e.g., dentistry, psychotherapy, chiropractic, etc.)</p> <p><input type="radio"/> <b>LEGAL</b> (e.g., attorney services)</p> <p><input type="radio"/> <b>EXEMPT</b> (nonprofit)</p> <p><input type="radio"/> <b>ALL OTHERS</b></p> <p><b>ENTER SSN OR ITIN:</b> _____</p> <p><input type="checkbox"/> <b>SOLE PROPRIETOR, INDIVIDUAL, OR SINGLE MEMBER LLC (Disregarded Entity)</b></p> <p><small>Social Security Number (SSN) or Individual Taxpayer Identification Number (ITIN) are required by authority of California Revenue and Tax Code sections 10546 and 10561</small></p>					<p><b>NOTE:</b> Payment will not be processed without an accompanying taxpayer identification number.</p>						
<b>4</b>	<p><b>PAYEE RESIDENCY STATUS</b></p> <p><input type="checkbox"/> <b>CALIFORNIA RESIDENT</b> - Qualified to do business in California or maintains a permanent place of business in California.</p> <p><input type="checkbox"/> <b>CALIFORNIA NON RESIDENT</b> (see next page for more information) - Payments to nonresidents for services may be subject to state income tax withholding.</p> <p><input type="radio"/> No services performed in California.</p> <p><input type="radio"/> Copy of Franchise Tax Board waiver of state withholding attached.</p>											
<b>5</b>	<p>I hereby certify under penalty of perjury that the information provided on this document is true and correct. Should my residency status change, I will promptly notify the state agency below.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%;">AUTHORIZED PAYEE REPRESENTATIVE'S NAME (Type or Print)</td> <td style="width: 20%;">TITLE</td> <td style="width: 40%;">TELEPHONE (include area code)</td> </tr> <tr> <td>SIGNATURE</td> <td>DATE</td> <td>E-MAIL ADDRESS</td> </tr> </table>						AUTHORIZED PAYEE REPRESENTATIVE'S NAME (Type or Print)	TITLE	TELEPHONE (include area code)	SIGNATURE	DATE	E-MAIL ADDRESS
AUTHORIZED PAYEE REPRESENTATIVE'S NAME (Type or Print)	TITLE	TELEPHONE (include area code)										
SIGNATURE	DATE	E-MAIL ADDRESS										
<b>6</b>	<p>Please return completed form to:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 40%;">DEPARTMENT/OFFICE</td> <td style="width: 60%;">UNIT/SECTION</td> </tr> <tr> <td>MAILING ADDRESS</td> <td>TELEPHONE (include area code) FAX</td> </tr> <tr> <td>CITY STATE ZIP CODE</td> <td>E-MAIL ADDRESS</td> </tr> </table>						DEPARTMENT/OFFICE	UNIT/SECTION	MAILING ADDRESS	TELEPHONE (include area code) FAX	CITY STATE ZIP CODE	E-MAIL ADDRESS
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MAILING ADDRESS	TELEPHONE (include area code) FAX											
CITY STATE ZIP CODE	E-MAIL ADDRESS											



**PAYEE DATA RECORD**

(Required when receiving payment from the State of California in lieu of IRS W-9 or W-7)

STD 204 (Rev. 10/2019)

