Sample Agreement Example

The attached, typical CEC terms will be amended with an altered set of exhibits in the next few days. The primary addition will be a new Exhibit G, providing additional information and taking into account certain federal requirements, and consisting of a few pages. The Exhibit G shown will be Exhibit H.

Also, the attached includes federal terms (G-1 through G-4) that also are part of the terms for the CEC-Contractor agreement.
1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

**CONTRACTING AGENCY NAME**
State Energy Resources Conservation and Development Commission (Commission)

**CONTRACTOR NAME**

2. The term of this Agreement is:

**START DATE**
August 1, 2022

**THROUGH END DATE**
February 28, 2023

3. The maximum amount of this Agreement is:
$645,000

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.

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<th>Exhibits</th>
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<th>Pages</th>
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<td>Exhibit C*</td>
<td>General Terms and Conditions</td>
<td>GTC 04/2017</td>
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<td>Exhibit D</td>
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<td>Exhibit H</td>
<td>Special Conditions for Security of Confidential Information</td>
<td>3</td>
</tr>
</tbody>
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*Items shown with an asterisk (*), 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/OLS/Resources](https://www.dgs.ca.gov/OLS/Resources)

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

**CONTRACTOR**

**CONTRACTOR BUSINESS ADDRESS**

<table>
<thead>
<tr>
<th>CITY</th>
<th>STATE</th>
<th>ZIP</th>
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**PRINTED NAME OF PERSON SIGNING**

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<th>TITLE</th>
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**CONTRACTOR AUTHORIZED SIGNATURE**

<table>
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<tr>
<th>DATE SIGNED</th>
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<tbody>
<tr>
<td>Contracting Agency Name</td>
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<td>-----------------------------------------</td>
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<tr>
<td>Contracting Agency Address</td>
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<td>Printed Name of Person Signing</td>
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<td>Contracting Agency Authorized Signature</td>
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<td>Date Signed</td>
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<td>California Department of General Services Approval</td>
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<td>Exemption (if applicable)</td>
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</table>
EXHIBIT A – Scope of Work

ACRONYMS/GLOSSARY
Specific acronyms and terms used throughout this scope of work are defined as follows:

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Definition</th>
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</thead>
<tbody>
<tr>
<td>BOEM</td>
<td>Bureau of Ocean Energy Management</td>
</tr>
<tr>
<td>CAISO</td>
<td>California Independent System Operator</td>
</tr>
<tr>
<td>CAM</td>
<td>Commission Agreement Manager</td>
</tr>
<tr>
<td>CEC</td>
<td>California Energy Commission</td>
</tr>
<tr>
<td>CSG</td>
<td>Core Steering Group</td>
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<tr>
<td>CPUC</td>
<td>California Public Utilities Commission</td>
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<tr>
<td>DoD</td>
<td>Department of Defense</td>
</tr>
<tr>
<td>ODOE</td>
<td>Oregon Department of Energy</td>
</tr>
<tr>
<td>OLDCC</td>
<td>DOD Office of Local Defense Community Cooperation</td>
</tr>
<tr>
<td>ORESA</td>
<td>Oregon Renewable Energy Siting Assessment</td>
</tr>
<tr>
<td>OSD</td>
<td>Office of the Secretary of Defense Clearinghouse</td>
</tr>
<tr>
<td>OSW</td>
<td>Offshore Wind</td>
</tr>
<tr>
<td>SB 100</td>
<td>Senate Bill 100 – The 100 Percent Clean Energy Act of 2018</td>
</tr>
<tr>
<td>TFG</td>
<td>Technical Focus Group</td>
</tr>
<tr>
<td>TPP</td>
<td>CAISO Transmission Planning Process</td>
</tr>
</tbody>
</table>

BACKGROUND
California’s passage of The 100 Percent Clean Energy Act of 2018, referred to as Senate Bill 100 or SB 100 (SB 100, De León, Chapter 312, Statutes of 2018), requires eligible renewable energy resources and zero-carbon resources to supply 100 percent of total retail sales of electricity to end use customers and 100 percent of electricity procured to serve all state agencies by 2045. In March 2016, the passage of Oregon Senate Bill 1547 increased Oregon’s Renewable Portfolio Standard requirement to 50% renewables by 2040. Offshore wind has been identified as an abundant, domestic source of clean energy production for the United States, and wind energy developed in federal ocean waters off California’s and Oregon’s coastline is poised to play an important role in diversifying the portfolio of resources that will help achieve these goals.

This Request for Proposals is intended to assist California, Oregon and local governments to address and prevent the encroachment of incompatible renewable energy projects from adversely impacting Department of Defense (DoD) readiness and defense capabilities in Northern California and Southern Oregon, while supporting continued community economic development, enhancing civilian and military communication, collaboration, and partnership.

Existing transmission infrastructure resides proximate to, and within, key DoD operational areas of the Northwest Training Range Complex offshore along the Oregon and Washington coast, China Lake Testing Range Complex in the Mohave Desert, the El Centro Range Complex in southern California, and the offshore ranges in southern
and central California. Commercial development of energy projects has the potential to affect unique DoD activities and military readiness. As such, additional and refined transmission planning in areas with less congested DoD operations, and with greater likelihood of mission compatibility, is necessary.

The purpose of this initiative is to provide a clear understanding of existing electricity infrastructure within the defined area of interest and to deliver key characteristics to enable decision makers to plan and manage U.S. energy grid scenarios supporting the transition from a fossil-fueled central generation model to a more diversified power generation portfolio compatible with the DoD mission. Because decision makers for the planning and management of the Oregon power grid are broad and diffuse, broad stakeholder identification and thorough stakeholder involvement will be critical to the success of this project.

The project area is defined by a network of DoD operational areas utilized by military installations in California and Oregon for testing and training requirements from Cape Mendocino, California to Coos Bay, Oregon, including both onshore and offshore military operational areas. The project will be broken into two parts.

Part 1 of the project will map and attribute existing energy infrastructure to provide accurate picture of energy landscape and, at minimum, detail the following:

1. Spatial Footprint - Perform data acquisition, remote sensing, surveying, and mapping to capture and illustrate current power infrastructure. This should document features such as:
   a) Energy generation facilities by type, configuration, and output capability;
   b) Easements;
   c) Transmission and distribution systems; and
   d) Energy storage facilities.

2. Capable Capacity as technically rated for transmission and energy storage.

3. Available Capacity as measured through power flow, and where feasible, the contractually reserved capacity for transmission and energy storage. Contingent on publicly available data and data sharing from transmission owners and operators.

4. Expandability – Document potential to expand and/or upgrade current infrastructure and present maximum capability within existing rights-of-way and project footprints. Describing necessary infrastructure and cost and potential retrofit engineering and design.

5. Energy Generation Types (including standalone energy storage) and Sources.

Part 2 of the project will involve infrastructure scenarios to accommodate a range of scales of power generation. Scenarios will provide conceptual and quantitative frameworks to describe and assess how different geographic assumptions for developing offshore energy resources contribute to electricity supply for California,
Oregon, and the broader Western region. Each scenario should quantify materials and manufacturing requirements, human and financial resource needs, placement recommendations and constraints, and environmental impacts that come with expanding infrastructure necessary to deliver offshore electricity generation. These scenarios shall use qualitative analysis, quantitative assumptions, and computational models of the energy, economic, and/or electricity systems and attempt to integrate the environmental, technologic, economic, and deployment-related elements into an internally consistent analytical framework.

Failure to understand transmission infrastructure limitations and capacity in Northern California and Southern Oregon will continue to place incompatible renewable energy projects within key DoD operational areas that can result in adverse operational impacts to DoD’s readiness posture, to include, but not limited to, impacts to communications and frequency interference, vertical obstruction of airspace in low-level military training routes, and radar interference that degrades the accuracy and reliability of aircraft surveillance radars (ASRs) and western defense systems.

**GENERAL REQUIREMENTS OR GOALS AND OBJECTIVES**

The primary goal of this project is to provide data, mapping and technical analysis to support continued partnership with, and promote early consultation with, the DoD and OSD Clearinghouse to prevent incompatible renewable energy projects within critical DOD operational areas that have the potential to adversely impact DoD’s testing, training and military operations. Consistent with the DoD Office of Local Defense Community Cooperation’s (OLDCC) goals for the Military Installation Sustainability Program, the project will develop a detailed technical analysis for transmission infrastructure limitations and opportunities, map existing transmission infrastructure and provide technical data & assistance documents to allow State governments and renewable energy developers information to identify areas that are best suited for proposed development.

In addition to the compatibility and transmission assessment goals of this project, the activities surrounding this project will promote a greater public understanding of military missions and foster enhanced communication between civilian and military leaders.

The project shall assess compatible energy siting by accurately detailing existing electric infrastructure, to include generation, transmission, and distribution systems, within an area of interest bounded north of Coos Bay, Oregon to Mendocino, California. The infrastructure will be mapped and evaluated for generation type and source, available capacity, and capable transmission capacity to serve the present and future needs to meet renewable portfolio and clean energy standards, and future demand growth expectations. The study will also provide detailed scenarios for different levels of potential offshore wind development based on geographic extent and the ability to deliver energy to California, Oregon, and the broader Western grid that could scale within the area of interest. The scenarios will provide assumptions, methodologies, options, and recommendations to include type, configuration, route, load distribution, and estimated cost.
This transmission infrastructure analysis will allow for early identification of potential conflicts with military testing and training and the siting of renewable energy projects. The project looks to build upon existing efforts currently underway in California and Oregon for mission compatibility.

The project will occur in two parts. Part 1 will create a baseline characterization of existing infrastructure and information, including a geodatabase. Part 2 will develop infrastructure scenarios to accommodate a range of floating offshore wind energy development in federal waters off California and Oregon. Part 1 and Part 2 will be layered so that the baseline information developed in Part 1 informs the analyses in Part 2.

Both Part 1 and Part 2 of the project will result in new technical information, analyses, and cost estimates to deliver energy from offshore wind to California, Oregon, and the greater Western grid. Currently, there is limited transmission capability in both Northern California and Oregon to deliver significant scales of offshore wind. California and Oregon are currently involved in processes to assess offshore wind resources and this grant will provide critical information to better understand how the offshore wind resources that both states are assessing could deliver renewable energy to the electric grid. With California's overarching goal of protecting the military mission in California and attaining state and DoD's energy goals and energy security, the project will develop necessary information and establish potential options for developing offshore wind energy from Northern California and Oregon to advance the stated goals of sustaining and enhancing the military mission while achieving long-term energy goals. The project also aligns with many goals of the Oregon Department of Energy (ODOE), such as: collecting data and information on offshore wind and transmission infrastructure, sharing of data and the involvement of stakeholders from ODOE’s Oregon Renewable Energy Siting Assessment (ORESA) study, supporting the Bureau of Ocean Energy Management (BOEM) process for identifying offshore wind call areas, and providing technical support on Oregon energy issues.

A project goal is to build upon existing coordination with stakeholders, including but not limited to the BOEM-California task force and the BOEM-Oregon task force. The Contractor will assist CEC and ODOE in working collaboratively to ensure public and stakeholder outreach in both California and Oregon as a part of the work effort, especially for the analyses developed in Part 2.

**Promotion of Compatible Siting**

Commercial development of floating offshore wind energy projects, especially in areas with multiple DoD operations, has the potential to affect unique DoD activities and military readiness. The project will promote compatible development of energy projects through additional and refined transmission planning in areas with less congested DoD operations, and with greater likelihood of mission compatibility. Currently, existing transmission infrastructure resides proximate to, and within, key DoD operational areas of the Northwest Training Range Complex offshore along the Oregon and Washington coast, China Lake Testing Range Complex in the Mohave Desert, the El Centro Range
Complex in southern California, and the offshore ranges in southern and central California.

**Incorporate Existing Efforts**

The project will integrate and utilize existing mapping and data for assessing floating offshore wind energy development, including data developed in partnership with BOEM for the California Offshore Wind Energy Gateway (https://caoffshorewind.databasin.org) and the Oregon Offshore Wind Mapping Tool (https://offshorewind.westcoastoceans.org). Data sharing and data maintenance costs will be eligible to receive funding to cover costs related to sharing existing data, adding new data, and updating and maintaining data throughout the term of the grant. Following completion of the grant, the data and information developed during the study will be maintained and made available by the CEC. To this end, this project will align ongoing BOEM Task Force outreach efforts currently underway with California and Oregon to avoid duplication of efforts, while maximizing synergy and information alignment with stakeholders.

Because additional transmission will be needed to deliver offshore wind energy to the grid, the project will assess greater assumptions for offshore wind energy development, identify alternative delivery scenarios, and perform more in-depth transmission analysis by building upon completed offshore wind and transmission-related studies relevant to California, Oregon, and the West Coast. These include the North Coast Offshore Wind Studies completed by CalPoly Humboldt’s Schatz Energy Research Center (formerly of Humboldt State University) (HSU/Schatz), which analyzed alternative transmission pathways to deliver up to 1.8 GW of offshore wind energy from the Humboldt Call Area to load centers in California, including two subsea concepts and two terrestrial concepts.

The California Independent System Operator’s (CAISO’s) Draft 20-Year Transmission Outlook and 2021-2022 Transmission Plan discussed opportunities for greater amounts of offshore wind generation and identified several potential overland and subsea transmission options for future consideration. Other relevant studies include those completed by the National Renewable Energy Laboratory (NREL) and Pacific Northwest National Laboratory (PNNL).

Part 2 of the project will fill an important gap in the current state of knowledge about potential transmission infrastructure solutions outside of the CAISO system that could potentially deliver greater amounts of offshore wind energy to the Pacific Northwest and the Western Interconnection. As such, the project should also consider any relevant offshore wind and transmission work performed by Oregon utilities and the Oregon Public Utility Commission (OPUC), Bonneville Power Administration (BPA), the Northwest Planning and Power Council (NWPCC), the Western Electricity Coordinating Council (WECC), or NorthernGrid.
Stakeholder and Public Outreach

The Core Steering Group (CSG) will consist of the CEC, ODOE, and DoD and is a critical component to project success. The CSG is responsible for providing key input, data, and guidance to the project. The CSG is important for developing and maintaining relationships between key stakeholders, interested community members, and the selected contractor.

The Technical Focus Group (TFG) will provide the technical expertise, feedback, and real-world experience required to ensure that the work and deliverables defined in the scope of work for the project meet technical standards. The TFG will include technical staff representatives from the CSG organizations identified above, as well as other entities that the contractor, CEC, and ODOE identify as important technical experts including electric utilities from each state, balancing authorities from each state, etc. The contractor will establish and manage the TFG.

Invitations to participate in the TFG will include but not be limited to:

California: California Energy Commission, California Public Utilities Commission, Governor’s Office of Planning and Research, Ocean Protection Council, California State Lands Commission, California Coastal Commission, California Independent System Operator, and academic institutions active in off-shore wind analysis.

Oregon: Oregon Public Utilities Commission, Department of Land Conservation and Development, Department of State Lands, Oregon State University, Institute of Natural Resources

Federal Agencies: Bureau of Ocean Energy Management, National Oceanic and Atmospheric Administration, National Renewable Energy Laboratory, Pacific Northwest National Laboratory, Bonneville Power Administration

Regional Organizations: Western Electricity Coordinating Council, Northwest Power and Conservation Council

The CEC, ODOE, and DoD will work with the contractor to prepare for and facilitate public and stakeholder meetings and prepare for and attend public meetings or other meetings that are important to keeping the public and stakeholders up to date on the progress of the project. The contractor will work with the CEC, ODOE and DoD to create and implement a public and stakeholder outreach plan. Outreach in California and Oregon will include, but not be limited to outreach to the BOEM renewable energy task force in each state, local communities, state and federal land managers, private industry (power producers and transmission developers) and tribes from within the study area.

Military Involvement

The CEC, in collaboration and partnership with ODOE, DOD’s Pacific Coast Coordinator and the OSD Clearinghouse, will ensure seamless incorporation of DOD compatibility concerns for military testing and training are addressed within each aspect and deliverable for this project.
ADMINISTRATIVE TASKS

TASK 1 AGREEMENT MANAGEMENT

The goal of this task is to provide for overall administrative management of the contract by the Contractor. In addition to the specific tasks below, the Contractor’s Program Manager (PM) is responsible for directing the work performed by the Contractor Team to meet the objectives of the contract. The PM is also responsible for ensuring the quality and timely delivery of all deliverables, both technical and administrative from the Contractor Team. The PM will be the primary point of contact for the Contractor Team and is responsible for oversight of all work under this contract. The PM is also responsible for managing all subcontractor work, including ensuring quality products, enforcing subcontractor Agreement provisions, and in the event of failure of the subcontractor to satisfactorily perform services, recommending solutions to resolve the problem.

Task 1.1 Kick-off Meeting

The goal of this task is to establish the lines of communication and procedures for implementing this Agreement. The ‘kick-off” meeting will occur no later than 15 calendar days after final approval of the Agreement is complete.

The Contractor shall:

• Attend a “kick-off” meeting with the CAM, the Contracts Officer, and a representative of the Accounting Office. The meeting will be held via Zoom or teleconference. The Contractor shall include their Project Manager, Contracts Administrator, Accounting Officer, and others designated by the CAM in this meeting. The administrative and technical aspects of this Agreement will be discussed at the meeting.
• Arrange the meeting including scheduling the date and time.
• Provide a draft agenda to the CAM for review
• Provide a final agenda to all potential meeting participants prior to the kick-off meeting.

The CAM shall:

• Review and approve the draft agenda from the contractor prior to the kick-off meeting.
• Coordinate with all relevant CEC staff to participate in the kickoff meeting

Deliverables:

• Draft and Final Agendas
• Summary of the kickoff to be included in the monthly progress report

Task 1.2 Invoices

The Contractor shall:
• Prepare invoices for all reimbursable expenses incurred performing work under this Agreement in compliance with the Exhibit B of the Terms and Conditions of the Agreement. Invoices shall be submitted with the same frequency as progress reports (task 1.4). Invoices must be submitted to the Energy Commission’s Accounting Office.

