

**PUBLIC BUILDING COMMISSION OF CHICAGO  
ADDENDUM #1  
REQUEST FOR QUALIFICATIONS FOR  
SECURITY SYSTEM INTEGRATION SERVICES FOR  
OEMC CAMERA INFRASTRUCTURE PROGRAM – PS1836**

Date: Friday, June 25, 2010

**1. MODIFY Section III. of Nature of Services by ADDITION Section 3.1.1:**

**3.1.1 Federal Funding – Required Contract Provisions**

The Public Building Commission of Chicago (PBC) understands that its clients, including the City of Chicago Office of Emergency Management and Communications (OEMC), are seeking or may seek to obtain grant funds from the Department of Homeland Security, and/or pursuant to the American Recovery and Reinvestment Act of 2009 (ARRA) and/or from other state or federal funding sources. In the event that and to the extent that such funding is obtained, all contractual terms and conditions required by and pertinent to such federal or state funding will be included in contract awarded pursuant to this Request for Qualification (RFQ) and/or any Task Orders awarded under that contract. Examples of terms and conditions required by the Department of Homeland Security and ARRA are attached, as follows: Attachment 1 – Davis Bacon Act; Attachment 2 - Administrative and National Policy Requirements for Grants from the Department of Homeland Security; and Attachment 3 -Required Contract Provisions for ARRA.

**2. MODIFY Section III. of Nature of Services by ADDITION Section 3.1.2:**

**3.1.2 Minority and Women Business Enterprise Programs**

The PBC encourages and promotes the participation of Minority and Women Business Enterprises (See PBC goals for MBE/WBE participation in Attachment E to this RFQ) and local business enterprises on all PBC projects. The PBC's goal for the participation of local businesses is 35%.

Application of the PBC's goals to any contract to be awarded pursuant to this RFQ will be subject to compliance with federal and state funding source requirements (including the utilization of Disadvantaged Business Enterprises ("DBEs") rather than MBEs and WBEs) and limitations. Commitments to the participation of MBEs, WBEs, DBEs and local businesses will be negotiated with the successful Respondent.

**3. MODIFY Section III. of Nature of Services by ADDITION Section 3.1.3:**

**3.1.3 Employment Opportunity Programs**

The PBC also encourages and promotes the employment of minorities, women and local residents and has established goals for the employment of minority and female construction trade workers and residents of the City of Chicago in the construction phase of all PBC projects. The PBC's goals for construction phase employment are: 50% minority workers; 10% women workers and 50% City of Chicago workers.

Application of the PBC's employment goals to any contract to be awarded pursuant to this RFQ will be subject to compliance with federal and state funding source requirements and

Mayor Richard M. Daley, Chairman  
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limitations. Commitments to the minority workers, women and local residents will be negotiated with the successful Respondent.

**4. MODIFY Article VI. Paragraph 4.3.1 TRANSMITTAL LETTER.**

**DELETE.** "The Transmittal Letter is to identify all firms in the project team composition, as well as indicate the Respondent is prepared to enter into an agreement in the form being offered. Attachment H – Form of Agreement contains the standard Terms and Conditions of the agreement which are not subject to negotiation."

**REPLACE with:** The Transmittal Letter must clearly identify the Respondent and the nature of the proposed business entity (e.g., corporation, joint venture) and must identify all Respondent team members whose experience, qualifications and personnel the Respondent seeks to be considered. The Transmittal Letter should also indicate that Respondent has read and considered the terms of Attachment H – Form of Agreement. The terms and conditions included in Attachment H are the PBC's typical terms and conditions for contracts for services. Although the Commission does not anticipate negotiating these terms and conditions, the Commission reserves the right to do so if, in the PBC's sole discretion, the PBC deems such negotiations to be in its best interests. In the event that Respondent wishes to propose an alternative to any of the terms and conditions in Attachment H, please include that alternative with your response to the RFQ, along with your explanation of how the change will serve both Respondent's interests and those of the PBC.

**5. CLARIFICATION. DELETE pages 3, 4, 5 and 6. (This is *not* a substantive change but only a correction of a document reproduction error.)**

**QUESTIONS AND ANSWERS**

Question # 1: RFQ requests 'List of projects similar in scope', please clarify?

Answer # 1: **The PBC is looking for project experience similar to existing City of Chicago's Operation Virtual Shield to include installation and integration of network video surveillance, upgrade and expansion of existing surveillance systems, and high speed fiber optic and wireless communication networks for physical security.**

Question # 2. Will Respondent be able to suggest 'new technologies' for this RFQ?

Answer # 2: **Yes. The selected Respondent will be expected to bring new and emerging technology options and ideas in response to OEMC and other user agency requirements. The PBC expects that the Security System Integrator will be both willing and able to evaluate and offer technologies and products from all Security Systems and related technologies vendors.**

Question # 3. Will the work be done on a 'work order' basis, and will the PBC look to other vendors outside of this contract?

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**Answer # 3:** All work will be performed under a Task Order process as detailed in Section 3.4 Task Order Services Request and Award Process of the RFQ.

It is the intent of the PBC that the successful Respondent to this RFQ will be the exclusive Security System Integrator for the its OEMC projects and for the projects of other units of local government with systems that require integration with the OEMC's system. The PBC may, however, separately procure similar system integrator services on behalf of client agencies with security systems that do not require integration into the OEMC system.