<b>1</b>	<p><b>Requirement to Complete the Payee Data Record, STD 204</b></p> <p>A completed Payee Data Record, STD 204 form, is required for all payees (non-governmental entities or individuals) entering into a transaction that may lead to a payment from the state. Each state agency requires a completed, signed, and dated STD 204 on file; therefore, it is possible for you to receive this form from multiple state agencies with which you do business.</p> <p>Payees who do not wish to complete the STD 204 may elect not to do business with the state. If the payee does not complete the STD 204 and the required payee data is not otherwise provided, payment may be reduced for federal and state backup withholding. Amounts reported on Information Returns (Form 1099) are in accordance with the Internal Revenue Code (IRC) and the California Revenue and Taxation Code (R&amp;TC).</p>
<b>2</b>	<p>Enter the payee's legal business name. The name must match the name on the payee's tax return as filed with the federal Internal Revenue Service. Sole proprietorships and single member limited liability companies (LLCs) must also include the owner's full name. An individual must list his/her full name as shown on the SSN or as entered on the W-7 form for ITIN. The mailing address should be the address at which the payee chooses to receive correspondence. The business address is the address of the business' physical location.</p>
<b>3</b>	<p>Check only one box that corresponds to the payee business type. Corporations must check the box that identifies the type of corporation.</p> <p>The State of California requires that all parties entering into business transactions that may lead to payment(s) from the state provide their Taxpayer Identification Number (TIN). The TIN is required by the R&amp;TC sections 18645 and 18661 to facilitate tax compliance enforcement activities and the preparation of Form 1099 and other information returns as required by the IRC section 6109(a) and R&amp;TC section 18662 and its regulations.</p> <p>Payees must provide one of the following TINs on this form: social security number (SSN), individual taxpayer identification number (ITIN), or federal employer identification number (FEIN). The TIN for sole proprietorships, single member LLC (disregarded entities), and individuals is the SSN or ITIN. Only partnerships, estates, trusts, corporations, and LLCs (taxed as partnerships or corporations) will enter their FEIN.</p>
<b>4</b>	<p><b>Are you a California resident or nonresident?</b></p> <p>A corporation will be defined as a "resident" if it has a permanent place of business in California or is qualified through the Secretary of State to do business in California.</p> <p>A partnership is considered a resident partnership if it has a permanent place of business in California. An estate is a resident if the decedent was a California resident at time of death. A trust is a resident if at least one trustee is a California resident.</p> <p>For individuals and sole proprietors, the term "resident" includes every individual who is in California for other than a temporary or transitory purpose and any individual domiciled in California who is absent for a temporary or transitory purpose. Generally, an individual who comes to California for a purpose that will extend over a long or indefinite period will be considered a resident. However, an individual who comes to perform a particular contract of short duration will be considered a nonresident.</p> <p>Payments to all nonresidents may be subject to withholding. Nonresident payees performing services in California or receiving rent, lease, or royalty payments from property (real or personal) located in California will have 7% of their total payments withheld for state income taxes. However, no withholding is required if total payments to the payee are \$1,500 or less for the calendar year.</p> <p>For information on Nonresident Withholding, contact the Franchise Tax Board at the numbers listed below:          Withholding Services and Compliance Section: 1-888-792-4900      E-mail address: <a href="mailto:wscs.gen@ftb.ca.gov">wscs.gen@ftb.ca.gov</a>          For hearing impaired with TDD, call: 1-800-922-6268      Website: <a href="http://www.ftb.ca.gov">www.ftb.ca.gov</a></p>
<b>5</b>	<p>Provide the name, title, email address, signature, and telephone number of the individual completing this form. Provide the date the form was completed.</p>
<b>6</b>	<p>This section must be completed by the state agency requesting the STD 204.</p>

**Privacy Statement**

Section 7(b) of the Privacy Act of 1974 (Public Law 93-579) requires that any federal, state, or local governmental agency, which requests an individual to disclose their social security account number, shall inform that individual whether that disclosure is mandatory or voluntary, by which statutory or other authority such number is solicited, and what uses will be made of it.

It is mandatory to furnish the information requested. Federal law requires that payment for which the requested information is not provided is subject to federal backup withholding and state law imposes noncompliance penalties of up to \$20,000.

You have the right to access records containing your personal information, such as your SSN. To exercise that right, please contact the business services unit or the accounts payable unit of the state agency(ies) with which you transact that business.

All questions should be referred to the requesting state agency listed on the bottom front of this form.

# APPENDIX H: DARFUR CONTRACTING ACT

## Darfur Contracting Act Certification (Public Contract Code section 10478) TO BE INCLUDED IN TECHNICAL PROPOSAL

Pursuant to Public Contract Code section 10478, if a bidder or proposer currently or within the previous three years has had business activities or other operations outside of the United States, it must certify that it is not a “scrutinized” company as defined in Public Contract Code section 10476.

Therefore, to be eligible to submit a bid or proposal, please complete only one of the following three paragraphs (via initials for Paragraph # 1 or Paragraph # 2, or via initials and certification for Paragraph # 3):

1. \_\_\_\_\_ We do not currently have, or we have not had within the previous three years,  
Initials business activities or other operations outside of the United States.