**Deliverables:**
• Monthly invoice (to be included with monthly progress reports)

**Task 1.3 Manage Subcontractors**
The goal of this task is to ensure quality products, to enforce subcontractor Agreement provisions, and in the event of failure of the subcontractor to satisfactorily perform services, recommend solution to resolve the problem.

**The Contractor shall:**
• Manage and coordinate subcontractor activities. The Contractor is responsible for the quality of all subcontractor work and the Energy Commission will assign all work to the Contractor. If the Contractor decides to add new subcontractors, they shall 1) comply with the Terms and Conditions of the Agreement, and 2) notify the CAM who will follow the Energy Commission’s process for adding or replacing subcontractors.

**Task 1.4 Progress Reports**
The goal of this task is to periodically verify that satisfactory and continued progress is made towards achieving the objectives of this Agreement.

**The Contractor shall:**
• Prepare progress reports monthly. The reports should summarize all Agreement activities conducted by the Contractor team for the reporting period. Any interim reports or products produced during the period should be included as part of the monthly progress report. The report should provide a graph of expenditures to date and a projection for subsequent months of the contract period. The report should include an assessment of the ability to complete the Agreement within the current budget and any anticipated cost overruns. Each progress report is due within 15 calendar days after the end of the reporting period. The CAM will provide the format for the progress reports.

**Deliverables:**
• Monthly Progress Reports (included with monthly invoice)

**Task 1.5 Final Report**
The goal of this task is to prepare a comprehensive written Final Report that describes the original purpose, approach, results, and conclusions of the work completed under this Agreement. The Final Report shall include data and information presented in technical memos completed for all tasks under this Agreement. The Final Report shall
be prepared in language easily understood by the public or layperson with a limited technical background.

The Final Report must be completed before the termination date of the Agreement in accordance with the Schedule of Deliverables.

The Final Report shall be a public document. If the Contractor has obtained confidential status from the Energy Commission and will be preparing both a public and a confidential version of the Final Report, the Contractor shall perform the following subtasks for both the public and confidential versions of the Final Report.

In addition to any other applicable requirements, Final Reports must comply with the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability; all applicable regulations and guidelines issued pursuant to the ADA; Cal. Gov. Code secs. 7405 and 11135; and Web Content Accessibility Guidelines 2.0, or a subsequent version, as published by the Web Accessibility Initiative of the World Wide Web Consortium at a minimum Level AA success criteria.

The Contractor shall:

- Prepare the draft Final Report for this Agreement in accordance with the approved outline.
- Submit the draft Final Report for review and comment. The CAM will provide written comments to the Contractor. The Contractor shall review the comments and discuss any issues with the recommended changes with the CAM.
- Prepare and submit the Final Report, incorporating CAM comments.

Deliverables:
- Draft Final Report
- Final Report

**TECHNICAL TASKS**

**TASK 2 STAKEHOLDER AND PUBLIC OUTREACH**

The goal of this task is to facilitate public and stakeholder outreach. In partnership with the CSG, the Contractor will carry out public and stakeholder outreach throughout the term of the project. The Contractor will consult with the CSG to develop a stakeholder and public outreach plan. Outreach would include engagement with the TFG and other key stakeholders and public participants in California and Oregon, including the BOEM task force in California and Oregon.

The Contractor shall:

- Consult with the CSG to develop a Stakeholder and Public Outreach Plan for the term of the project.
• Schedule stakeholder and public outreach meetings for the term of the project.
• Schedule outreach meetings with members of the TFG.
• Conduct stakeholder and public outreach meetings, including as necessary with the TFG. Prepare presentation materials for such meetings.

Deliverables:
• A Stakeholder and Public Outreach Plan, including schedule (draft and final).
• Schedule for TFG Outreach Meetings (draft and final).
• Presentation materials required for stakeholder and public outreach meetings (draft and final).

TASK 3 DATA AND INFORMATION SELECTION, SPATIAL FOOTPRINT, AND CURRENT CAPABILITIES/EXPANDABILITY

Task 3.1 Data acquisition

The goal of this task is to acquire data and information necessary to document the existing condition of the study area, including current and approved and/or in interconnection queues but not yet constructed infrastructure within the study area. This will include data and information to document features, including but not limited to:

• Energy generation facilities by type, configuration, and output capability;
• Easements and rights-of-way.
• Substation, transmission and distribution systems;
• Energy storage facilities, and;
• Other data and information deemed necessary by the CSG to document current and anticipated conditions of the study area.

The Contractor shall:
• Consult with the CSG to determine the data and information needed to document the existing and anticipated future condition of the study area.
• Consult with the CSG to determine the necessary level of detail for infrastructure information related to the study area.
• Acquire data and information for the study area as noted above, and other data that may be needed to accurately represent the existing and anticipated future conditions of the study area.

Deliverables:
• A draft list of data and information necessary to document the existing condition of the study area, including current and approved transmission and distribution projects and/or those in interconnection queues but not yet constructed projects within the study area.
• A final list of data and information necessary to document the existing condition of the study area, including current and approved transmission and distribution projects and/or those in interconnection queues but not yet constructed projects within the study area.

Task 3.2 Document spatial footprint

The goal of this task is to document the spatial footprint data in map format using GIS data and information gathered in Task 3.1 and generate maps of the study area.

The Contractor shall:
• Document and map the spatial footprint in map format using GIS data and information gathered in Task 3.1
• Submit all geospatial data used and developed for this project to the Energy Commission and the OLDC in either the Esri File Geodatabase format (*.gdb) or Esri Shapefile format (*.shp). Regardless of the geospatial data format, all geospatial data will include metadata in either the ISO 19139 Metadata Implementation Specification style or the SDSFIE-M style. Metadata records for each dataset will include the minimum required information per metadata style written within the organization's preferred metadata editor software; e.g., Esri's ArcCatalog. For reference purposes only, see SDSFIE Online (https://www.sdsfieonline.org/) for more information on geospatial data structures and metadata requirements.

Deliverables:
• Maps of the study area that include all of the features identified in Task 3.1
• All geospatial data and information gathered in Task 3.1 in either the Esri File Geodatabase format (*.gdb) or Esri Shapefile format (*.shp)

Task 3.3 Current Capabilities/Expandability

The goal of this task is to document the capabilities of the current infrastructure in the study area to integrate new floating offshore wind energy resources off the coast of Northern California and Oregon. The Contractor will rely on existing studies investigating the capability of existing infrastructure and synthesize those studies into an analysis that assess and documents existing information into a single report. With direction from the CSG, the contractor will also identify and synthesize existing information describing previously identified infrastructure expandability options to integrate renewable energy resources off the coast of Northern California and Oregon.

The Contractor shall:
• Document the capabilities of current infrastructure in the study area to integrate new renewable energy resources off the coast of Northern California and Oregon.
• Identify and synthesize existing studies and information describing previously identified infrastructure expandability options to integrate offshore wind energy resources off the coast of Northern California and Oregon.

• Synthesize those studies into an analysis that assesses and documents the existing information.

**Deliverables:**

• A technical memo documenting the capabilities of current infrastructure in the study area to integrate offshore wind energy resources off the coast of Northern California and Oregon.

**Task 4 Offshore Wind Resource Assumptions and Scenario Development**

The goal of this task is to develop a range of assumptions for offshore wind energy development that are scaled according to different geographic scenarios and that consider the different clean energy goals and priorities of different states as noted below. Scenarios to encompass:

• California and Oregon (low-end of the range)- this scenario would assume that offshore wind in the study area is developed at a scale to contribute to the clean energy goals of California and Oregon.

• California and states in the Pacific Northwest (middle of the range)- this scenario would assume that offshore wind in the study area is developed at a scale that contributes to the clean energy goals of California, Oregon, and other states in the Pacific Northwest, such as Washington and Idaho.

• California and states in the WECC (high-end of the range)- this scenario would assume that offshore wind in the study area is developed at a scale that contributes to the clean energy goals of California and states in the WECC.

**The Contractor shall:**

• Develop a range of assumptions for offshore wind energy development that are scaled according to different geographic scenarios.

• Develop a range of low, medium, and high scenarios as noted above in a, b, and c.

• Identify the clean energy goals and priorities of different states throughout the Pacific Northwest and Western Interconnection (WECC).

• Document the scenarios, clean energy goals, and other important information into a technical memo.

**Deliverables:**

• A technical memo that documents the scaled scenarios, clean energy goals, and other important information.
**TASK 5 OFFSHORE AND ONSHORE INFRASTRUCTURE OPTIONS AND CONSTRAINTS**

**Task 5.1 Infrastructure Options**

The goal of this task is to use the assumptions developed in Task 4 to create conceptual infrastructure expansion options, offshore and onshore and including subsea transmission options, to integrate the resources for each of the scenarios described, building from the existing conditions developed in Task 3. The contractor will describe these options in a map format and technical memo.

**The Contractor shall:**

- Use the assumptions developed in Task 4 to create conceptual infrastructure expansion options, offshore and onshore and including subsea transmission options, to integrate the resources for each of the scenarios building from the existing conditions developed in Task 3.

**Deliverables:**

- Maps of infrastructure options for each scenario.
- A technical memo that documents conceptual infrastructure expansion options for each scenario.

**Task 5.2 Infrastructure constraints**

The goal of this task is to evaluate and document the constraints for developing the infrastructure options. The anticipated constraints that the contractor will evaluate include ocean and land use, environmental conditions, regulatory challenges, existing market systems, and other constraints to developing the conceptual infrastructure options as directed by the CSG.

**The Contractor shall:**

- Evaluate and document constraints associated with the infrastructure options.

**Deliverables:**

- A technical memo documenting the constraints associated with the infrastructure options.

**TASK 6 ESTIMATED DISTRIBUTION OF COSTS AND BENEFITS**

The goal of this task is to develop an analytical framework for determining how costs and benefits of the scenarios are distributed within the study area and compute the costs and benefits of the scenario options for the study area. This will include using quantitative and qualitative methods, including capacity expansion and production cost models and power flow analyses. The analytical framework may be used to inform and support additional OSW transmission planning studies and other related activities in the future, including but not limited to studies by the CAISO, utilities, and balancing authorities within the study area.
The Contractor shall:

• With direction from the CSG, the contractor will develop an analytical framework for determining how costs and benefits of the scenarios are distributed within the study area.
• Compute the costs and benefits of the scenario options for the study area using quantitative and qualitative methods, including capacity expansion and production cost models and power flow analyses.
• Document the findings in the Final Report.

Deliverables:

• A technical memo documenting the costs and benefits of the scenario options evaluated.

TASK 7 FINDINGS AND RECOMMENDATIONS

The goal of this task is to synthesize and establish a framework of findings and recommendations for CEC and ODOE consideration based on the data collected, derived, and analyzed. Recommendations will provide the basis for implementation and identify additional areas that may require subsequent assessment to support future implementation measures.

The Contractor shall:

• Synthesize and establish a framework of findings and recommendations for CEC and ODOE consideration based on the data collected, derived, and analyzed.

Deliverables:

• A technical memo documenting the findings and recommendations.

SCHEDULE OF DELIVERABLES AND DUE DATES

The project schedule and due dates for contract deliverables listed below are subject to change. If the dates change, an addendum will be released.

<table>
<thead>
<tr>
<th>Task Number</th>
<th>Deliverable</th>
<th>Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Agreement Management</td>
<td></td>
</tr>
<tr>
<td>1.1</td>
<td>Kick-off Meeting</td>
<td>No later than 2 weeks after executed award</td>
</tr>
<tr>
<td>1.2</td>
<td>Invoices</td>
<td>Monthly</td>
</tr>
<tr>
<td>1.3</td>
<td>Manage Subcontractors</td>
<td>Ongoing</td>
</tr>
<tr>
<td>1.4</td>
<td>Progress Reports</td>
<td>Monthly</td>
</tr>
<tr>
<td>1.5</td>
<td>Draft Final Report</td>
<td>Draft Jan 2023</td>
</tr>
<tr>
<td></td>
<td>Final Report</td>
<td>Final February 2023</td>
</tr>
<tr>
<td>2</td>
<td>Stakeholder and Public Outreach Plan Schedule for TFG Meetings</td>
<td>August 2022</td>
</tr>
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<td></td>
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<td>August 2022</td>
</tr>
</tbody>
</table>
### Data and Information Selection, Spatial Footprint, and Current Capabilities/Expandability

#### 3.1 Data Acquisition
- A draft list of data and information necessary to document the existing condition of the study area.
- A final list of data and information necessary to document the existing condition of the study area.

#### Task Number | Deliverable | Due Date
--- | --- | ---
3.2 | Document Spatial Footprint
  - Maps of the study area that include all of the features identified in Task 3.1
  - All geospatial data and information gathered in either the Esri File Geodatabase format (*.gdb) or Esri Shapefile format (*.shp) | September 2022

3.3 | Current Capabilities/Expandability
  - A technical memo documenting the capabilities of current infrastructure in the study area to integrate offshore wind energy resources off the coast of Northern California and Oregon. | September/October 2022

### Offshore Wind Resource Assumptions and Scenario Development
- A technical memo that documents the scaled scenarios, clean energy goals, and other important information.

#### 4 Offshore Wind Resource Assumptions and Scenario Development

#### 5 Offshore and Onshore Infrastructure Options and Constraints

#### 5.1 Infrastructure Options
- Maps of infrastructure options for each scenario developed in Task 4.
- A technical memo that documents conceptual infrastructure expansion options for each scenario developed in Task 4.

#### 5.2 Infrastructure Constraints
- A technical memo documenting the constraints associated with the infrastructure expansion options identified in Task 5.1.

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<th>Deliverable</th>
<th>Due Date</th>
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<tbody>
<tr>
<td>4</td>
<td>Offshore Wind Resource Assumptions and Scenario Development</td>
<td>September/October 2022</td>
</tr>
<tr>
<td>5</td>
<td>Offshore and Onshore Infrastructure Options and Constraints</td>
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<td>Task Number</td>
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<tr>
<td>6</td>
<td>Estimated Distribution of costs and Benefits</td>
<td>November/December 2022</td>
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<td></td>
<td>• A technical memo documenting the costs and benefits of the scenario options evaluated.</td>
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<tr>
<td>7</td>
<td>Findings and Recommendations</td>
<td>January 2023</td>
</tr>
<tr>
<td></td>
<td>• A technical memo documenting the findings and recommendations.</td>
<td></td>
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</table>
EXHIBIT B
Budget Detail and Payment Provisions

1. CONDITIONS FOR PAYMENT

A. No payment shall be made in advance of services rendered.

B. For services satisfactorily rendered, and upon receipt and approval of invoices, the Energy Commission agrees to compensate the Contractor for actual allowable expenditures incurred in accordance with Exhibit B. The rates in Exhibit B are rate caps, or the maximum amount allowed to be billed. The Contractor can only bill for actual expenses incurred for hours worked at the Contractor’s and subcontractor’s actual labor and non-labor rates, not to exceed the rates specified in Exhibit B.

C. The Contractor is not allowed to charge profit, fees or mark-ups on any subcontracted budget item, including lower tier subcontracted amounts. Subcontractors are not allowed to profit from their subcontractors’ costs.

D. Each invoice is subject to the Energy Commission Agreement Manager’s (CAM) approval.

E. Payments shall be made to the Contractor for undisputed invoices. An undisputed invoice is an invoice submitted by the Contractor for services rendered, and for which additional evidence is not required to determine its validity. The invoice will be disputed if all deliverables due for the billing period have not been received and approved, if the invoice is inaccurate, or if it does not comply with the terms of this Agreement. If the invoice is disputed, Contractor will be notified via a Dispute Notification Form within 15 working days of receipt of the invoice.

F. Payment will be made in accordance with the Prompt Payment Act, Government Code Chapter 4.5, commencing with Section 927, which requires payment of properly submitted, undisputed invoices within 45 days of receipt or automatically pay late payment penalties when applicable.

G. Final invoice must be received by the Energy Commission no later than 30 calendar days after the Agreement termination date.

H. The State will pay for State or local sales or use taxes on the services rendered or equipment, parts or software supplied to the Energy Commission pursuant to this Agreement. The State of California is exempt from Federal excise taxes, and no payment will be made for any taxes levied on employee’s wages.

I. No payment will be made for costs identified in Contractor invoices that have or will be reimbursed by another source, including but not limited to a government entity agreement or subcontract or other procurement methods.
2. **PAYMENT TERMS**

Check all that apply:

- [x] In Arrears
- [ ] Itemized
- [x] Monthly

3. **INVOICING PROCEDURES**

A. Invoices shall be submitted in duplicate not more frequently than monthly. 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 has not and will not be received from any other sources, including but not limited to a government entity contract, subcontract or other procurement method.*

B. The Energy Commission will accept computer generated or electronically transmitted invoices. Electronic signatures are acceptable. The date of “invoice receipt” shall be the date the Energy Commission receives the electronic copy.

   Send invoices to:

   California Energy Commission  
   Accounting Office, MS-2  
   invoices@energy.ca.gov

C. An invoice shall consist of, but not be limited to, the following:

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

2) The Contractor’s actual unloaded hourly labor rates by individual and number of hours worked during the reporting period. Identify actual, agreement, and billed amounts.

3) Non-Labor rates (fringe benefits, indirect overheads, general and administrative, profit, etc.). Identify actual, agreement, and billed amounts.

4) Other direct operating expenses, including equipment, travel, materials, and miscellaneous, etc.

5) Subcontractor expenditures.

6) An indication of whether a subcontractor is a California Certified Small Business or a Certified Disabled Veteran Business Enterprise.

7) By task and/or category (as specified in Budget Detail): current billing, previously billed, budgeted amounts, and balance of funds.