**OR**

2. \_\_\_\_\_ We are a scrutinized company as defined in Public Contract Code section 10476,  
Initials but we have received written permission from the Department of General Services (DGS) to submit a bid or proposal pursuant to Public Contract Code section 10477(b). A copy of the written permission from DGS is included with our bid or proposal.

**OR**

3. \_\_\_\_\_ We currently have, or we have had within the previous three years, business  
Initials activities or other operations outside of the United States, plus certification but we certify below that we are not a scrutinized company below as defined in Public Contract Code section 10476.

**CERTIFICATION For # 3.**

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective proposer/bidder to the clause listed above in # 3. This certification is made under the laws of the State of California.

<i>Proposer/Bidder Firm Name (Printed)</i>	<i>Federal ID Number</i>
<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County and State of</i>

**YOUR PROPOSAL WILL BE DISQUALIFIED UNLESS YOUR PROPOSAL INCLUDES THIS FORM WITH EITHER PARAGRAPH # 1 OR # 2 INITIALED OR PARAGRAPH # 3 INITIALED AND CERTIFIED.**

# APPENDIX I: DVBE FORMS

## CALIFORNIA DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) BID INCENTIVE INSTRUCTIONS

(09/03/09)

**Please read the instructions carefully before you begin.**

AUTHORITY. The Disabled Veteran Business Enterprise (DVBE) Participation Goal Program for State contracts is established in Public Contract Code (PCC), §10115 et seq., Military and Veterans Code (MVC), §999 et seq., and California Code of Regulations (CCR), Title 2, §1896.60 et seq.

Recent legislation has modified the program significantly in that a bidder may no longer demonstrate compliance with program requirements by performing a “good faith effort” (GFE).

**This solicitation does not include a minimum DVBE participation percentage or goal.**

DVBE BID INCENTIVE. A DVBE incentive will be given to bidders who provide DVBE participation. For evaluation purposes only, the State shall apply a DVBE Bid incentive to bids that propose California certified DVBE participation as identified on the Bidder Declaration, GSPD-05-105, (located elsewhere within the solicitation document) and confirmed by the State. The DVBE incentive amount for awards based on low price will vary in conjunction with the percentage of DVBE participation. Unless a table that replaces the one below has been expressly established elsewhere within the solicitation, the following percentages will apply for awards based on low price.

**Table 8, DVBE Incentive**

<b>Confirmed DVBE Participation of:</b>	<b>DVBE Incentive:</b>
5% or Over	5%
4% to 4.99% inclusive	4%
3% to 3.99% inclusive	3%
2% to 2.99% inclusive	2%
1% to 1.99% inclusive	1%

**As applicable: (1) Awards based on low price** - the net bid price of responsive bids will be reduced (for evaluation purposes only) by the amount of DVBE incentive as applied to the lowest responsive net bid price. If the #1 ranked responsive, responsible bid is a California certified small business, the only bidders eligible for the incentive will be California certified small businesses. The incentive adjustment for awards based on low price cannot exceed 5% or \$100,000, whichever is less, of the #1 ranked net bid price. When used in combination with a preference adjustment, the cumulative adjustment amount cannot exceed \$100,000.

**(2) Awards based on highest score** - the solicitation shall include an individual requirement that identifies incentive points for DVBE participation.

**INTRODUCTION.** Bidders must document DVBE participation commitment by completing and submitting a Bidder Declaration, GSPD-05-105, (located elsewhere within the solicitation document). Bids or proposals (hereafter called “bids”) that **fail to submit the required form to confirm the level of DVBE participation will not be eligible to receive the DVBE incentive.**

Information submitted by the intended awardee to claim the DVBE incentive(s) will be verified by the State. If evidence of an alleged violation is found during the verification process, the State shall initiate an investigation, in accordance with the requirements of the PCC §10115, et seq., and MVC §999 et seq., and follow the investigatory procedures required by the 2 CCR §1896.80. Contractors found to be in violation of certain provisions may be subject to loss of certification, penalties and/or contract termination.

**Only State of California, Office of Small Business and DVBE Services (OSDS), certified DVBEs (hereafter called “DVBE”)** who perform a commercially useful function relevant to this solicitation, may be used to qualify for a DVBE incentive(s). The criteria and definition for performing a commercially useful function are contained herein on the page entitled **Resources & Information**. Bidders are to verify each DVBE subcontractor’s certification with OSDS to ensure DVBE eligibility.

At the State’s option prior to award of the contract, a written confirmation from each DVBE subcontractor identified on the Bidder Declaration must be provided. As directed by the State, the written confirmation must be signed by the bidder and/or the DVBE subcontractor(s). The written confirmation may request information that includes but is not limited to the DVBE scope of work, work to be performed by the DVBE, term of intended subcontract with the DVBE, anticipated dates the DVBE will perform required work, rate and conditions of payment, and total amount to be paid to the DVBE. If further verification is necessary, the State will obtain additional information to verify compliance with the above requirements.

**THE DVBE BUSINESS UTILIZATION PLAN (BUP):** DVBE BUPs are a company’s commitment to expend a minimum of 3% of its total statewide contract dollars with DVBEs -- this percentage is based on all of its contracts held in California, not just those with the State. A DVBE BUP does not qualify a firm for a DVBE incentive. Bidders with a BUP, must submit a Bidders Declaration (GSPD-05-105) to confirm the DVBE participation for an element of work on this solicitation in order to claim a DVBE incentive(s).

#### **THE FOLLOWING MAY BE USED TO LOCATE DVBE SUPPLIERS:**

**Awarding Department:** Contact the department’s contracting official named in this solicitation for any DVBE suppliers who may have identified themselves as potential subcontractors, and to obtain suggestions for search criteria to possibly identify DVBE suppliers for the solicitation. You may also contact the department’s SB/DVBE Advocate for assistance.

#### **OTHER STATE AND FEDERAL AGENCIES, AND LOCAL ORGANIZATIONS:**

**STATE:** Access the list of all certified DVBEs by using the Department of General Services, Procurement Division (DGS-PD), online certified firm database at [www.eprocure.dgs.ca.gov](http://www.eprocure.dgs.ca.gov)

To begin your search, click on “SB/DVBE Search.” Search by “Keywords” or “United Nations Standard Products and Services Codes (UNSPSC) that apply to the elements of work you want to subcontract to a DVBE. Check for subcontractor ads that may be placed on the California



State Contracts Register (CSCR) for this solicitation prior to the closing date. You may access the CSCR at: [www.eprocure.dgs.ca.gov](http://www.eprocure.dgs.ca.gov). For questions regarding the online certified firm database and the CSCR, please call the OSDS at (916) 375-4940 or send an email to: [OSDCHelp@dgs.ca.gov](mailto:OSDCHelp@dgs.ca.gov).

**FEDERAL:** Search the U.S. Small Business Administration's (SBA) Central Contractor Registration (CCR) on-line database at [www.ccr.gov/](http://www.ccr.gov/) to identify potential DVBEs and click on the "Dynamic Small Business Search" button. Search options and information are provided on the CCR Dynamic Small Business Search site. First time users should click on the "help" button for detailed instructions.

Remember to verify each firm's status as a California certified DVBE.

**LOCAL:** Contact local DVBE organization to identify DVBEs. For a list of local organizations, go to [www.pd.dgs.ca.gov/smbus](http://www.pd.dgs.ca.gov/smbus) and select: [DVBE Local Contacts](#) (New 02/09) (pdf).

## RESOURCES AND INFORMATION

For questions regarding bid documentation requirements, **contact the contracting official at the awarding department for this solicitation.** For a directory of SB/DVBE Advocates for each department go to: <http://www.pd.dgs.ca.gov/smbus/advocate.htm>.

The Department of General Services, Procurement Division (DGS-PD) publishes a list of trade and focus publications to assist bidders in locating DVBEs for a fee. To obtain this list, please go to [www.pd.dgs.ca.gov/smbus](http://www.pd.dgs.ca.gov/smbus) and select:

- [DVBE Trade Paper Listing](#) (New 02/09) (pdf)
- [DVBE Focus Paper Listing](#) (New 02/09) (pdf)

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**U.S. Small Business Administration (SBA):**  
Use the Central Contractor Registration (CCR) on-line database.  
*Internet contact only* –Database: [www.ccr.gov/](http://www.ccr.gov/).

**FOR:**  
Service-Disabled Veteran-owned businesses in California (Remember to verify each DVBE's California certification.)