8) If applicable, the match fund expenditures.

9) All invoices must be accompanied by the following documentation to support the expenditure:
a) Subcontractor invoices which shall include items 1-8 above for corresponding information, if any, identified in the budget detail (e.g., if the budget detail lists hourly labor rates, then the subcontractor’s invoice would include hourly labor rates).

b) Receipts for travel expenses.

c) Receipts for materials, miscellaneous, and/or equipment.

d) A report that documents the progress of the work during the billing period; and

e) Any other deliverables due during the billing period.

4. **RETENTION**

The Energy Commission shall retain from each invoice ten per cent (10%) of that invoice, excluding equipment invoices, pursuant to Public Contract Code section 10346. The retained amount shall be held and released only upon approval that work has been satisfactorily completed and the Final Report (if required) has been received and approved. The Contractor must submit a separate invoice for the retained amount. Retained funds may be withheld by the Energy Commission to compensate or credit for amounts that were paid in error, or amounts that were paid but exceed the actual allowable incurred costs.

5. **TRAVEL AND PER DIEM RATES**

The Contractor shall be reimbursed for travel and per diem expenses using the Energy Commission Contractor Travel Rates. The Contractor must pay for travel in excess of these rates. The Contractor may obtain current rates from the Energy Commission’s Web Site at: [http://www.energy.ca.gov/contracts/TRAVEL_PER_DIEM.PDF](http://www.energy.ca.gov/contracts/TRAVEL_PER_DIEM.PDF).

A. Travel identified in Exhibit B, Pre-Approved Travel List is approved and does not require further authorization.

B. Travel that is not included in Exhibit B, Pre-Approved Travel List shall require written authorization from the CAM prior to travel departure. The Energy Commission will reimburse travel expenses from the Contractor’s office location. For purposes of payment, the Contractor’s office location shall be considered the office location where the Contractor’s employees or, if applicable, the employees of a subcontractor with responsibilities for this Agreement are permanently assigned.

C. Travel receipts and documentation of travel expenses, including travel meals and incidentals, shall be submitted with invoices requesting reimbursement from the Energy Commission. The documentation must be listed by trip and include dates and times of departure and return.

6. **BUDGET CONTINGENCY CLAUSE**

It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the work identified in Exhibit A, this Agreement shall be of no further force and effect. In this event, the State shall have no liability to pay any funds whatsoever to the Contractor or to furnish any other consideration under this Agreement and the Contractor shall not be obligated to perform any provisions of this Agreement.
If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, the State shall have the option to either: cancel this Agreement with no liability occurring to the State, or offer an Agreement amendment to the Contractor to reflect the reduced amount.

7. **RATES & CLASSIFICATIONS: CHANGES IN CONTRACTOR PERSONNEL OR SUBCONTRACTOR PERSONNEL**

This section contains provisions allowing rate and classification changes without a formal amendment. Exhibit D contains the rules for adding or replacing personnel and subcontractors listed in the Agreement. When a Contractor makes personnel and subcontractor changes in accordance with Exhibit D that do not require a formal amendment, the following rules explain the rates and classifications for which the Contractor can invoice. Changes outside of these rules require a formal amendment to the Agreement.

A. **New Personnel**

If Contractor or a subcontractor adds new personnel after the Agreement has been executed, the Contractor shall submit the new personnel's resume and proposed job classification/rate, consistent with classifications/rates within the respective budget, to CAM for review and approval. If the Agreement budget includes a job classification with the person identified as “To Be Determined”, and a person is later identified, this person is considered to be new personnel. The new personnel shall not provide services until the CAM approves the new personnel request in writing and notifies the Energy Commission Agreement Officer (CAO). Any work performed by these new personnel prior to CAM approval is at Contractor’s expense; the Energy Commission will not reimburse Contractor for work performed by these new personnel that occurs prior to CAM approval.

B. **Labor Rates & Classifications**

The Agreement budget identifies individuals and/or job classifications and the maximum rates that the Contractor can invoice for them. The Contractor shall only invoice for the actual rates up to the maximum amount listed. Contractor can only increase rates or add new job classifications to the Agreement through a formal amendment to this Agreement.

1. **Contractor Changes: Addition or Replacement of Personnel**

   a) **Labor Rates**

   If the Contractor adds a new person to a job classification listed in the Contractor’s budget or replaces a person listed in the Contractor’s budget, the Contractor can only invoice for the new person’s actual rate up to the maximum amount listed for that classification in the Contractor’s budget. The Contractor cannot use for its personnel a rate of a subcontractor.

   b) **Classifications**

   Additions or replacement of personnel can only be made within existing job classifications identified in the Contractor’s budget. The Contractor cannot use for its personnel a job classification of a subcontractor. The new person must be invoiced within job classifications that already exist in the budget for the Contractor. If the Contractor wishes to add a new
job classification to the Agreement (for instance to bring in a new person or possibly promote a person) this will require a formal amendment to the Agreement.

c) Promotions
Contractor personnel listed in the Contractor’s budget can be moved to a higher-paying job classification listed in the Contractor’s budget with prior written approval of the CAM and the appropriate Division Deputy Director. The written approval must be submitted to the CAO.

2. **Subcontractor Changes: Addition or Replacement of Personnel**

a) Labor Rates
   If a subcontractor adds a new person to a job classification listed in the subcontractor’s budget or replaces a person listed in the subcontractor’s budget for that subcontractor, the subcontractor can only invoice for the new person’s actual rate up to the maximum amount listed for that classification in the subcontractor’s budget. The subcontractor cannot use for its personnel a rate of another subcontractor or of the Contractor.

b) Classifications
   Additions or replacement of personnel can only be made within existing job classifications identified in the subcontractor’s budget. The subcontractor cannot use for its personnel a job classification of another subcontractor or of the Contractor. The new person must be invoiced within job classifications that already exist in the budget for the subcontractor. If the subcontractor wishes to add a new job classification to the Agreement (for instance to bring in a new person or possibly promote a person) this will require a formal amendment to the Agreement.

c) Promotions
   Subcontractor personnel listed in the subcontractor’s budget can be moved to a higher-paying job classification listed in the subcontractor’s budget with prior written approval of the CAM and the appropriate Division Deputy Director. The written approval must be submitted to the CAO.

C. **Changes in Assigned Personnel Hours**
Contractor may move dollars allocated for a specific person (employee or subcontractor) to another person listed in an Agreement or Work Authorization budget. However such changes cannot change the amount of the budget for the task or labor category. If a change in personnel will result in a change in the dollar amount of the task or in the labor category, then refer to the Budget Reallocation provision in this Exhibit B.

8. **BUDGET REALLOCATION**

A. The Energy Commission, through its CAM and CAO, and the Contractor can agree upon and make certain budget reallocations without a formal amendment to this Agreement as long as ALL of the following conditions are met:
1) For agreements without work authorizations, the total of all budget reallocations cannot exceed ten percent (10%) with a cap amount of $150,000 of the Agreement Amount. For purposes of this provision, “Agreement Amount” means the total amount of Energy Commission funds being paid to Contractor under this Agreement. It does not include any match funds provided by Contractor.

For example, if under an agreement the Energy Commission agrees to pay a contractor $100,000 and the contractor is supplying $500,000 in match funding, the ten percent (10%) limitation applies to the $100,000. Only up to $10,000 of Energy Commission funds can be reallocated without a formal amendment. If under an agreement the Energy Commission agrees to pay a contractor $1,750,000, ten percent would be $175,000, but the cap is $150,000, so the most that could be reallocated without a formal amendment is $150,000.

For agreements with work authorizations, budget reallocations up to ten percent (10%) with a cap of $150,000 of the entire agreement can be made. Budget reallocations up to ten percent (10%) of each work authorization can be made so long as the total amount of all work authorization budget reallocations does not exceed 10 percent of the agreement amount and is within the cap of $150,000. For example, assume an Agreement Amount is $175,000 and the agreement has two work authorizations, WA1 and WA2. WA1 has a budget of $100,000, and WA2 has a budget of $50,000. $10,000 (10% of $100,000) can be moved within WA1. $5,000 (10% of $50,000) can be moved within WA2. In addition to this, $2,500 (10% of $25,000, the Agreement Amount of $175,000 minus the combined work authorization budgets of $150,000) can be made to the portion of the Agreement Amount not associated with work authorizations. The total of these budget reallocations does not exceed ten percent of the total agreement amount or the $150,000 cap.

2) The budget reallocation cannot substantially change the Scope of Work. Examples of budget reallocations that do not substantially change the Scope of Work include, but are not limited to, the following:

- Increasing or decreasing the overall travel budget. This does not mean an increase to the allowed per diem rates under this Agreement.
- Increasing or decreasing the equipment budget.
- Increasing or decreasing the number of personnel assigned to complete tasks. This does not include increasing the hourly rates of the personnel and classifications listed in the budget. Increasing hourly rates requires a formal amendment. The addition of personnel also requires a formal amendment unless there is already an identified classification of rates in the budget that the new personnel will be filling.

3) The budget reallocation only involves moving funds between tasks or categories. The total Agreement Amount and the total budget of any work authorizations must remain unchanged. Increasing the total amount of the Agreement requires a formal amendment.
4) The budget reallocation does not increase the percentage rate of Indirect Overhead, Direct Overhead, Fringe Benefits, General and Administrative Costs, Profit, or any other rates listed in the budget. For example, if an agreement budget lists the Indirect Overhead percentage rate as 25% of Direct Labor, the 25% cannot be changed without a formal amendment. Another example is that if a contractor listed that its profit rate is 8% of the total agreement, to increase this rate would require a formal amendment.

B. To effectuate a budget reallocation under this section, the Contractor must make a request in writing to both the CAM and the CAO. Both the CAM and CAO will then approve or disapprove the request in writing; the approval or disapproval is not effective or binding unless signed by both the CAM and the CAO. Oral communications cannot be used or relied upon. If the request is approved, the CAM shall revise the Budget Attachments to reflect the changes and send them to the CAO and Contractor.

C. Any desired budget reallocations that do not meet the four criteria in this section must be made through a formal amendment. For purposes of this provision, a “formal amendment” means that all of the following must occur: approval by the Energy Commission at a Commission Business Meeting, a written amendment signed by both parties, and approval by the California Department of General Services.

D. Attempted budget reallocations that do not meet the requirements of this section are not legally binding upon the parties.

9. **BUDGET DETAIL**

   Budget detail is contained in the Attachments to this Exhibit.
**General Budget Worksheet Instructions**

1. A separate set of complete budget forms, including the full set of worksheets, is required for the Contractor/Recipient and for all subcontracts, with the exception of Att 7b, which is to be completed by the Bidder (Prime Contractor) only.

2. For each worksheet, only identify the expenses to be incurred by the organization to which the budget forms pertain.

3. Only complete information for non-shaded cells; all other information will be automatically filled or calculated.

4. When more rows are required, copy an existing row and "insert the copied cells" between existing rows to keep template formulas accurate.

5. Budgeted Energy Commission funds and match share must be in whole dollars. Rates (labor, fringe, indirect or profit) and unit costs for materials/equipment must be in dollars and cents (two decimal places only).

6. Do not create new formulas in the tables as they may cause rounding discrepancies.

7. Each worksheet has specific instructions located below the form.

8. All rates (labor, fringe, indirect, and profit) included in these forms are caps, or the maximum amount allowed to be billed. The Energy Commission will only reimburse for actual expenses incurred, not to exceed the rates specified in these forms.

9. All costs (including indirect costs) must adhere to the Agreement Terms and Conditions, Generally Accepted Accounting Principles (GAAP) and the Office of Management and Budget (OMB) Circular or Federal Acquisition Regulations applicable to your organization.

10. Never delete Rows, Columns or Worksheets. Leave unused cells blank.
## Category Budget

(see instructions)

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<thead>
<tr>
<th>Cost Category</th>
<th>Energy Commission Reimbursable Share</th>
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<tbody>
<tr>
<td>Direct Labor</td>
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<tr>
<td>Fringe Benefits</td>
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</tr>
<tr>
<td><strong>Total Labor</strong></td>
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<tr>
<td>Travel</td>
<td>$</td>
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<tr>
<td>Materials/Miscellaneous</td>
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</tr>
<tr>
<td>Subcontractors</td>
<td>$</td>
</tr>
<tr>
<td><strong>Total Other Direct Costs</strong></td>
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<tr>
<td>Indirect Costs</td>
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</tr>
<tr>
<td>Profit (not allowed for grant recipients)</td>
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<td><strong>Total Indirect and Profit</strong></td>
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<td><strong>Grand Totals</strong></td>
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# Direct Labor (Unloaded)
(see instructions)

## Organization Name

### Hourly Rates

<table>
<thead>
<tr>
<th>General Classification (Select from Drop Down Menu)</th>
<th>Employee Name</th>
<th>Job Classification / Title</th>
<th>Maximum Labor Rate ($ per hour)</th>
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<tbody>
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### Monthly Salary Rates

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<thead>
<tr>
<th>General Classification (Select from Drop Down Menu)</th>
<th>Employee Name</th>
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## Fringe Benefits

(see instructions)

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<tr>
<th>Fringe Benefit Base Description (Employee or Job Classification/Title)</th>
<th>Max. Fringe Benefit Rate (%)</th>
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</table>
## Travel
(see instructions)

### Organization Name

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<th>Task No.</th>
<th>Traveler’s Name and/or Classification</th>
<th>Departure and Destination</th>
<th>Trip Purpose</th>
<th>Energy Commission Funds</th>
<th>Match Share</th>
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## Subcontracts
(see instructions)

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## Indirect Costs and Profit

(see instructions)

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(Profit is not allowed for Grant Recipients)

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Total:
EXHIBIT D
Special Terms and Conditions

1. AGREEMENT MANAGEMENT
   A. Contractor may change Project Manager but the Energy Commission reserves the right to approve any substitution of the Project Manager.
   
   B. The Energy Commission may change the Energy Commission Agreement Manager (CAM) at any time and will send a written notice to the Contractor signed by the Energy Commission Agreement Officer (CAO).

   C. Energy Commission staff will be permitted to work side by side with Contractor's staff to the extent and under conditions that may be directed by the CAM. In this connection, Energy Commission staff will be given access to all data, working papers, etc., which Contractor may seek to utilize.

   D. Contractor will not be permitted to utilize Energy Commission personnel for the performance of services, which are the responsibility of Contractor unless the CAM previously agrees to such utilization in writing and an appropriate adjustment in price is made. No charge will be made to Contractor for the services of Energy Commission employees while performing, coordinating or monitoring functions.

   E. If the Schedule of Deliverables and Due Dates needs to be revised after the execution of the Agreement, the revised dates cannot extend beyond the term end date of the Agreement. Contractor shall work with the CAM to agree on the new deliverable due dates. The CAM shall issue the revised Schedule of Deliverables and Due Dates to the Contractor and the CAO. Although the dates can be revised, the deliverables cannot be changed through this process.

2. STANDARD OF PERFORMANCE
   Contractor shall be responsible in the performance of Contractor's/subcontractor's work under this Agreement for exercising the degree of skill and care required by customarily accepted good professional practices and procedures. Any costs for failure to meet these standards, or otherwise defective services, which require reperformance, as directed by CAM or its designee, shall be borne in total by the Contractor/subcontractor and not the Energy Commission. In the event the Contractor/subcontractor fails to perform in accordance with the above standard the following will apply. Nothing contained in this section is intended to limit any of the rights or remedies which the Energy Commission may have under law.

   A. Contractor/subcontractor will reperform, at its own expense, any task, which was not performed to the reasonable satisfaction of the CAM. Any work reperformed pursuant to this paragraph shall be completed within the time limitations originally set forth for the specific task involved. Contractor/subcontractor shall work any overtime required to meet the deadline for the task at no additional cost to the Energy Commission.

   B. The Energy Commission shall provide a new schedule for the reperformance of any task pursuant to this paragraph in the event that reperformance of a task within the original time limitations is not feasible.
C. If the Energy Commission directs the Contractor not to reperform a task; the CAM and Contractor shall negotiate a reasonable settlement for satisfactory services rendered. No previous payment shall be considered a waiver of the Energy Commission’s right to reimbursement.

3. **SUBCONTRACTS**

Contractor shall enter into subcontracts with the following firms and/or individuals and shall manage the performance of the subcontractors.

(Insert Subcontractor Names)

AND

A. Nothing contained in this Agreement or otherwise, shall create any contractual relationship between the State and any subcontractors, and no subcontractors and no subcontract shall relieve Contractor of its responsibilities and obligations hereunder. Contractor agrees to be as fully responsible to the State for the acts and omissions of its subcontractors and/or persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Contractor. Contractor’s obligation to pay its subcontractors is an independent obligation from the State’s obligation to make payments to Contractor. As a result, the State shall have no obligation to pay or to enforce the payment of any monies to any subcontractor.

B. Contractor shall be responsible for establishing and maintaining contractual agreements with and the reimbursement of each of the subcontractors for work performed in accordance with the terms of this Agreement. Contractor shall be responsible for scheduling and assigning subcontractors to specific tasks in the manner described in this Agreement; coordinating subcontractor accessibility to Energy Commission staff, and submitting completed products to the CAM.

C. Contractor shall not allow any subcontractor to assign any portion of a subcontract related to this Agreement to a third party or subsequent tier subcontractor (lower tier subcontractor) without first obtaining the written consent of the CAM and following the procedures below “Process for New Subcontractors”.

D. All subcontracts entered into pursuant to this Agreement shall be subject to examination and audit by the Bureau of State Audits for a period of three (3) years after final payment under the Agreement.

E. Upon request by the CAM or CAO, Contractor shall provide copies of all contractual agreements with subcontractors and lower tier subcontractors.