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**Local Organizations:** Go to [www.pd.dgs.ca.gov/smbus](http://www.pd.dgs.ca.gov/smbus) and select: [DVBE Local Contacts](#) (New 02/09) (pdf)

**FOR:**  
List of potential DVBE subcontractors

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**DGS-PD EProcurement**  
Website: [www.eprocure.dgs.ca.gov](http://www.eprocure.dgs.ca.gov)  
Phone: (916)375-2000  
Email: [eprocure@dgs.ca.gov](mailto:eprocure@dgs.ca.gov)

**FOR:**

- SB/DVBE Search
- CSCR Ads
- Click on Training tab to Access eProcurement Training Modules including: Small Business (SB)/DVBE Search

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**DGS-PD Office of Small Business and DVBE Services (OSDS)**  
707 Third Street, Room 1-400, West Sacramento, CA 95605  
Website: [www.pd.dgs.ca.gov/smbus](http://www.pd.dgs.ca.gov/smbus)  
OSDS Receptionist, 8 am-5 pm: (916) 375-4940  
PD Receptionist, 8 am-5 pm: (800) 559-5529  
Fax: (916) 375-4950  
Email: [osdchelp@dgs.ca.gov](mailto:osdchelp@dgs.ca.gov)

**FOR:**

- Directory of California-Certified DVBEs
- Certification Applications
- Certification Information
- Certification Status, Concerns
- General DVBE Program Info.
- DVBE Business Utilization Plan
- Small Business/DVBE Advocates

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### Commercially Useful Function Definition

California Code of Regulations, Title 2, § 1896.61(l):

The term "DVBE contractor, subcontractor or supplier" means any person or entity that satisfies the ownership (or management) and control requirements of §1896.61(f); is certified in accordance with §1896.70; and provides services or goods that contribute to the fulfillment of the contract requirements by performing a commercially useful function.

As defined in MVC §999, a person or an entity is deemed to perform a "commercially useful function" if a person or entity does **all** of the following:

- Is responsible for the execution of a distinct element of the work of the contract.
- Carries out the obligation by actually performing, managing, or supervising the work involved.
- Performs work that is normal for its business services and functions.
- Is not further subcontracting a portion of the work that is greater than that expected to be subcontracted by normal industry practices.

A contractor, subcontractor, or supplier will not be considered to perform a commercially useful function if the contractor's, subcontractor's, or supplier's role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of disabled veteran business enterprise participation.

# DVBE DECLARATION FORM (STD 843)

An online PDF version of this form is available at [https://www.documents.dgs.ca.gov/dgs/fmc/gspd/pd\\_843.pdf](https://www.documents.dgs.ca.gov/dgs/fmc/gspd/pd_843.pdf)

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES PROCUREMENT DIVISION

## DISABLED VETERAN BUSINESS ENTERPRISE DECLARATIONS

STD. 843 (Rev. 05/06)

**Instructions:** The disabled veteran (DV) owner(s) and DV manager(s) of the Disabled Veteran Business Enterprise (DVBE) must complete this declaration when a DVBE contractor or subcontractor will provide materials, supplies, services or equipment [Military and Veterans Code Section 999.2]. Violations are misdemeanors and punishable by imprisonment or fine and violators are liable for civil penalties. All signatures are made under penalty of perjury.

### SECTION 1

Name of certified DVBE: \_\_\_\_\_ DVBE Ref. Number: \_\_\_\_\_

Description (materials/supplies/services/equipment proposed): \_\_\_\_\_

Solicitation/Contract Number: \_\_\_\_\_ SCPRS Ref. Number: \_\_\_\_\_

(FOR STATE USE ONLY)

### SECTION 2

**APPLIES TO ALL DVBEs. Check only one box in Section 2 and provide original signatures.**

- I (we) declare that the DVBE is not a broker or agent, as defined in Military and Veterans Code Section 999.2 (b), of materials, supplies, services or equipment listed above. Also, complete Section 3 below if renting equipment.
- Pursuant to Military and Veterans Code Section 999.2 (f), I (we) declare that the DVBE is a broker or agent for the principal(s) listed below or on an attached sheet(s). (Pursuant to Military and Veterans Code 999.2 (e), State funds expended for equipment rented from equipment brokers pursuant to contracts awarded under this section shall not be credited toward the 3-percent DVBE participation goal.)