F. Contractors who are subcontracting with University of California or California State University may use the terms and conditions negotiated by the Department of General Services with University of California/ California State University for their subcontracts. Contractors who are subcontracting with the Department of Energy’s (DOE) Lawrence Livermore National Laboratory, Lawrence Berkeley National Laboratory, and the Sandia National Laboratories may use the terms and conditions negotiated with the Department of General Services. Contractors who are subcontracting with all other DOE laboratories may use the terms and conditions negotiated by the Energy Commission with DOE for their subcontracts.
G. Upon the termination of any subcontract or lower tier subcontract, Contractor shall notify the CAM and CAO immediately in writing.

H. In addition to any other flow-down provisions required by this Agreement, all subcontracts shall contain the following: 1) the audit rights and non-discrimination provision stated in the General Terms and Conditions (Exhibit C) and in D above; 2) further assignments shall not be made to any lower tier subcontractor without written consent of the CAM; and 3) the confidentiality provisions in the Reports paragraph of this Agreement.

I. Process for New Subcontractors

The Energy Commission reserves the right to replace a subcontractor, request additional subcontractors, and approve additional subcontractors requested by Contractor. A replaced subcontractor and an added subcontractor are both defined as a “new” subcontractor. Such changes shall be subject to the following conditions:

1) The new subcontractor shall be selected using either: (a) A competitive bid process with written evaluation criteria by obtaining three or more bids and advertising the work to a suitable pool of subcontractors including without limitation: California Contracts Register; Contractor’s mailing lists; mass media; professional papers or journals; posting on websites; and telephone or email solicitations; or (b) Non-competitive bid (sole source) process with a specific subcontractor.

2) Contractor may also need to comply with Disabled Veteran Business Enterprise requirements for the proposed subcontractor.

3) When a new subcontractor is proposed the CAM shall complete and submit to the CAO a “Subcontractor Addition” form. The proposed subcontract can be executed only after the CAO approves the Subcontractor Addition form. This form identifies the new subcontractor and bidding method used (competitive or non-competitive), the tasks the new subcontractor will be performing and the following shall be attached: resumes and completed Energy Commission budget forms.

4) Labor Rates & Classifications: Personnel of new subcontractors must fit within a classification and be equal to or less than a rate already listed in the Agreement budget and the rate cannot exceed the subcontractor’s actual rate. Adding classifications and/or higher rates for the new subcontractor other than ones currently listed in the Agreement requires a formal amendment.

5) Non-Labor Rates: The non-labor rates (such as fringe, indirect overhead, general and administrative, profit) charged by the new subcontractor shall be equal to or less than the existing non-labor rates already listed in the Agreement budget and cannot exceed subcontractor’s actual non-labor rates. Adding higher non-labor rates for the new subcontractor than ones currently listed in the Agreement requires a formal amendment.

6) Other Direct Operating Expenses: The new subcontractor may charge other direct operating expenses (such as material or equipment) as already identified in the Agreement budget. No new types of operating expenses are allowed to be charged by the new subcontractor. Adding new types of operating expenses for the new subcontractor requires a formal amendment.
4. **DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) REQUIREMENTS**

A. Reporting

If Contractor made a commitment to achieve DVBE participation for this Agreement, then Contractor must within 60 days of receiving final payment under this Agreement, certify in a report to the CAO: (1) the total amount the Contractor received under this Agreement; (2) the name and address of the DVBE(s) that participated in the performance of the Agreement; (3) the amount each DVBE received from the Contractor; (4) that all payments under the Agreement 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).

B. Substitution of DVBE

Contractor shall use each DVBE identified in its proposal or listed in this Agreement. Contractor understands and agrees that if DVBE(s) were identified in its proposal or listed in this Agreement, award of this Agreement is based in part on its commitment to use the DVBE subcontractor(s). If Contractor believes an identified DVBE must be replaced or substituted, Contractor shall inform CAM and CAO in writing of the reason for the DVBE replacement. A DVBE subcontractor may only be replaced by another DVBE subcontractor and must be approved by the Department of General Services (DGS). Military and Veterans Code section 999.5 (e). Contractor shall complete revised DVBE certification forms (provided by the CAO) identifying the new DVBE.

C. Amendment

This Agreement shall be amended if: a DVBE must be substituted and DGS has given approval; or there are changes to the scope of work that impact the DVBE subcontractor(s) identified in the proposal or listed in this Agreement.

D. Grounds for Termination; Damages; Penalties

Failure of Contractor to seek substitution and adhere to the DVBE participation level identified in the proposal or listed in this Agreement may be cause for: termination of this Agreement, recovery of damages under rights and remedies due to the State; and penalties as outlined in Military and Veterans Code section 999.9 and Public Contract Code section 10115.10.

E. DVBE Name for this Agreement: Insert DVBE name

5. **PROCESS FOR OFFERING WORK**

If the Energy Commission or Contractor requires the replacement of a person listed in the Agreement to provide a particular service, or requires that a new person is added, the Contractor shall:

1) First offer the work to qualified persons already listed in this Agreement (either an employee of Contractor or a subcontractor).

2) If there is no available qualified person listed in this Agreement who can perform the work, then Contractor shall provide documentation from all the persons who were offered and declined the work to the CAM. Then, Contractor may request to add a new person to the Agreement in accordance with Exhibit B, Rates & Classifications: Changes in Contractor Personnel or Subcontractor Personnel. A person added to the

Version 1-4-22 Page 4 of 12 Consulting Services Exhibit D contract number contractor name
Agreement is thereafter treated as a person listed in this Agreement and can be offered future work without first offering it to originally listed people.

3) If the person to be replaced or substituted was identified in the Agreement as a Disabled Veteran Business Enterprise (DVBE) firm, refer to the DVBE provision above for changes to DVBEs.

4) If the person added is a new subcontractor, Contractor shall use the process outlined in the Subcontracts provision, Process for New Subcontractors.

6. PERFORMANCE EVALUATION

Consistent with Public Contract Code Sections 10367 through 10371, the Energy Commission shall, upon completion of this Agreement, prepare a performance evaluation of the Contractor. Upon filing an unsatisfactory evaluation with the Department of General Services, Office of Legal Services (DGS) the Energy Commission shall notify and send a copy of the evaluation to the Contractor within 15 days. The Contractor shall have 30 days to prepare and send statements to the Energy Commission and the DGS defending his or her performance. The Contractor's statement shall be filed with the evaluation in the Energy Commission's Contract file and with DGS for a period of 36 months and shall not be a public record.

7. REPORTS

A. Progress and Final Reports: Contractor shall prepare progress reports summarizing all activities conducted by Contractor to date on a schedule as provided in Exhibit A. At the conclusion of this Agreement, Contractor shall prepare a comprehensive Final Report, on a schedule as provided in Exhibit A.

B. Title: Contractor's name shall only appear on the cover and title page of reports as follows:

California Energy Commission
Project Title
Contractor Number
By (Contractor)

C. Ownership: Each report shall become the property of the Energy Commission.

D. Non-disclosure: Contractor will not disclose data or disseminate the contents of the final or any progress report without written permission of the CAM, except as provided in F, below. Permission to disclose information on one occasion or at public hearings held by the Energy Commission relating to the same shall not authorize Contractor to further disclose and disseminate the information on any other occasion. Contractor will not comment publicly to the press or any other media regarding its report, or the Energy Commission's actions on the same, except to Energy Commission staff, Contractor's own personnel involved in the performance of this Agreement, or at a public hearing, or in response to questions from a legislative committee. Notwithstanding the foregoing, in the event any public statement is made by the Energy Commission or any other party, based on information received from the Energy Commission as to the role of Contractor or the content of any preliminary or final report, Contractor may, if it believes the statement to be incorrect, state publicly what it believes is correct.
E. **Confidentiality:** No record which has been designated as confidential, or is the subject of a pending application of confidentiality, shall be disclosed by the Contractor, Contractor's employees or any tier of subcontractors, except as provided in 20 California Code of Regulations, Sections 2506 and 2507, unless disclosure is ordered by a court of competent jurisdiction (20 California Code of Regulations, Sections 2501, et seq.). At the election of the CAM, Contractor, Contractor's employees and any subcontractor shall execute a "Confidentiality Agreement," supplied by the CAM or CAO. Each subcontract shall contain provisions similar to the foregoing related to the confidentiality and nondisclosure of data.

F. **Disclosure:** Ninety days after any document submitted by the Contractor is deemed by the CAM to be a part of the public records of the State, Contractor may, if it wishes to do so at its own expense, publish or utilize a report or written document but shall include the following legend:

"LEGAL NOTICE"

"This report was prepared as a result of work sponsored by the California Energy Commission. It does not necessarily represent the views of the Energy Commission, its employees, or the State of California. The Energy Commission, the State of California, its employees, contractors, and subcontractors make no warranty, express or implied, and assume no legal liability for the information in this report; nor does any party represent that the use of this information will not infringe upon privately owned rights."

8. **CONTRACT DATA, OWNERSHIP RIGHTS**

A. "Data" as used in this Agreement means recorded information, regardless of form or characteristic, of a scientific or technical nature. It may, for example, document research or experimental, developmental or engineering work, or be usable or be used to define a design or process, or to support a premise or conclusion asserted in any deliverable document required by this Agreement. The data may be graphic or pictorial delineations in media, such as drawings or photographs, data or information, etc. It may be in machine form, such as punched cards, magnetic tape or computer printouts, or may be retained in computer memory.

B. "Deliverable data" is that data which, under the terms of this Agreement, is required to be delivered to the Energy Commission and shall belong to the Energy Commission.

C. "Proprietary data" is such data as the Contractor has identified in a satisfactory manner as being under Contractor's control prior to commencement of performance of this Agreement, and which Contractor has reasonably demonstrated as being of a proprietary nature either by reason of copyright, patent or trade secret doctrines in full force and effect at the time when performance of this Agreement is commenced. The title to "proprietary data" shall remain with the Contractor throughout the term of this Agreement and thereafter. The extent of the Energy Commission access to and the testimony available regarding, the proprietary data shall be limited to that reasonably necessary to demonstrate, in a scientific manner to the satisfaction of scientific persons, the validity of any premise, postulate or conclusion referred to or expressed in any deliverable for this Agreement.
D. "Generated data" is that data, which a Contractor has collected, collated, recorded, deduced, read out or postulated for utilization in the performance of this Agreement. Any electronic data processing program, model or software system developed or substantially modified by the Contractor in the performance of this Agreement at the Energy Commission's expense, together with complete documentation thereof, shall be treated in the same manner as "generated data." "Generated data" shall be the property of the Energy Commission, unless and only to the extent that it is specifically provided otherwise in this Agreement.

E. As to "generated data" which is reserved to Contractor by the express terms hereof, and as to any pre-existing or "proprietary data" which has been utilized to support any premise, postulate or conclusion referred to or expressed in any deliverable hereunder, Contractor shall preserve the same in a form which may be introduced as evidence in a court of law at Contractor's own expense for a period of not less than three years after receipt by the Energy Commission of the Final Report herein.

F. Before the expiration of the three years and before changing the form of or destroying any data, Contractor shall notify the Energy Commission of any contemplated action and the Energy Commission may, within thirty (30) days after notification, determine whether it desires the data to be preserved. If the Energy Commission so elects, the expense of further preserving data shall be paid for by the Energy Commission. Contractor agrees that the Energy Commission may at its own expense, have reasonable access to data throughout the time during which data is preserved. Contractor agrees to use its best efforts to furnish competent witnesses or to identify competent witnesses to testify in any court of law regarding data.

9. **PUBLIC HEARINGS**

If public hearings on the scope of work are held during the period of the Agreement, Contractor will make available to testify the personnel assigned to this Agreement. The Energy Commission will reimburse Contractor for compensation and travel of the personnel at the Agreement rates for the testimony which the Energy Commission requests.

10. **DISPUTES**

In the event of an Agreement dispute or grievance between Contractor and the Energy Commission, both parties may follow the procedure detailed below. Contractor shall continue with the responsibilities under this Agreement during any dispute.

A. First Level Dispute Resolution

The Contractor shall first discuss the problem informally with the CAM. If the problem cannot be resolved at this stage, the Contractor must direct the grievance together with any evidence, in writing, to the CAO. The grievance must state the issues in the dispute, the legal authority or other basis for the Contractor’s position and the remedy sought. The CAO and the Program Office Manager must make a determination on the problem within ten (10) working days after receipt of the written communication from the Contractor. The CAO shall respond in writing to the Contractor, indicating a decision and explanation for the decision. Should the Contractor disagree with the CAO's decision, the Contractor may appeal to the second level.
B. Second Level Dispute Resolution

The Contractor must prepare a letter indicating why CAO’s decision is unacceptable, attaching to it the Contractor’s original statement of the dispute with supporting documents, along with a copy of the CAO’s response. This letter shall be sent to the Energy Commission’s Executive Director within ten (10) working days from receipt of the CAO’s decision. The Executive Director or designee shall meet with the Contractor to review the issues raised. A written decision signed by the Executive Director or designee shall be returned to the Contractor within twenty (20) working days of receipt of the Contractor’s letter. The Executive Director may inform the Energy Commission of the decision at an Energy Commission business meeting. Should the Contractor disagree with the Executive Director’s decision, the Contractor may appeal to the Energy Commission at a regularly scheduled business meeting. Contractor will be provided with the current procedures for placing the appeal on an Energy Commission Business Meeting Agenda.

11. **TERMINATION**

The parties agree that because the Energy Commission is a state entity it is necessary for the Energy Commission to be able to terminate, at once, upon the default of Contractors and to proceed with the work required under the Agreement in any manner the Energy Commission deems proper. Contractor specifically acknowledges that the unilateral termination of the Agreement by the Energy Commission under the terms set forth below is an essential term of the Agreement, without which the Energy Commission would not enter into the Agreement. Contractor further agrees that upon any of the events triggering the unilateral termination of the Agreement by the Energy Commission, the Energy Commission has the sole right to terminate the Agreement, and it would constitute bad faith of the Contractor to interfere with the immediate termination of the Agreement by the Energy Commission.

This Agreement may be terminated for any reason set forth below.

A. **With Cause**

In the event of any breach by the Contractor of the conditions set forth in this Agreement, the Energy Commission may, without prejudice to any of its legal remedies, terminate this Agreement for cause upon five (5) days written notice to the Contractor. In such event, the Energy Commission shall pay Contractor only the reasonable value of the services theretofore rendered by Contractor, as may be agreed upon by the parties or determined by a court of law, but not in excess of the Agreement maximum payable. "Cause" includes without limitation:

1) Failure to perform or breach of any of the terms or covenants at the time and in the manner provided in this Agreement; or

2) Contractor is not able to pay its debts as they become due and/or Contractor is in default of an obligation that impacts his ability to perform under this Agreement; or

3) It is determined after notice and hearing by the Energy Commission or the Executive Director that gratuities were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the Energy Commission, with a view toward securing an Agreement or securing favorable treatment with respect to awarding or amending or making a determination with respect to performance of the Agreement; or
4) Significant change in Energy Commission policy such that the work or product being funded would not be supported by the Energy Commission; or

5) Reorganization to a business entity unsatisfactory to the Energy Commission; or

6) The retention or hiring of subcontractors, or the replacement or addition of personnel that fail to perform to the standards and requirements of this Agreement.

B. Without Cause

The Energy Commission may, at its option, terminate this Agreement without cause in whole or in part, upon giving thirty (30) days advance notice in writing to the Contractor. In such event, the Contractor agrees to use all reasonable efforts to mitigate the Contractor's expenses and obligations hereunder. Also, in such event, the Energy Commission shall pay the Contractor for all satisfactory services rendered and expenses incurred within 30 days after notice of termination which could not by reasonable efforts of the Contractor have been avoided, but not in excess of the maximum payable under this Agreement.

12. 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, that is, in addition to every other remedy provided therein or by law. The failure of the Energy Commission to enforce at any time any of the provisions of this Agreement, or to require at any time performance by Contractor 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 Energy Commission to thereafter enforce each and every such provision.

13. 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.

14. PRIOR DEALINGS, CUSTOM OR TRADE USAGE

In no event shall any prior course of dealing, custom or trade usage modify, alter, or supplement any of these terms.

15. NOTICE

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

Notice shall be effective when received, unless a legal holiday for the State commences on the date of the attempted delivery. In which case, the effective date shall be postponed until the next business day.
16. **STOP WORK**

The CAO 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 a project exceeding budget, standard of performance, out of scope work, delay in project schedule, misrepresentations and the like.

A. Compliance. Upon receipt of such stop work order, Contractor shall immediately take all necessary steps to comply therewith and to minimize the incurrence of costs allocable to work stopped.

B. Equitable Adjustment. An equitable adjustment shall be made by the Energy Commission based upon a written request by Contractor for an equitable adjustment. Such adjustment request must be made by Contractor within thirty (30) days from the date of receipt of the stop work notice.

C. Revoking a Stop Work Order. Contractor shall resume the stopped work only upon receipt of written instructions from the CAO canceling the stop work order.

17. **INTERPRETATION OF TERMS**

This Agreement shall be conducted in accordance with the terms and conditions of the solicitation, if applicable. The Contractor's proposal is not attached, but is expressly incorporated by reference into this Agreement. In the event of conflict or inconsistency between the terms of this Agreement and the solicitation or proposal, this Agreement shall be considered controlling.

18. **AMENDMENTS**

This Agreement may be amended through a formal amendment process to make changes, including without limitation;

- Increases in total Agreement amount,
- Extending the Agreement end date,
- Modifying tasks,
- Adding or modifying terms and conditions.

Amendments may be made without competitively bidding, so long as the amendment is exempt from competitive bidding pursuant to Public Contract Code section 10335, Government Code section 11010.5 and the State Contract Manual.

19. **DISCRIMINATION and HARASSMENT TRAINING**

All employees of Contractor and any subcontractor who provide service under this Agreement and maintain work space at the Energy Commission shall take annual training on the prevention of discrimination and harassment. The Energy Commission shall provide the online training course at no charge to Contractor or subcontractors. However, Contractor and subcontractors shall not invoice for the time spent taking the course. Contractor shall ensure that all employees of Contractor and any subcontractor who provide service under this Agreement and represent the Energy Commission in public hearings and workshops, but do not maintain office space at the Energy Commission, receive training on prevention of discrimination and harassment.

20. **CONFIDENTIAL INFORMATION**

If the Energy Commission provides confidential information to a Contractor (or Contractor receives confidential information on the Energy Commission’s behalf in
furtherance of the work under this Agreement) that includes, without limitation, information that is designated as confidential pursuant to Title 20 CCR Sections 2505 et seq. (collectively "Confidential Information"); and that is identified as confidential by the Energy Commission, the Contractor shall follow the requirements number (1) – (7) below:

1) Information Security Program. Before the Contractor or Subcontractor is provided or receives access to Confidential Information, the Energy Commission’s Information Security Officer must review and provide written approval of Contractor’s/Subcontractor’s Information Security Program. Contractor shall provide to the Energy Commission a copy of Contractor’s/Subcontractor’s Information Security Program Plan, which must meet or exceed the minimum requirements as stated in the California State Administrative Manual Chapter 5300, Information Security. https://www.dgs.ca.gov/Resources/SAM. The Information Security Program Plan can be represented in a single document or a compilation of documents. Contractor shall implement and maintain appropriate procedural safeguards to secure Confidential Information from breach and unauthorized use, for the term of this Agreement. Contractor shall assume responsibility for the security and confidentiality of the Confidential Information under its control.

2) Non-Disclosure Agreement. Contractor shall ensure that individuals employed by Contractor or a Subcontractor sign a non-disclosure agreement provided by the Energy Commission before Confidential Information is provided to the individual. The employee must agree to maintain the security of Confidential Information, use Confidential Information only for the scope of the individual’s work, and provide notification of any potential loss of Confidential Information.

3) Notification and Handling. Contractor, Subcontractor, and any individuals who receive Confidential Information shall properly handle and secure Confidential Information from unauthorized use or disclosure. Contractor shall ensure that each of its officers, employees, and Subcontractors who are involved in the performance of this Agreement are informed about the provisions in this paragraph and will abide by them.

4) Security Breach or Unauthorized Disclosure. If Contractor discovers unauthorized release or use of Confidential Information or a security breach, Contractor shall immediately notify the Energy Commission. Contractor shall cooperate with all investigations of the incident, providing the Energy Commission with regular updates on investigation and allow the Energy Commission to participate in all investigations, until the incident is resolved to the Energy Commission’s satisfaction. Contractor shall take steps to mitigate further loss and recover Confidential Information. Contractor shall be responsible for costs incurred due to a security incident or breach.

5) End of Agreement. When the Agreement ends, or sooner if Contractor’s work with the Confidential Information has concluded, Contractor shall destroy the Confidential Information. Contractor shall provide attestation to the Energy Commission that the Confidential Information has been destroyed, including the date and method of destruction.

6) Training. Contractor shall ensure that all individuals employed by Contractor or a Subcontractor who will have access to Confidential Information take annual security awareness training.
7) Survival. The provisions of this paragraph survive the end term of the Agreement.

NOTE: THE CONFIDENTIAL INFORMATION PROVISION ABOVE IS SAMPLE LANGUAGE THAT MAY BE MODIFIED. THE FINAL VERSION OF THE PROVISION WILL BE PROVIDED FOR THE FINAL EXECUTED CONTRACT.
EXHIBIT E
Additional Provisions

1. CONFIDENTIALITY
   A. Information Considered Confidential
      If applicable, all Contractor information considered confidential at the commencement of this Agreement is designated in the Attachment to this Exhibit.
   B. Confidential Deliverables: Labeling and Submitting Confidential Information
      Prior to the commencement of this Agreement, if applicable, the parties have identified in the Attachment to this Exhibit, specific Confidential Information to be provided as a deliverable. All such confidential deliverables shall be marked, by the Contractor, as “Confidential” on each page of the document containing the Confidential Information and presented in a sealed package to the Commission Agreement Officer. (Non-confidential deliverables are submitted to the Accounting Office.) All Confidential Information will be contained in the “confidential” volume: no Confidential Information will be in the “public” volume.
   C. Submittal of Unanticipated Confidential Information as a Deliverable
      The Contractor and the Energy Commission agree that during this Agreement, it is possible that the Contractor may develop additional data or information not originally anticipated as a confidential deliverable. In this case, Contractor shall follow the procedures for a request for designation of Confidential Information specified in 20 CCR 2505. The Energy Commission’s Executive Director makes the determination of confidentiality. Such subsequent determinations may be added to the list of confidential deliverables in the Attachment to this Exhibit.
   D. Disclosure of Confidential Information
      Disclosure of Confidential Information by the Energy Commission may only be made pursuant to 20 CCR 2506 and 2507. All confidential data, records or deliverables that are legally disclosed by the Contractor or any other entity become public records and are no longer subject to the above confidentiality designation.

2. RIGHTS OF PARTIES IN COPYRIGHTS, PHYSICAL WORKS OF ART AND FINE ART
   The Contractor; by signing this Agreement, expressly grants to the Energy Commission for all copyrightable material, work of art and original work of authorship first produced, composed or authored in the performance of this Agreement a royalty-free, paid-up, non-exclusive, irrevocable, nontransferable, worldwide license to produce, translate, publish, use, dispose of, reproduce, prepare derivative works based on, distribute copies of, publicly perform, or publicly display a work of art or fine art, and to authorize others to produce, translate, publish, use, dispose of, reproduce, prepare derivative works based on, distribute copies of, publicly perform, or publicly display a work of art or fine art.
Contractor, by signing this Agreement, expressly conveys to the Energy Commission all ownership of the physical works of art and fine art produced under this Agreement. Contractor agrees it does not reserve any rights to the physical works of art and fine art produced under this Agreement.

Contractor shall obtain these same rights for the Energy Commission from all subcontractors and others who produce copyrightable material, works of art, or works of fine art under this Agreement. Contractor shall incorporate these paragraphs, modified appropriately, into its agreements with subcontractors. No subcontract shall be entered into without these rights being assured to the Energy Commission from the subcontractor.

3. **CONFLICT OF INTEREST**

A. Contractor agrees to continuously review new and upcoming projects in which members of the Contractor team may be involved for potential conflicts of interest. Contractor shall inform the CAM as soon as a question arises about whether a potential conflict may exist. The CAM and Commission’s Chief Counsel’s Office shall determine what constitutes a potential conflict of interest. The Energy Commission reserves the right to redirect work and funding on a project if the Commission’s Chief Counsel’s Office determines that there is a potential conflict of interest.

B. If any individual working under this Agreement is a consultant subject to the requirements and restrictions of the Political Reform Act (Government Code, sections 81000 et seq.), the Contractor shall submit an economic interest statement (Fair Political Practices Commission’s Form 700) from each employee or subcontractor whom is a consultant as required by the Political Reform Act. Consultants must report all financial interests required under Category 1 of the Energy Commission’s Conflict of Interest Code (Title 20, California Code of Regulations, sections 2401 and 2402.)

The Form 700 shall be filed in person at, or mailed to, the following address (e-mails and faxes are not acceptable):

Energy Commission Filing Officer – Form 700 Filing Selection & Equal Employment Opportunity Office 1516 9th St., MS 52 Sacramento, CA 95814

C. No person, firm, or subsidiary thereof who has been awarded a consulting services Agreement may submit a bid for, nor be awarded an Agreement for, the provision of services, procurement of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate in the end product of the consulting services Agreement. This does not apply to any person, firm, or subsidiary thereof who is awarded a subcontract of a consulting services Agreement which amounts to no more than 10 percent of the total monetary value of the consulting services Agreement.
D. Follow-on Agreements

No person, firm, or subsidiary thereof who has been awarded a consulting services Agreement, or an Agreement which includes a consulting component, may be awarded an Agreement for the provision of services, delivery of goods or supplies, or any other related action which is required, suggested, or otherwise deemed appropriate as an end product of the consulting services Agreement. Therefore, any consultant that contracts with a state agency to develop a feasibility study or provide formal recommendations for the acquisition of EDP products or services is precluded from contracting for any work recommended in the feasibility study or the formal recommendation.
PART I: CONFIDENTIAL DELIVERABLES

Pursuant to 20 California Code of Regulations section 2505(c)(2)(B), the Energy Commission designates the following as confidential.

☑️ No Confidential Deliverables,

OR

☐ Confidential Deliverables:

<table>
<thead>
<tr>
<th>Description of Information to be Kept Confidential:</th>
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<tr>
<td>• Title of document/name of deliverable</td>
</tr>
<tr>
<td>• Task Number</td>
</tr>
<tr>
<td>• Portion of document to be kept confidential</td>
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<tr>
<td>• General description of the technology to be kept confidential.</td>
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<td>• Trade Secret</td>
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<td>--Technical</td>
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EXHIBIT E – Attachment 1

Confidential Deliverables and Pre-existing Intellectual Property Lists

PART II: PRE-EXISTING INTELLECTUAL PROPERTY

Contractor has identified the following intellectual property as pre-existing the effective date of this Agreement and is required for performance of this Agreement but is not a deliverable.

☐ No Pre-existing Intellectual Property

OR

☐ Pre-existing Intellectual Property (Please insert "none" in the types that do not apply):

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month year  Page 2 of 3  xxx-xx-xxx
Exhibit E  contractor
## Confidential Deliverables and Pre-existing Intellectual Property Lists

### Copyrights

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### Invention Berkley

(DOE National Labs Only)

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## EXHIBIT F
**Agreement Contacts**

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<thead>
<tr>
<th>Commission Agreement Manager:</th>
<th>Contractor Project Manager:</th>
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</thead>
<tbody>
<tr>
<td>(Name) California Energy Commission 715 P Street, MS-XX Sacramento, CA 95814 Phone (916) XXX-XXXX</td>
<td>(Name) (Contractor Name) Address Phone: Fax: e-mail:</td>
</tr>
<tr>
<td>e-mail: <a href="mailto:_____@energy.ca.gov">_____@energy.ca.gov</a></td>
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<tr>
<th>Confidential Deliverables/Products</th>
<th>Contractor Contract Administrator/Officer:</th>
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<tbody>
<tr>
<td>California Energy Commission Contracts, Grants and Loans Office 715 P Street, MS-18 Sacramento, CA 95814</td>
<td>(Name) (Contractor Name) Address</td>
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<td>Phone: Fax: e-mail:</td>
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<tr>
<th>Invoices, Progress Reports and Non-Confidential Deliverables to:</th>
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<tr>
<td>California Energy Commission Accounting Office 715 P Street, MS-2 Sacramento, CA 95814</td>
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<tr>
<td>Adrienne Winuk, Manager California Energy Commission Contracts, Grants and Loans Office 1516 Ninth Street Sacramento, CA 95814 Phone: (916) 891-8629</td>
<td>(Name) (Contractor Name) Address</td>
</tr>
<tr>
<td>e-mail: <a href="mailto:adrienne.winuk@energy.ca.gov">adrienne.winuk@energy.ca.gov</a></td>
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<tr>
<td>U.S. DEPARTMENT OF DEFENSE</td>
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<td>2231 CRYSTAL DRIVE, SUITE 520</td>
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<tr>
<td>California Energy Commission</td>
<td>Eli Harland</td>
</tr>
<tr>
<td>1516 9th St Ste MS5</td>
<td>Policy Advisor</td>
</tr>
<tr>
<td>Sacramento CA</td>
<td>1516 9th St Ste MS5</td>
</tr>
<tr>
<td>95814 - 5504</td>
<td><a href="mailto:Eli.Harland@energy.ca.gov">Eli.Harland@energy.ca.gov</a></td>
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</table>

<table>
<thead>
<tr>
<th>14. PERIOD OF PERFORMANCE:</th>
<th>15. STATUTORY AUTHORITY:</th>
</tr>
</thead>
<tbody>
<tr>
<td>09/01/2021 - 02/28/2023</td>
<td>10. U.S. Code § 2391</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>16. CFDA NUMBER AND TITLE:</th>
<th>17. TITLE AND DESCRIPTION:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>12.610 Community Economic Adjustment Assistance for Compatible Use and Joint Land Use Studies</td>
</tr>
</tbody>
</table>
18. BUDGET SUMMARY

<table>
<thead>
<tr>
<th></th>
<th>FEDERAL</th>
<th>NON-FEDERAL</th>
<th>TOTAL APPROVED BUDGET</th>
</tr>
</thead>
<tbody>
<tr>
<td>PREVIOUSLY OBLIGATED</td>
<td>$0</td>
<td>$0</td>
<td>$0</td>
</tr>
<tr>
<td>OBLIGATED BY THIS ACTION</td>
<td>$846,799</td>
<td>$99,957</td>
<td>$946,756</td>
</tr>
<tr>
<td>INDIRECT COST RATE IS: 35</td>
<td>$81,719</td>
<td>$25,915</td>
<td>$107,634</td>
</tr>
<tr>
<td>TOTAL OBLIGATED ON AWARD</td>
<td>$846,799</td>
<td>$99,957</td>
<td>$946,756</td>
</tr>
<tr>
<td>GRANT TOTAL</td>
<td>$846,799</td>
<td>$99,957</td>
<td>$946,756</td>
</tr>
</tbody>
</table>

19. FEDERAL AGENCY POINTS-OF-CONTACT

<table>
<thead>
<tr>
<th>GRANTS MANAGEMENT SPECIALIST:</th>
<th>PROJECT MANAGER:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frank Davis</td>
<td>Margit Myers</td>
</tr>
<tr>
<td><a href="mailto:frank.a.davis68.ctr@mail.mil">frank.a.davis68.ctr@mail.mil</a></td>
<td><a href="mailto:margit.a.myers.civ@mail.mil">margit.a.myers.civ@mail.mil</a></td>
</tr>
<tr>
<td>703-697-2078</td>
<td>(703) 697-2119</td>
</tr>
</tbody>
</table>

20. TERMS AND CONDITIONS

The following terms and conditions are incorporated herein by reference with the same force and effect as if they were given in full text. Upon request the Federal awarding agency will make the full text available, or they can be found as described below.

The following documents may be found at: [https://oea.gov/grant-management-administration](https://oea.gov/grant-management-administration).

National Policy Requirements
General OLDCC Terms and Conditions
Program-Specific Terms and Conditions

Special Conditions
1. Prior to the disbursement of funds for sub-recipient activities under this award, the Grantee shall submit an executed agreement(s) for these activities with each sub-recipient.

2. The fixed, carry forward indirect cost rate of 35 percent of modified total direct costs negotiated with the U.S Department of Energy on April 10, 2020, for the period of July 1, 2020, through June 30, 2021, is accepted for the term of this award.
## 21. Award Performance Goals

<table>
<thead>
<tr>
<th>Reporting Type</th>
<th>Frequency</th>
<th>Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Performance Report</td>
<td>Quarterly</td>
<td>2021-12-31</td>
</tr>
<tr>
<td>Performance Report</td>
<td>Quarterly</td>
<td>2022-03-31</td>
</tr>
<tr>
<td>Performance Report</td>
<td>Quarterly</td>
<td>2022-06-30</td>
</tr>
<tr>
<td>Performance Report</td>
<td>Quarterly</td>
<td>2022-09-30</td>
</tr>
<tr>
<td>Performance Report</td>
<td>Quarterly</td>
<td>2022-12-31</td>
</tr>
<tr>
<td>Final Performance Report</td>
<td>Quarterly</td>
<td>2023-06-30</td>
</tr>
</tbody>
</table>

## 22. Affirmation of Award

By signing this agreement, the Authorized Representative assures that the recipient will carry out the project/program described in its application and will comply with the terms and conditions and other requirements of this award.

### For the Recipient

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Date Signed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Drew Bohan</td>
<td>Exec Director</td>
<td>9/8/2021</td>
</tr>
</tbody>
</table>

### For the United States of America

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Date Signed</th>
</tr>
</thead>
<tbody>
<tr>
<td>Patrick O'Brien</td>
<td>Award Official</td>
<td>2021-08-31</td>
</tr>
</tbody>
</table>
U. S. DEPARTMENT OF DEFENSE
OFFICE OF ECONOMIC ADJUSTMENT
GENERAL TERMS AND CONDITIONS
October 2019

INTRODUCTION


APPLICABILITY

These General Terms and Conditions apply to OEA grants and cooperative agreements with Institutions of Higher Education, Nonprofit organizations, States, and Local governments. Provisions of Chapter I, Subchapter C of Title 32, CFR, “DoD Grant and Agreement Regulations,” other than parts 21, 22, 32, 33, and 37, continue to be in effect and are incorporated herein by reference, with applicability as stated in those provisions.

ORDER OF PRECEDENCE

Any inconsistencies in the requirements of this award shall be resolved in the following order:

A. Federal statutes
B. Federal regulations
C. 2 CFR part 200, as modified and supplemented by DoD's interim implementation found in 2 CFR part 1103
D. Award-specific terms and conditions
E. General Terms and Conditions
F. Program-Specific Terms and Conditions.

All applicable Federal statutes and regulations are posted on OEA’s website at www.oea.gov. OEA’s Federal award document is the Notice of Award (NOA), a 3-page form with numbered and labeled sections. These General Terms and Conditions will refer the Grantee to the applicable section.