All DV owners and managers of the DVBE (attach additional pages with sufficient signature blocks for each person to sign):

\_\_\_\_\_  
(Printed Name of DV Owner/Manager) (Signature of DV Owner/Manager) (Date Signed)

\_\_\_\_\_  
(Printed Name of DV Owner/Manager) (Signature of DV Owner/Manager) (Date Signed)

Firm/Principal for whom the DVBE is acting as a broker or agent: \_\_\_\_\_  
(If more than one firm, list on extra sheets.) (Print or Type Name)

Firm/Principal Phone: \_\_\_\_\_ Address: \_\_\_\_\_

### SECTION 3

**APPLIES TO ALL DVBEs THAT RENT EQUIPMENT AND DECLARE THE DVBE IS NOT A BROKER.**

- Pursuant to Military and Veterans Code Section 999.2 (c), (d) and (g), I am (we are) the DV(s) with at least 51% ownership of the DVBE, or a DV manager(s) of the DVBE. The DVBE maintains certification requirements in accordance with Military and Veterans Code Section 999 et. seq.
- The undersigned owner(s) own(s) at least 51% of the quantity and value of each piece of equipment that will be rented for use in the contract identified above. I (we), the DV owners of the equipment, have submitted to the administering agency my (our) personal federal tax return(s) at time of certification and annually thereafter as defined in Military and Veterans Code 999.2, subsections (c) and (g). Failure by the disabled veteran equipment owner(s) to submit their personal federal tax return(s) to the administering agency as defined in Military and Veterans Code 999.2, subsections (c) and (g), will result in the DVBE being deemed an equipment broker.

Disabled Veteran Owner(s) of the DVBE (attach additional pages with signature blocks for each person to sign):

\_\_\_\_\_  
(Printed Name) (Signature) (Date signed)

\_\_\_\_\_  
(Address of Owner) (Telephone) (Tax Identification Number of Owner)

Disabled Veteran Manager(s) of the DVBE (attach additional pages with sufficient signature blocks for each person to sign):

\_\_\_\_\_  
(Printed Name of DV Manager) (Signature of DV Manager) (Date signed)

Page \_\_\_\_\_ of \_\_\_\_\_

# DVBE -- BIDDER DECLARATION FORM (GSPD-05-105)

This form is mandatory. To obtain a PDF version of this document, visit <https://www.documents.dgs.ca.gov/dgs/fmc/gspd/gspd05-105.pdf>

State of California—Department of General Services, Procurement Division  
GSPD-05-105 (REV 08/09)

Solicitation Number \_\_\_\_\_

## BIDDER DECLARATION

**1. Prime bidder information (Review attached Bidder Declaration Instructions prior to completion of this form):**

- a. Identify current California certification(s) (MB, SB, NVSA, DVBE): \_\_\_\_\_ or None \_\_\_\_ (If "None," go to Item #2)
- b. Will subcontractors be used for this contract? Yes \_\_\_\_ No \_\_\_\_ (If yes, indicate the distinct element of work your firm will perform in this contract e.g., list the proposed products produced by your firm, state if your firm owns the transportation vehicles that will deliver the products to the State, identify which solicited services your firm will perform, etc.). Use additional sheets, as necessary.

- c. If you are a California certified DVBE: (1) Are you a broker or agent? Yes \_\_\_\_ No \_\_\_\_  
(2) If the contract includes equipment rental, does your company own at least 51% of the equipment provided in this contract (quantity and value)? Yes \_\_\_\_ No \_\_\_\_ N/A \_\_\_\_

**2. If no subcontractors will be used, skip to certification below. Otherwise, list all subcontractors for this contract. (Attach additional pages if necessary):**

Subcontractor Name, Contact Person, Phone Number & Fax Number	Subcontractor Address & Email Address	CA Certification (MB, SB, NVSA, DVBE or None)	Work performed or goods provided for this contract	Corresponding % of bid price	Good Standing?	51% Rental?

**CERTIFICATION: By signing the bid response, I certify under penalty of perjury that the information provided is true and correct.**

Page \_\_\_\_ of \_\_\_\_