In case of disagreement with any requirements of this award, the Grantee shall contact the Points of Contact listed in the NOA to resolve the issue. The Grantee shall not assess any costs to the award or accept any payments until the issue is resolved.
ARTICLES

A. Affirmation of Award
B. Grant Payments
C. Personnel
D. Salary Cap
E. Prior Written Approval
F. Overpayments
G. Grantee Contributions
H. Procurement
I. Reimbursement for Travel
J. Use of Consultants/Contractors
K. Contractor Deliverables
L. Intellectual Property
M. Performance Monitoring and Reporting
N. Financial Monitoring and Reporting
O. Prohibited Activities
P. Audits
Q. Reporting Requirements for Subaward and Executive Compensation
R. Recipient Integrity and Performance Matters
S. Requirement to Post an Abstract
T. Prohibition on Using FY 15 Funds under Grants with Entities that Require Certain Internal Confidentiality Agreements
U. Compliance
V. Interest
A. Affirmation of Award

Grantees are required to submit a countersigned Notice of Award (NOA) to OEA. First, review the Terms and Conditions, and other requirements of this award. Next, the Authorized Representative must provide a wet signature and date in NOA Section 22. Affirmation of Award. The final step is to create a pdf file, and upload the countersigned document in its entirety within your OEA Grants Portal account. You may obtain assistance from the Federal Agency Points-of-Contact listed in NOA Section 19.

Failure to adhere to this requirement will result in deobligation of funds being delayed as well as the inability to process any payments. OEA is not responsible for delays due to the unsuccessful submission of the countersigned Notice of Award.

B. Grant Payments

Grantees should refer to NOA Section 5 to determine the Federal Award Date. You will utilize the applicable grant payment guidance dependent upon the Federal Award Date occurring prior to or after 6/1/2019.

- Grant Payments Guidance for Federal Award Date AFTER 6/1/2019

Grant payments will be processed through the U.S. Department of Health and Human Services Payment Management System (PMS).

Due to the requirements of Chapter 19 of Volume 10 of the Department of Defense (DoD) Financial Management Regulation, 7000.14-R, Grantees are required to submit Standard Form (SF)-270 (non-construction) SF-271 (construction) to the Grantor AND submit a payment request within PMS for all payments. Any funds paid to the Grantee in excess of the approved payment amount will constitute a debt to DoD.

CURRENT PMS USERS - If your organization currently uses PMS for a grant awarded by another Federal Agency, a new PMS account number will be created for this Grant. Everyone that currently has access to PMS will need to submit an Update Privileges request in PMS to gain access to this account.

NEW PMS USERS - If your organization does not currently use PMS, then staff will need to gain access to PMS and enter banking information. Access can be requested at https://pms.psc.gov. Instructions for requesting access and entering banking details can be found on the same website under the “Grant Recipients” tab. In addition, your organization will need to complete PMS training. For a list of training dates, please go to https://pms.psc.gov/training/grant-recipient-training.html.
SF-270 or SF-271 Preparation:
Grantees must submit current OMB-approved Standard Forms to request payment. First, review NOA Section 3 to determine the Type of Award. Then utilize the appropriate set of directions to prepare your payment request.

**Non-Construction**
Grantees with non-construction grants should complete and sign Standard Form (SF) 270, “Request for Advance or Reimbursement.” Refer to OEA’s presentation “Grant Payment Process: Successfully using the SF-270 to receive timely payments” for detailed instructions. SF-270, Section 7 must include the Federal Award Identification Number provided in the NOA’s Section 10.

Click on the icon to open:
SF270-V1.0.pdf
OEA SF-270 Instructions Spring .

**Construction**
Grantees with construction grants should complete Standard Form (SF) 271, “Outlay Report and Request for Reimbursement for Construction Programs.” The instructions for this form are on the 2nd page of the SF-271 .pdf file. The Adobe Acrobat Pro form is "fillable.” This will allow you to type into the form and as data is entered, the form will autofill and calculate sums. SF-271, Section 7 must include the Federal Award Identification Number provided in the NOA’s Section 10. Upon completion print, sign, and date the form. The signed form should be scanned and saved as a .pdf file.

Click on the icon to open:
SF271-V1.0.pdf

**SF-270 or SF-271 Submission:**
Once the correct form is completed, signed, and scanned as a .pdf, the Grantee should attach it to an email and submit it via email to: oea.ncr.oea.mbx.oea-pms@mail.mil. You will receive an automated email acknowledging receipt of your payment request.

**PMS Payment Submission:**
Grantees must complete a payment request within PMS. You may locate these instructions at: https://pms.psc.gov/pms-user-guide/accessing-pms.html

**Inquiries:**
After submission, all inquiries into the status of a grant payment should be directed to the OEA Project Manager. Allow seven (7) calendar days after submission of a payment before following up with your Project Manager.
Disclaimer:
Due to the requirements of Chapter 19 of Volume 10 of the Department of Defense (DoD) Financial Management Regulation, 7000.14-R, Grantees must obtain Grantor approval through the successful submission and approval of SF-270 or SF-271 prior to receiving payment. Any funds paid to the Grantee in excess of the approved payment amount will constitute a debt to DoD.

The Grantor will reject all payment requests submitted without the Federal Award Identification Number.

- Grant Payments Guidance for Federal Award Date issued PRIOR to 6/1/2019

Grantees must submit current OMB-approved Standard Forms to request payment. First, review NOA Section 3 to determine the Type of Award. After this determination, utilize the appropriate set of directions to prepare your payment request.

**Non-Construction:**
Grantees with non-construction grants should complete and sign Standard Form (SF) 270, “Request for Advance or Reimbursement.” Refer to OEA’s presentation “Grant Payment Process: Successfully using the SF-270 to receive timely payments” for detailed instructions.

Click on the icon to open:
SF270-V1.0.pdf
OEA SF-270 Instructions Spring.

**Construction:**
Grantees with construction grants should complete Standard Form (SF) 271, “Outlay Report and Request for Reimbursement for Construction Programs.” The instructions for this form are on the 2nd page of the SF-271 .pdf file. The Adobe Acrobat Pro form is “fillable.” This will allow you to type into the form and as data is entered, the form will autofill and calculate sums. Upon completion print, sign, and date the form. The signed form should be scanned and saved as a .pdf file.

Click on the icon to open
SF271-V1.0.pdf

**Submission:**
Once the correct form is completed, signed, and scanned as a .pdf, the Grantee should attach it to an email and submit it via email to:
osd.ncr.odam.mbx.oea-payments@mail.mil

**Inquiries:**
After submission, all inquiries into the status of a grant payment should be directed to the OEA Project Manager. Generally grantees are paid within 10 business days after submission to Defense Finance and Accounting Service (DFAS). We recommend you allow 10 business days after submission of a payment before following up with your Project Manager.

**Disclaimer:**

All payments shall be made by electronic fund transfers to the bank account registered in System for Award Management (SAM) at https://www.sam.gov/portal/SAM/. The Grantee agrees to maintain its registration in SAM including information necessary to facilitate payment via Electronic Funds Transfer (EFT). Should a change in registry or other incident necessitate the payment to an account other than that maintained in SAM, it is the Grantee’s responsibility to notify the Federal Agency Points-of-Contact identified in Section 19 of the Notice of Award, and obtain a modification to this Grant reflecting the change. The Government shall not be held responsible for any misdirection or loss of payment which occurs as the result of a Grantee’s failure to maintain correct/current EFT information within its SAM registration.

The Grantor will reject all payment requests submitted without the Federal Award Identification Number.

**C. Personnel**

The Grantor must approve or disapprove the selection of key personnel as identified in the application and/or this Agreement. Any new hires or changes in key personnel require prior written approval from the Grantor. Resumes, in sufficient detail to reveal the experience, education, and other general and specific qualifications for the position, must be submitted to the Grantor for its consent prior to approval of a candidate.

**D. Salary Cap**

Grantor participation in the salary rate for the highest paid position shall not be in excess of $174,500, or a Tier I Senior Executive Service (SES) salary at the U.S. Department of Defense. Other salaries shall tier downward from this highest salary rate subject to the Grantor’s review and determination of whether the proposed salary (ies) is (are) allowable, allocable, and reasonable.

**E. Prior Written Approval**

Any changes in the project/program described in the application to include those identified below require prior written approval from OEA initiated through an amendment request from the Grantee:

1. Changes in the specific activities described in the application.
2. Changes in key personnel as specified in the application and/or this agreement.

3. Changes in the scope of work contained in any solicitation and/or request for proposals.

4. Need for additional Federal funds or changes in the non-Federal match.

5. Need for decrease in Federal funds or changes in the non-Federal match.

6. Budget reallocations that exceed 10 percent of the total budget among approved direct cost categories or are transferred to new budget line items.

7. Changes in indirect cost rates or recertification of expired indirect cost rates during the project period unless otherwise specified in this grant agreement.

8. Requests to purchase equipment with an estimated acquisition cost of more than $5,000.

9. Requests to use Federal and/or non-Federal match funds for food and/or beverages in conjunction with meeting costs.

10. Reallocation of funds from the Contingencies budget category.

F. Overpayments

(1) Overpayment Guidance for Federal Award Date prior to 6/1/2019

Any Grant funds advanced or paid and not needed for approved grant purposes shall be reported immediately to the Grantor at: osd.ncr.odam.mbx.oea-payments@mail.mil.

Grantees are to submit payments, including refunds or reimbursements, directly to the Grantor’s Fiscal Agent, the Defense Finance and Accounting Service (DFAS) Cleveland through one of the following methods:

Via ACH with the following information:
Bank Name: Credit Gateway
RTN: 051036706
A/C: 220031

Via Wire with the following information:
Bank Name: US Treasury
City: New York, NY
Country: USA
RTN: 021030004
Swift: FRNYUS33FX1
Account Name: DFAS-Cleveland
Account Number: 00008522

The Grantor will not accept any paper checks or returned funds directly. Grantor must be notified when funds have been returned to DFAS in order to direct those funds to the appropriate account.

(2) Overpayments Guidance for Federal Award Date after 6/1/2019

The funds can be returned by check or at the bank via ACH or FedWire. The instructions are located at this website: https://pms.psc.gov/grant-recipients/returning-funds-interest.html

The Payment Management System Program Support Center (PSC) prefers funds returned using Automated Clearing House (ACH) Direct Deposit (Remittance Express [REX]) or FedWire.

IMPORTANT - PLEASE INCLUDE:

• PMS Account Number (PAN). NOTE: The PAN is the same series of alpha-numeric characters used for payment request purposes (e.g.: C1234G1). This is important to indicate whom to credit the funding;
• PMS document number; and
• the reason for the return (e.g. Excess cash, funds not spent, interest, part interest part other, etc.)

Electronic returns include fields to include financial data. Please make use of these fields and include pertinent subaccount information if it applies.

Domestic Automated Clearing House (ACH) Returns (Direct Deposit)

Returning funds to PSC via Automated Clearing House (ACH) means you will most likely be returning funds to PSC in the manner in which they were received at your organization.

Below is PSC ACH account information:
• PSC ACH Routing Number is: 051036706
• PSC DFI Accounting Number: 303000
• Bank Name: Credit Gateway - ACH Receiver
• Location: St. Paul, MN

International Automated Clearing House (ACH) Returns (Direct Deposit)

For payments sent in U.S. Dollars (USD):
• Beneficiary Account: Federal Reserve Bank of New York/ITS (Can abbreviate: FRBNY/ITS)
• Bank: Citibank N.A. (New York)
• SWIFT Code: CITIUS33
• Account Number: 36838868
• Bank Address: 388 Greenwich Street, New York, NY 10013
• Payment Details (Line 70): Agency Name (abbreviated when possible) and Agency Locator Code (ALC)
• Agency POC: Lucas Thompson, (301) 492-5067

For a USD payment, the payment sender must include:
• Agency Locator Code (ALC): 75010501
• Name: US Department of Health and Human Services, PMS Account Number and Grant Sub-account Number in the Payment Details (Line 70) section of the SWIFT message.

This information must be in this section of the payment instructions or International Treasury Service (ITS) will not be able to identify for which agency the payment is intended and, ITS will return the payment as unidentified or unable to post. The receiving account is in the name of “Federal Reserve Bank of New York/ITS” and the payment originator should list that as the name on the beneficiary account.

FedWire Returns

For a FedWire return, return via a WIRE:
• FedWire Routing Number: 021030004
• Agency Location Code (ALC): 75010501
• Bank Name: Federal Reserve Bank
• Treas NYC/Funds Transfer Division
• Location: New York, NY

Note: If your organization initiates a wire, you are likely to incur a charge from your Financial Institution.

G. Grantee Contributions

Contributions to this project by non-Grantor sources are expected to be paid out at the same general rate as Grant funds.

H. Procurement

Effective June 20, 2018, Grantees are allowed to use the higher threshold of $10,000 for micro-purchases and $250,000 for simplified acquisitions in advance of revisions to the FAR at 48 C.F.R. Subpart 2.1 and the Uniform Guidance when exceptions are not prohibited by statute.

I. Reimbursement for Travel

Reimbursement for travel (transportation, food, and lodging) in the performance of Grant activities shall be consistent with those normally allowed in like circumstances in the non-
Federally sponsored activities of the Grantee. Grantees may follow their own established rate but any travel allowance policies in excess of Federal Travel Regulation limits must receive prior approval from the Grantor.

J. Use of Consultants/Contractors

1. The scope of work contained in any solicitation and/or request for proposals may be reviewed and approved by OEA prior to issuance.

2. Procurement of consultant or contractor services shall be in accordance with all standards and procedures set forth in 2 CFR Part 200. The following terms are intended merely to highlight some of these standards and are, therefore, not inclusive.

   a. All procurement transactions, regardless of whether negotiated or advertised and without regard to dollar value, shall be conducted in a manner that provides maximum open and free competition.

   b. Formal advertising, with adequate purchase description, sealed bids, and public openings, shall not be required for small purchase procurements that are less than the simplified acquisition threshold, currently set as $250,000 unless otherwise required by State or local law or regulation. If small purchase procedures are used, price or rate quotations shall be obtained. Micro-purchases of supplies or services, the aggregate amount of which does not exceed the micro-purchase threshold currently set at $10,000 may be used in order to expedite the completion of lowest-dollar small purchase transactions.

   c. The Grantee shall maintain a code or standards of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending Federal Grant funds. Grantee’s officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from a contractor or potential contractors. To the extent permissible by State or local law, rules, or regulations, such standards shall provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by the Grantee’s officers, employees, or agents, or by contractors.

   d. The Grantee shall ensure that every consultant and every contractor it employs under the Grant complies with the terms of this Agreement as though the consultant or contractor were a party to this Agreement.

   e. The Grantee is the responsible authority, without recourse to the Grantor, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of the Grant.
K. Contractor Deliverables

A disclaimer statement will appear on the title page of any study prepared under this Grant. It will read:

“This study was prepared under contract with the [The Grantee should insert its legal name into this space], with financial support from the Office of Economic Adjustment, Department of Defense. The content reflects the views of the [The Grantee should insert its legal name into this space] and does not necessarily reflect the views of the Office of Economic Adjustment.”

The contractor identification will appear on the title page of any study funded by this grant.

Any final study shall be submitted electronically. The document will be dated the month and year that it is submitted to the Grantor.

L. Intellectual Property

Rights to inventions made under this grant are subject to Federal patent and licensing regulations, which are codified at Title 37 CFR Part 401 and Title 35 USC Sections 200-212. Pursuant to the Bayh-Dole Act (set forth in 35 USC 200-212), Grantor retains the right to a worldwide, nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention owned by the assistance agreement holder, as defined in the Act. In order to receive invention submission guidance, the non-federal entity must notify the Grantor when first aware of any invention.

M. Performance Monitoring and Reporting

The Grantee must submit performance reports in accordance with the due dates provided in NOA Section 21, Award Performance Goals. All performance reports will contain the following information about expenses incurred during the reporting period:

1. A comparison of actual accomplishments to the objectives established for the period.

2. The reasons for slippage if established objectives were not met.

3. Additional pertinent information when appropriate.

4. Grantees with non-construction awards will provide a computation of Federal funds expended for each SF-424A object class category approved for the award.

5. Grantees with construction awards will provide a computation of Federal funds spent in each SF-424C cost classification approved for the award.
6. The computation of costs will also include the amount of Grant funds on hand at the beginning and end, and non-Grantor share of contributions over the term.

7. The final performance report must contain a summary of activities for the entire Grant period. All required deliverables should be submitted with the final performance report.

N. Financial Monitoring and Reporting

The Grantee must utilize SF-425, “Federal Financial Report,” to report all financial activity under the award. Submission of this requirement to the Grantor must remain in compliance with the due dates provided in NOA Section 21, Award Performance Goals.

When preparing the SF-425, the Grantee is advised to review Form Field Instructions, OMB Number: 4040-0014. You may click this icon to obtain the instructions:

As a supplement to these instructions, OEA offers supplemental guidance for some fields in SF-425 Section 10, “Federal Expenditures and Unobligated Balance.”

<table>
<thead>
<tr>
<th>Field Number</th>
<th>Field Name</th>
<th>Supplemental Guidance</th>
</tr>
</thead>
<tbody>
<tr>
<td>10a</td>
<td>Cash Receipts</td>
<td>Federal funds received</td>
</tr>
<tr>
<td>10b</td>
<td>Cash Disbursements</td>
<td>Actual costs incurred to perform work. Consists of direct and indirect costs. 10b will equal 10e</td>
</tr>
<tr>
<td>10c</td>
<td>Cash on Hand</td>
<td>Financial status of Federal funds</td>
</tr>
<tr>
<td>10d</td>
<td>Total Federal Funds</td>
<td>Federal Grant Total Obligated on Award in NOA Section 18</td>
</tr>
<tr>
<td>10e</td>
<td>Federal Share of Expenditures</td>
<td>All disbursements made. 10e will equal 10b.</td>
</tr>
<tr>
<td>10f</td>
<td>Federal Share of Unliquidated Obligations</td>
<td>Expenses have occurred, but invoices have not come in</td>
</tr>
<tr>
<td>10g</td>
<td>Total Federal Share (Sum)</td>
<td>How much has been spent?</td>
</tr>
<tr>
<td>10h</td>
<td>Unobligated Balance of Federal Funds</td>
<td>Amount of 10d minus 10g</td>
</tr>
<tr>
<td>10i</td>
<td>Total Recipient Share Required</td>
<td>Non-Federal Grant Total in NOA Section 18</td>
</tr>
<tr>
<td>10j</td>
<td>Recipient Share of Expenditures</td>
<td>Amount of non-Federal Grant Total met</td>
</tr>
</tbody>
</table>
The final SF 425, “Federal Financial Report,” shall be submitted to the Grantor within 90 days after the end date of the Grant. Any Grant funds actually advanced and not needed for Grant purposes shall be reported immediately to the Grantor and returned to the Grantor’s Fiscal Agent in accordance with the guidance provided in Article F. Overpayments, of this document.

The Grantor reserves the right to conduct on-site reviews and/or off-site desk reviews to confirm compliance with programmatic and administrative terms and conditions.

O. Prohibited Activities

1. Duplication of Work: The purpose and scope of work for which this Agreement is made shall not duplicate programs for which moneys have been received, are committed, or are applied for from other sources, public or private. Upon request of the Grantor, the Grantee shall submit full information about related programs that will be initiated within the Grant period.

2. Other Funding Sources: Grantor’s funds budgeted or granted for this program shall not be used to replace any financial support previously provided or assured from any other source.

3. The Grantee is prohibited from using funds provided from this Grant or personnel employed in the administration of this program for political activities, sectarian or religious activities, lobbying, political patronage, or nepotism activities.

4. Grant funds may not be used for marketing or entertainment expenses.

5. Grant funds may not be used for capital assets, such as the purchase of vehicles, improvements and renovation of space, and repair and maintenance of privately owned vehicles.

P. Audits

The Grantee agrees to comply with audit requirements as specified in 2 CFR Part 200, Subpart F, “Audit Requirements.”

The Grantee shall provide any audit with findings related to this award, with copies of the reporting package (including corrective action plans), management letters issued by an auditor, and audit working papers, to the Grantor.

The Grantor will seek to issue a management decision to the Grantee within six months of receipt of an audit report with findings, and the Grantee shall take timely and corrective action to comply with the management decision.
The Grantor reserves the right to conduct an independent follow-up audit.

Q. Reporting Subawards and Executive Compensation

a. Reporting of first-tier subawards.

1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you 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. You must report each obligating action described in paragraph a.1. of this award term to http://www.fsrs.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. You must report the information about each obligating action that the submission instructions posted at http://www.fsrs.gov specify.

b. Reporting Total Compensation of Recipient Executives.

1. Applicability and what to report. You must report total compensation for each of your 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, you received—

(A) 80 percent or more of your 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. You must report executive total compensation described in paragraph b.1. of this award term:

i. As part of your 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 you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you 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. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

i. To the recipient.

ii. By the end of the month following the month during which you make 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), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions
If, in the previous tax year, you had gross income, from all sources, under $300,000, you are 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 award 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 you received this award and that you as the recipient award to an eligible subrecipient.

   ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. .210 of the attachment to OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations”).

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

4. Subrecipient means an entity that:

   i. Receives a subaward from you (the recipient) under this award; and

   ii. Is accountable to you 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 recipient'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.

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**R. Recipient Integrity and Performance Matters**

**A. REPORTING OF MATTERS RELATED TO RECIPIENT INTEGRITY AND PERFORMANCE**

1. **General Reporting Requirement**

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds $10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient 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 award term and condition. 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.

2. **Proceedings About Which You Must Report**

Submit the information required about each proceeding that:

a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;

b. Reached its final disposition during the most recent five year period; and

c. Is one of the following:
(1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
(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 5. of this award term and condition, 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:
   (i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
   (ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
   (iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures
Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. 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.

4. Reporting Frequency
During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, 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. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than $10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions
For purposes of this award term and condition:

a. 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 grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
b. Conviction, for purposes of this award term and condition, 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.
c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—
   (1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
   (2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.
S. Requirement to Post an Abstract

Pursuant to the requirements of Section 8123 of the Department of Defense Appropriations Act, 2015, the Grantee is hereby informed that the Office of Economic Adjustment is required to post a publicly releasable abstract statement that describes the project or program supported by this Grant, in terms that the public can understand, to Department of Defense website, https://dodgrantawards.dtic.mil/grants/index.html#/home.

By signing this award agreement, the Grantee accepts this requirement and confirms OEA may publicly release and post an abstract obtained from the Grantee’s grant application to Department of Defense website, https://dodgrantawards.dtic.mil/grants/index.html#/home.

T. Prohibition on Using FY 15 Funds under Grants with Entities that Require Certain Internal Confidentiality Agreements

The recipient shall not require employees, contractors or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

The recipient must notify its employees, contractors, or subrecipients that the prohibitions and restrictions of any internal confidentiality agreements inconsistent with this prohibition are no longer in effect.

The prohibition of this award provision does not contravene requirements applicable to any form issued by a Federal department of agency governing the nondisclosure of classified information.

If the Government determines that the recipient is not in compliance with this award provision, it:
(1) Will prohibit the recipient’s use of any FY 2015 funds under this award, in accordance with section 743 of Division E, Title VIII of the Consolidated and Further Continuing Resolution Appropriations Act, 2015, (Pub. L 113-235); and
(2) May pursue other remedies available for the recipient’s material failure to comply with award terms and condition

U. Compliance

OEA may suspend or terminate this Agreement in whole, or in part, if the Grantee materially fails to comply with any term or condition of this Agreement. The Grantee shall not incur new obligations for the terminated portions after receiving notice of the termination, and shall cancel as many outstanding obligations as possible. Additional enforcement remedies for non-compliance and termination provisions, in 2 CFR Part 200 apply to this award. The decision of the Grantor in interpreting the Terms and Conditions of this Agreement shall be final.
V. Interest

Interest earned amounts up to $500 per year may be retained by the Grantee for administrative expense. Any additional interest earned on Federal advance payment deposited in interest-bearing accounts must be remitted annually to the U.S. Department of Health and Human Services.

(1) To return interest on a grant not paid through the PMS, make your check payable to the Department of Health and Human Services.

Mail the Check to:

HHS Program Support Center
P.O. Box 530231
Atlanta, GA 30353-0231

Please include a brief statement explaining the nature of the return.

(2) If the grant for which you are returning interest is paid through PMS, the refund should include:

• An explanation stating that the refund is for interest
• List the PMS Payee Account Number(s) (PANs)
• List the grant number(s) for which the interest was earned
• The return should be made payable to: Department of Health and Human Services.

You may return funds for principle and interest in the same refund; however, you must note the amounts that should be applied to each.

If the grant for which you are returning interest is not paid through the PMS, the refund should be accompanied with:

• An explanation stating that the refund is for interest
• The name of the awarding agency
• The grant number(s) for which the interest was earned
• The return should be made payable to: Department of Health and Human Services.
I. NATIONAL POLICY REQUIREMENTS

NP Article I. Nondiscrimination national policy requirements. (OCTOBER 2015)

Section A. Cross-cutting nondiscrimination requirements. By signing this agreement or accepting funds under this agreement, you assure that you will comply with applicable provisions of the national policies prohibiting discrimination:

1. On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), as implemented by DoD regulations at 32 CFR part 195.

2. On the basis of gender, blindness, or visual impairment, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), as implemented by DoD regulations at 32 CFR part 196.


5. On the basis of disability in the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.) related to physically handicapped persons’ ready access to, and use of, buildings and facilities for which Federal funds are used in design, construction, or alteration.

Section B. Other nondiscrimination requirements. RESERVED.

NP Article II. Environmental national policy requirements. (OCTOBER 2015)

Section A. Cross-cutting environmental requirements. You must:


2. Immediately identify to us, as the Federal awarding agency, any potential impact that you find this award may have on:

   a. The quality of the human environment, including wetlands, and provide any help we may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321 et seq.) and assist us to prepare Environmental Impact Statements or other environmental documentation. In such cases, you may take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) or limit the choice of reasonable alternatives until we provide written notification of Federal compliance with NEPA.
b. Flood-prone areas, and provide any help we may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), which require flood insurance, when available, for federally assisted construction or acquisition in flood-prone areas.

c. Use of land and water resources of coastal zones, and provide any help we may need to comply with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.).

d. Coastal barriers along the Atlantic and Gulf coasts and Great Lakes’ shores, and provide help we may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501 et seq.), concerning preservation of barrier resources.

e. Any existing or proposed component of the National Wild and Scenic Rivers system, and provide any help we may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.).

f. Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide any help we may need to comply with the Safe Drinking Water Act (42 U.S.C. 300h-3).

3. Comply with applicable provisions of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), as implemented by the Department of Housing and Urban Development at 24 CFR part 35. The requirements concern lead-based paint in buildings owned by the Federal Government or housing receiving Federal assistance.

Section B. Other environmental requirements. RESERVED.

NP Article III. National policy requirements concerning live organisms. (OCTOBER 2015)

Section A. Cross-cutting requirements concerning live organisms. You must:

1. Human subjects. You must protect the rights and welfare of individuals that participate as human subjects in research under this award in accordance with DoD regulations at 32 CFR part 219 and DoD Instruction 3216.2.

2. Animals.

   a. You must comply with applicable provisions of Department of Agriculture rules at 9 CFR parts 1-4 and DoD Instruction 3216.1, which implement the Laboratory Animal Welfare Act of 1966 (7 U.S.C. 2131-2156) and provide for humane transportation, handling, care, and treatment of animals used in research, experimentation, testing, or training under this award. You may not begin any animal work under the award that the awarding DoD Component has not reviewed and approved, as specified in paragraph 2.d of Enclosure 3 to DoD Instruction 3216.1.
b. Your animal care program must meet the standards set forth in the National Academy of Sciences publication “Guide for the Care and Use of Laboratory Animals” (eighth edition, 2011, which may be found currently at http://www.nap.edu/catalog/12910/guide-for-the-care-and-use-of-laboratory-animals-eighth).

c. You must immediately identify to us, as the Federal awarding agency, any potential impact that you find this award may have on endangered species, as defined by the Endangered Species Act of 1973, as amended (“the Act,” 16 U.S.C. 1531-1543), and implementing regulations of the Departments of the Interior (50 CFR parts 10-24) and Commerce (50 CFR parts 217-227). You also must provide any help we may need to comply with 16 U.S.C. 1536(a) (2). This is not in lieu of responsibilities you have to comply with provisions of the Act that apply directly to you as a U.S. entity, independent of receiving this award.

Section B. Other requirements concerning live organisms. RESERVED.

NP Article IV. Other national policy requirements. (OCTOBER 2015)

Section A. Cross-cutting requirements.

1. Debarment and suspension. You must comply with requirements regarding debarment and suspension in Subpart C of 2 CFR part 180, as adopted by DoD at 2 CFR part 1125. This includes requirements concerning your principals under this award, as well as requirements concerning your procurement transactions and subawards that are implemented in PROC Articles I through III and SUB Article II.

2. Drug-free workplace. You must comply with drug-free workplace requirements in Subpart B of 32 CFR part 26, which is the DoD implementation of 41 U.S.C. Chapter 81, “Drug-Free Workplace.”

3. Lobbying.

   a. You must comply with the restrictions on lobbying in 31 U.S.C. 1352, as implemented by DoD at 32 CFR part 28, and submit all disclosures required by that statute and regulation.

   b. You must comply with the prohibition in 18 U.S.C. 1913 on the use of Federal funds, absent express Congressional authorization, to pay directly or indirectly for any service, advertisement or other written matter, telephone communication, or other device intended to influence at any time a Member of Congress or official of any government concerning any legislation, law, policy, appropriation, or ratification.

   c. If you are a nonprofit organization described in section 501(c)(4) of title 26, United States Code (the Internal Revenue Code of 1968), you may not engage in lobbying activities as defined in the Lobbying Disclosure Act of 1995 (2 U.S.C., chapter 26). If we determine that you have engaged in lobbying activities, we will cease all payments to
you under this and other awards and terminate the awards unilaterally for material failure to comply with the award terms and conditions.

4. **Officials not to benefit.** You must comply with the requirement that no member of Congress shall be admitted to any share or part of this agreement, or to any benefit arising from it, in accordance with 41 U.S.C. 6306.

5. **Hatch Act.** If applicable, you must comply with the provisions of the Hatch Act (5 U.S.C. 1501-1508) concerning political activities of certain State and local government employees, as implemented by the Office of Personnel Management at 5 CFR part 151, which limits political activity of employees or officers of State or local governments whose employment is connected to an activity financed in whole or part with Federal funds.

6. **Native American graves protection and repatriation.** If you control or possess Native American remains and associated funerary objects, you must comply with the requirements of 43 CFR part 10, the Department of the Interior implementation of the Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C., chapter 32).

7. **Fly America Act.** You must comply with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118), commonly referred to as the “Fly America Act,” and implementing regulations at 41 CFR 301-10.131 through 301-10.143. The law and regulations require air transport of people or property to, from, between or within a country other than the United States, the cost of which is supported under this award, to be performed by or under a cost-sharing arrangement with a U.S. flag carrier, if service is available.

8. **Use of United States-flag vessels.** You must comply with the following award term specified by the Department of Transportation at 46 CFR 381.7, in regulations implementing the Cargo Preference Act of 1954:

   a. Pursuant to Pub. L. 83-664 (46 USC 55305), at least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds under this award, and which may be transported by ocean vessel, must be transported on privately owned United States-flag commercial vessels, if available.

   b. Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, “on-board” commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph 98.a of this section shall must be furnished to both our award administrator (through you in the case of your contractor’s bill-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

9. **Research misconduct.** You must comply with requirements concerning research misconduct in Enclosure 4 to DoD Instruction 3210.7, “Research Integrity and Misconduct.” The Instruction implements the Government wide research misconduct policy that the Office of Science and
Technology Policy published in the Federal Register (65 FR 76260, December 6, 2000), available through the U.S. Government Printing Office web site:


10. **Requirements for an Institution of Higher Education Concerning Military Recruiters and Reserve Officers Training Corps (ROTC).**

   a. As a condition for receiving funds available to the DoD under this award, you agree that you are not an institution of higher education (as defined in 32 CFR part 216) that has a policy or practice that either prohibits, or in effect prevents:

      (1) The Secretary of a Military Department from maintaining, establishing, or operating a unit of the Senior Reserve Officers Training Corps(ROTC)—in accordance with 10 U.S.C. 654 and other applicable Federal laws—at that institution (or any subelement of that institution);

      (2) Any student at that institution (or any subelement of that institution) from enrolling in a unit of the Senior ROTC at another institution of higher education.

      (3) The Secretary of a Military Department or Secretary of Homeland Security from gaining access to campuses, or access to students (who are 17 years of age or older) on campuses, for purposes of military recruiting in a manner that is at least equal in quality and scope to the access to campuses and to students that is provided to any other employer; or

      (4) Access by military recruiters for purposes of military recruiting to the names of students (who are 17 years of age or older and enrolled at that institution or any subelement of that institution); their addresses, telephone listings, dates and places of birth, levels of education, academic majors, and degrees received; and the most recent educational institutions in which they were enrolled.

      (5) If you are determined, using the procedures in 32 CFR part 216, to be such an institution of higher education during the period of performance of this award, we:

         (a) Will cease all payments to you of DoD funds under this award and all other DoD grants and cooperative agreements; and

         (b) May suspend or terminate those awards unilaterally for material failure to comply with the award terms and conditions.

11. **Historic preservation. You must identify to us any:**

   a. Any property listed or eligible for listing on the National Register of Historic Places that will be affected by this award, and provide any help we may need, with respect to this award, to comply with Section 106 of the National Historic Preservation Act of 1966 (16

b. Potential under this award for irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data, and provide any help we may need, with respect to this award, to comply with the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1, et seq.).

12. **Relocation and real property acquisition.** You must comply with applicable provisions of 49 CFR part 24, which implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.) and provides for fair and equitable treatment of persons displaced by federally assisted programs or persons whose property is acquired as a result of such programs.

13. **Confidentiality of patient records.** You must keep confidential any records that you maintain of the identity, diagnosis, prognosis, or treatment of any patient in connection with any program or activity relating to substance abuse education, prevention, training, treatment, or rehabilitation that is assisted directly or indirectly under this award, in accordance with 42 U.S.C. 290dd-2.

14. **Pro-Children Act.**

   You must comply with applicable restrictions in the Pro-Children Act of 1994 (Title 20, Chapter 68, Subchapter X, Part B of the U.S. Code) on smoking in any indoor facility:

   a. Constructed, operated, or maintained under this award and used for routine or regular provision of kindergarten, elementary or secondary education or library services to children under the age of 18.

   b. Owned, leased, or contracted for and used under this award for the routine provision of federally funded health care, day care, or early childhood development (Head Start) services to children under the age of 18.

15. **Constitution Day.** You must comply with Public Law 108-447, Div. J, Title I, Sec. 111 (36 U.S.C. 106 note), which requires each educational institution receiving Federal funds in a Federal fiscal year to hold an educational program on the United States Constitution on September 17th during that year for the students served by the educational institution.

16. **Trafficking in persons.** You must comply with requirements concerning trafficking in persons specified in the award term at 2 CFR 175.15(b), as applicable.

17. **Whistleblower protections.** You must comply with 10 U.S.C. 2409, including the:

   a. Prohibition on reprisals against employees disclosing certain types of information to specified persons or bodies; and
b. Requirement to notify your employees in writing, in the predominant native language of the workforce, of their rights and protections under that statute.
The Office of Economic Adjustment’s ‘Notice of Award’ consists of a 2-page form with numbered sections. Grantees should refer to the following section numbers to determine applicability: Section 3 for Award Type; Section 11 for Program Type; and Section 16 for CFDA Number and Title.

I. COMMUNITY INVESTMENT (Construction Grants)

CFDA 12.600, Community Investment includes four program areas:

- Public Schools on Military Installations
- Military Medical Center Access Improvement Program
- Civilian Infrastructure Investments on the Territory of Guam
- Projects that involve construction

The following program-specific terms and conditions are applicable to CFDA number 12.600, Community Investment:

A. The Grantee agrees to retain ownership of the new, expanded, or renovated facility and to insure, operate, and maintain or replace the facilities to the same standard and conditions as any other Grantee-owned property, to include scheduling and funding necessary maintenance, expansion, an/or replacement of the improved real property, on the same basis as any other Grantee-owned property and facilities.

B. Federal Interest

(1) (Property Trust Relationship) Real property, equipment, and intangible property that are acquired or improved through the use of OEA grant funding must be held in trust by the Grantee as trustee for the beneficiaries of the project or program under which the property was acquired or improved. With respect to real property, the trust shall remain in effect for the entire Federal Interest Period specified in section I.B.(3)a., (Federal Interest Period, Real Property) of these terms & conditions, unless otherwise stipulated in the grant agreement.

(2) (Notice of Federal Interest) A Grantee acquiring or improving real property through the use of OEA grant funding must record a Notice of Federal Interest (NFI) in the appropriate official records of the jurisdiction in which the property is located. NFI recordation must occur at the time the real property acquisition or improvement begins. The NFI shall remain in effect for the entire Federal Interest
Period applicable to the subject real property as set forth by OEA in section I.B.(3)a., (Federal Interest Period, Real Property), unless otherwise stipulated in the grant agreement. A copy of the recorded NFI must be provided to the OEA Project Manager (PM) within 10 days following the date of recordation.

(3) Federal Interest Periods

a. (Real Property) The OEA Federal Interest Period shall be 30 years from the start date of construction unless otherwise specified by the grant agreement.

b. (Personal Property) All personal property (e.g., equipment and non-fixed asset machinery) conforming to 2 CFR § 200.33 definitions must be managed in accordance with 2 CFR § 200.311 and 2 CFR § 200.313. Management of personal property in accordance with local standards is acceptable, provided local standards meet 2 CFR 200 requirements. A list of all grant-purchased personal property must be submitted to OEA as a deliverable prior to grant closeout.

(4) Real Property Monitoring

a. (Real Property Status Report) Grantees are required to report on the status of real property acquired or improved through federal funding using the Office of Management and Budget (OMB) Standard Form 249 (SF 429). This reporting will occur at the time of grant closeout as part of the submission of the final performance report and at the time of disposal. The requirement to provide the real property status report at the time of grant closeout does not relieve the Grantee of its responsibility to provide a timely copy of the recorded NFI within the 10 days of the recordation as provided in sec. I.B.(2) above.

b. (Prior Approval for Changes/Renovations to Real Property) For real property subject to an OEA federal interest, before undertaking significant changes or renovations that have the potential to alter aspects of the property’s end use approved at the time of the grant award, Grantees must obtain written prior approval from the OEA Grants Management Officer. Grantees must use the SF 429 form to request written prior approval.

(5) Disposal

a. (Real Property) During the Federal Interest Period, Grantees must request in writing OEA instructions and written approval prior to disposing of real or personal property subject to an OEA federal interest. If an OMB form is current and available (e.g., the SF 429, Real Property Status Report), it must be used for the request.

b. (Personal Property) The completed equipment list required for any grant that includes funding for the purchase of personal property should identify (among other information) the warranty period and expected useful life (from the date of
purchase) of that personal property. If such personal property will be disposed prior to the date of its expected useful life, the Grantee must request from OEA instructions and approval in writing on the disposal of the personal property. If disposed after that date, OEA notification and prior approval is not required.

(6) (Federal Interest Expiration) The OEA federal interest in real property acquired or improved through an OEA grant will expire at the end of the Federal Interest Period specified in sec. I.B.(3)a. of this policy, unless otherwise stipulated in the grant agreement.

C. (Site Control) Prior to the start of construction and any ground disturbing activity, the Grantee shall provide to the Grantor for prior approval evidence of adequate access and site control to permit necessary construction, renovation, repair, expansion, demolition and/or swing space activities as well as operation and maintenance of the completed facility. Generally, site control of not less than 25 years shall be evidenced.

D. (Davis-Bacon) Grantees should verify whether Federal prevailing wage rates under the Davis-Bacon Act (40 U.S.C. § 276a to 276a-7) are required if a project undertaken under this program expends any Federal funds beyond just those from the Grantor. Generally, the Davis-Bacon Act does not apply to construction activities funded solely with Grantor funding under this program. This does not affect the Grantee’s responsibility to comply with all other Federal laws, as well as state and local laws, which may, in some circumstances, require the application of state of locally mandated prevailing wage rates.

E. (Buy American Act) The “Buy American” Act (BAA) provisions apply to Office of Economic Adjustment construction grant projects. The BAA does not apply.

F. Grantee agrees to provide programs and services on the same basis as such programs are made available at any other Grantee-operated facility. The Grantee may not charge for the ordinary use of facilities, furnishing, or equipment purchased with Grant funds.

G. The Grantee shall administer and supervise implementation of the project, maintaining competent architectural supervision and inspection at the project site to ensure the work conforms to the approved drawings and specifications.

H. (Contingency) Project underrun amounts shall be added to the Contingencies line item. In the event the final project cost is less than the currently estimated total project cost, the amount of matching share funds shall be unchanged and the grant amount will be reduced, accordingly. Grantor prior approval is required before the Grantee may move any funding from the Contingencies budget category.

I. (Project Overruns) In the event the final project cost exceeds the currently estimated total project cost, the Grantee may be required to provide the additional funding needed to complete the project.
J. (Project Development Time Schedule) The Grantee will abide by the Project Development Time Schedule. Failure to meet the Project Development Time Schedule, as identified in the Notice of Award, is considered a violation of the Grant Agreement and may result in action by the Grantor to suspend and/or terminate the Grant. The Project Development Time Schedule may only be extended as a result of a written request from the Grantee and a written approval by the Grantor.

K. (NEPA) The Grantee understands that, as of the date of this Notice of Award, the Grantor has not satisfied the requirements of the National Environmental Policy Act. The Grantee consequently shall not proceed with construction or undertake any other ground-disturbing project activities prior to receiving written notice from the Grantor that the requirements of the National Environmental Policy Act have been met. This restriction does not apply to project design, development of environmental information, administrative activities, securing permits, or other activities that present no risk of irreparable injury to the environment.

L. Deliverables

(1) The Grantee will provide the Grantor with a copy of the certificate of occupancy for the completed project issued by the appropriate jurisdiction.

(2) The Grantee will provide the Grantor with a list of all grant-related personal property (e.g., equipment and non-fixed asset machinery—as conforming to 2 CFR § 200.33, § 200.313).

(3) The Grantee will provide the Grantor with final “as-built” construction plans as well as final inspection reports (including photo documentation).

(4) The Grantee will provide the Grantor with evidence a Notice of Federal Interest (NFI, see I.B.(2) above) has been recorded in the appropriate official records of the jurisdiction in which the property is located within 10 days of recordation.

II. FORCE REDUCTION (Non-Construction Grants)

CFDA 12.604, Community Economic Adjustment Assistance for Reductions in Defense Spending

A. The Grantee is restricted from using Office of Economic Adjustment grant funds on the following activities:

(1) Construction;
(2) International travel;
(3) Activities otherwise eligible for or funded through other Federal grant programs; and
(4) Activities that seek to reverse or oppose Defense spending reductions.
III. BASE REALIGNMENT AND CLOSURE (Non-Construction Grants)

The Base Realignment and Closure Grant Program consists of two (2) CFDA Numbers:

- CFDA 12.607, Community Economic Adjustment Assistance for Establishment, Expansion, Realignment, or Closure of a Military Installation; and

A. The Grantee is restricted from using Office of Economic Adjustment grant funds on the following activities:
   (1) Construction;
   (2) International travel;
   (3) Activities otherwise eligible for or funded through other Federal grant programs; and
   (4) Activities that seek to reverse or oppose Defense spending reductions.

B. Business Relocation Provision

Funds provided under this award may not be used to directly identify or assist a business, including a business expansion, in the relocation of a plant, facility, or operation from one Labor Market Area (LMA) to another if the relocation is likely to result in the loss of jobs in the LMA from which the relocation occurs.

IV. JOINT LAND USE STUDY (Non-Construction)

CFDA 12.610, Community Economic Adjustment Assistance for Compatible Use and Joint Land Use Studies

A. The Grantee will adhere to the Terms & Conditions included in Section 20 of the Notice of Award.

V. DEFENSE AND INDUSTRY ADJUSTMENT (Non-Construction)

The Defense Industry Adjustment Grant Program consists of three (3) CFDA Numbers:

- 12.611, Community Economic Adjustment Assistance for Reductions in Defense Industry Employment;
• 12.614, Community Economic Adjustment Assistance for Advance Planning and Economic Diversification; and

• 12.617, Economic Adjustment Assistance for State Governments.

The following program-specific terms and conditions are applicable:

A. Unless otherwise specified by the grant agreement, the Grantee is restricted from using Office of Economic Adjustment grant funds on the following activities:
   (1) Construction;
   (2) Means of production;
   (3) Activities otherwise eligible for or funded through other Federal grant programs; and
   (4) Activities that seek to reverse or oppose Defense spending reductions.

B. (Business Relocation Provision) Funds provided under this award may not be used to directly identify or assist a business, including a business expansion, in the relocation of a plant, facility, or operation from one Labor Market Area (LMA) to another if the relocation is likely to result in the loss of jobs in the LMA from which the relocation occurs.

C. (Work and Information Produced Under the Grant) The Grantor reserves the right to reproduce, publish, use, and authorize others to use copyrighted works or other data developed under this assistance agreement for Federal purposes. Examples of a Federal purpose include but are not limited to: (1) Use by OEA and other Federal employees for official Government purposes; (2) Use by Federal contractors performing specific tasks for the Government; (3) Publication in DOD documents provided the document does not disclose trade secrets (e.g. software codes) and the work is properly attributed to the recipient through citation or otherwise; (4) Reproduction of documents for inclusion in Federal depositories; and (5) Limited use by other grantees to carry out Federal grants provided the use is consistent with the terms of OEA's authorization to the other grantee to use the copyrighted works or other data.

D. Federal Interest for Personal Property (e.g., equipment) Acquired Under the Grant
   (1) Terms and conditions specified under section I.B. of this document apply.

VI. RESEARCH AND TECHNICAL ASSISTANCE (Non-Construction)

CFDA 12.615, Research and Technical Assistance
A. The Grantee will adhere to the Terms & Conditions included in Section 20 of the Notice of Award.
Exhibit G – Special Conditions for Security of Confidential Information
(if applicable)

1. **Introduction**

“Critical Electric Infrastructure means a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect national security, economic security, public health or safety, or any combination of such matters.” (10 C.F.R. § 1004.13(c)(3).)

Under this Agreement, the federal law definition of Critical Electric Infrastructure Information (CEII) governs. CEII is defined at Federal Power Act section 215(a)(3) (codified at 16 U.S.C. 824o–1(d)), with designation criteria codified at 18 CFR 388.113(c). The U.S. Department of Energy (DOE) regulations provide, “CEII means information related to critical electric infrastructure, or proposed critical electrical infrastructure, generated by or provided to FERC or another Federal agency, other than classified national security information, that is designated as CEII by FERC or the Secretary pursuant to section 215A(d) of the FPA. Such term includes information that qualifies as critical energy infrastructure information under FERC's regulations.” (10 C.F.R. § 1004.13(d).) Exhibit E, section 1 provides requirements for Contractor and its subcontractors regarding confidential information in general. Critical Electric Infrastructure Information law provides exceptions to freedom-of-information and Public Records Act rules to protect CEII from disclosure.

For convenience, a March 2022-vintage limited excerpt of certain relevant portions of Federal Energy Regulatory Commission (FERC) regulations is located at the bottom of this Exhibit G. However, the current version of applicable regulations governs, if different from this static copy.

2. **Review and Consultation regarding Potential CEII**

   a. **Consultation**

      As needed during the Agreement term (including under the following two subsections), Subrecipient shall consult with the Commission Agreement Manager regarding information that might qualify as CEII that is used, to be used, created, developed, or derived under the Agreement. This subsection does not require or suggest that Subrecipient seek a determination from FERC or DOE as to whether such information qualifies as CEII.

   b. **Screening**

      Subrecipient and its team shall consider whether any Product might include information about Critical Electric Infrastructure that might qualify as CEII, prior to delivery to the CEC, Oregon Department of Energy, and/or OLDCC.

   c. **CEII in relation to Products**

      It is the preference of the CEC for Subrecipient and its team to not incorporate potential CEII in Products, but not to the detriment of the usefulness of the Products for the goals and purposes of the Award and Agreement.

3. **Third Party Confidential Information**

   Where third party confidential information will be provided to the California Energy Commission, Oregon Department of Energy, or OLDCC, and such information includes CEII (as determined by FERC or DOE) or potential CEII, then this Exhibit G applies.

**Reference Material**

FERC Regulation excerpt
18 C.F.R. § 388.113 Critical Energy/Electric Infrastructure Information (CEII).

“(a) Scope. This section governs the procedures for submitting, designating, handling, sharing, and disseminating Critical Energy/Electric Infrastructure Information (CEII) submitted to or generated by the Commission. The Commission reserves the right to restrict access to previously filed information as well as Commission-generated information containing CEII. Nothing in this section limits the ability of any other Federal agency to take all necessary steps to protect information within its custody or control that is necessary to ensure the safety and security of the electric grid. To the extent necessary, such agency may consult with the CEII Coordinator regarding the treatment or designation of such information.

(b) Purpose. The procedures in this section implement section 215A of the Federal Power Act, and provide a comprehensive overview of the manner in which the Commission will implement the CEII program.

(c) Definitions. For purposes of this section:

1. Critical electric infrastructure information means information related to critical electric infrastructure, or proposed critical electrical infrastructure, generated by or provided to the Commission or other Federal agency other than classified national security information, that is designated as critical electric infrastructure information by the Commission or the Secretary of the Department of Energy pursuant to section 215A(d) of the Federal Power Act. Such term includes information that qualifies as critical energy infrastructure information under the Commission's regulations. Critical Electric Infrastructure Information is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(3) and shall not be made available by any Federal, State, political subdivision or tribal authority pursuant to any Federal, State, political subdivision or tribal law requiring public disclosure of information or records pursuant to section 215A(d)(1)(A) and (B) of the Federal Power Act.

2. Critical energy infrastructure information means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that:
   (i) Relates details about the production, generation, transportation, transmission, or distribution of energy;
   (ii) Could be useful to a person in planning an attack on critical infrastructure;
   (iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552;
   and
   (iv) Does not simply give the general location of the critical infrastructure.

3. Critical electric infrastructure means a system or asset of the bulk-power system, whether physical or virtual, the incapacity or destruction of which would negatively affect national security, economic security, public health or safety, or any combination of such matters.

4. Critical infrastructure means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.

(d) Criteria and procedures for determining what constitutes CEII. The following criteria and procedures apply to information labeled as CEII:

1. For information submitted to the Commission:

   (i) A person requesting that information submitted to the Commission be treated as CEII must include with its submission a justification for such treatment in accordance with the filing procedures posted on the Commission's Web site at http://www.ferc.gov. The justification must provide how the information, or any portion of the information, qualifies as CEII, as the terms are defined in paragraphs (c)(1) and (2) of this section. The submission must also include a clear statement of the date the information was submitted to the Commission, how long the CEII
designation should apply to the information and support for the period proposed. Failure to provide the justification or other required information could result in denial of the designation and release of the information to the public.

(ii) In addition to the justification required by paragraph (d)(1)(i) of this section, a person requesting that information submitted to the Commission be treated as CEII must clearly label the cover page and pages or portions of the information for which CEII treatment is claimed in bold, capital lettering, indicating that it contains CEII, as appropriate, and marked “DO NOT RELEASE.” The submitter must also segregate those portions of the information that contain CEII (or information that reasonably could be expected to lead to the disclosure of the CEII) wherever feasible. The submitter must also submit to the Commission a public version with the information where CEII is redacted, to the extent practicable.

(iii) If a person files material as CEII in a complaint proceeding or other proceeding to which a right to intervention exists, that person must include a proposed form of protective agreement with the filing, or identify a protective agreement that has already been filed in the proceeding that applies to the filed material.

(iv) The information for which CEII treatment is claimed will be maintained in the Commission’s files as non-public until such time as the Commission may determine that the information is not entitled to the treatment sought. By treating the information as CEII, the Commission is not making a determination on any claim of CEII status. The Commission retains the right to make determinations with regard to any claim of CEII status at any time, and the discretion to release information as necessary to carry out its jurisdictional responsibilities. Although unmarked information may be eligible for CEII treatment, the Commission will treat unmarked information as CEII only if it is properly designated as CEII pursuant to Commission regulations.

(v) The CEII Coordinator will evaluate whether the submitted information or portions of the information are covered by the definitions in paragraphs (c)(1) and (2) of this section prior to making a designation as CEII.

(vi) Subject to the exceptions set forth in paragraph (f)(5) of this section, when a CEII requester seeks information for which CEII status has been claimed, or when the Commission itself is considering release of such information, the CEII Coordinator or any other appropriate Commission official will notify the person who submitted the information and give the person an opportunity (at least five business days) in which to comment in writing on the request. A copy of this notice will be sent to the requester. Notice of a decision by the Commission, or the CEII Coordinator to make a release of CEII, will be given to any person claiming that the information is CEII no less than five business days before disclosure. The notice will respond to any objections to disclosure from the submitter that are not sustained. Where applicable, a copy of this notice will be sent to the CEII requester.”