**Question # 4.** Discuss technologies needed to be refreshed or upgraded over the course of a seven (7) year contract.

**Answer # 4:** Technology in the area of network surveillance changes very rapidly, so the OEMC will look to the selected respondent to refresh and upgrade current systems as required to meet the City's demand for surveillance and security and as existing infrastructure reaches its end of life cycle, replacement with improved equipment will be expected.

**Question # 5.** If a firm is involved in both the design & system implementation/integration phases of projects, would it be possible to submit references related to the same project, but different phases?

**Answer # 5:** Yes.

**ATTACHMENTS:**

Attachment 1 – Davis Bacon Act

Attachment 2 - Administrative and National Policy Requirements for Grants from the Department of Homeland Security

Attachment 3 - Required Contract Provisions for ARRA.

**END OF ADDENDUM NO. 1**

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**ATTACHMENT #1**  
**DAVIS BACON ACT**

[DOL Home](#) > [WHD](#)

## Wage and Hour Division (WHD)

### The Davis-Bacon Act, as Amended

WH Publication 1246  
(Revised April 2009) (PDF)

**PUBLIC LAW 107-217-AUG. 21, 2002 [as amended <sup>1</sup>]**

#### AN ACT

To revise, codify, and enact without substantive change certain general and permanent laws, related to public buildings, property, and works, as title 40, United States Code, "Public Buildings, Property, and Works".

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. TITLE 40, UNITED STATES CODE.

Certain general and permanent laws of the United States, related to public buildings, property, and works, are revised, codified, and enacted as title 40, United States Code, "Public Buildings, Property, and Works", as follows:

#### TITLE 40-PUBLIC BUILDINGS, PROPERTY, AND WORKS

\* \* \* \* \*

#### SUBTITLE II-PUBLIC BUILDINGS AND WORKS

PART A-GENERAL

\* \* \* \* \*

#### CHAPTER 31 - GENERAL

\* \* \* \* \*

#### SUBCHAPTER IV - WAGE RATE REQUIREMENTS

#### Sec. 3141. Definitions

In this subchapter, the following definitions apply:

- (1) Federal government.- The term "Federal Government" has the same meaning that the term "United States" had in the Act of March 3, 1931 (ch. 411, 46 Stat. 1494) (known as the Davis-Bacon Act).<sup>2</sup>
- (2) Wages, scale of wages, wage rates, minimum wages, and prevailing wages.- The terms "wages", "scale of wages", "wage rates", "minimum wages", and "prevailing wages" include-
  - (A) the basic hourly rate of pay; and
  - (B) for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the foregoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying the costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of those benefits, the amount of-
    - (i) the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person under a fund, plan, or program; and
    - (ii) the rate of costs to the contractor or subcontractor that may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected.

#### Sec. 3142. Rate of wages for laborers and mechanics

- (a) Application.- The advertised specifications for every contract in excess of \$2,000, to which the Federal Government or the District of Columbia is a party, for construction, alteration, or repair, including painting and decorating, of public buildings and public works of the Government or the District of Columbia that are located in a State or the District of Columbia and which requires or involves the employment of mechanics or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics.
- (b) Based on Prevailing Wage.- The minimum wages shall be based on the wages the Secretary of Labor determines to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there.
- (c) Stipulations Required in Contract.- Every contract based upon the specifications referred to in subsection (a) must contain stipulations that-
  - (1) the contractor or subcontractor shall pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and the laborers and mechanics;
  - (2) the contractor will post the scale of wages to be paid in a prominent and easily accessible place at the site of the work; and
  - (3) there may be withheld from the contractor so much of accrued payments as the contracting officer considers necessary to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the contractor or subcontractors or their agents.
- (d) Discharge of Obligation.- The obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Secretary of Labor, under this subchapter and other laws incorporating this subchapter by reference, may be discharged by making payments in cash, by making contributions described in section 3141(2)(B)(i) of this title, by assuming an

enforceable commitment to bear the costs of a plan or program referred to in section 3141(2)(B)(ii) of this title, or by any combination of payment, contribution, and assumption, where the aggregate of the payments, contributions, and costs is not less than the basic hourly rate of pay plus the amount referred to in section 3141(2)(B) of this title.

- (e) Overtime Pay.- In determining the overtime pay to which a laborer or mechanic is entitled under any federal law, the regular or basic hourly rate of pay (or other alternative rate on which premium rate of overtime compensation is computed) of the laborer or mechanic is deemed to be the rate computed under section 3141(2)(A) of this title, except that where the amount of payments, contributions, or costs incurred with respect to the laborer or mechanic exceeds the applicable prevailing wage, the regular or basic hourly rate of pay (or other alternative rate) is the amount of payments, contributions, or costs actually incurred with respect to the laborer or mechanic minus the greater of the amount of contributions or costs of the types described in section 3141(2)(B) of this title actually incurred with respect to the laborer or mechanic or the amount determined under section 3141(2)(B) of this title but not actually paid.

#### **Sec. 3143. Termination of work on failure to pay agreed wages**

Every contract within the scope of this subchapter shall contain a provision that if the contracting officer finds that any laborer or mechanic employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid, the Federal Government by written notice to the contractor may terminate the contractor's right to proceed with the work or the part of the work as to which there has been a failure to pay the required wages. The Government may have the work completed, by contract or otherwise, and the contractor and the contractor's sureties shall be liable to the Government for any excess costs the Government incurs.

#### **Sec. 3144. Authority of Comptroller General to pay wages and list contractors violating contracts**

- (a) Payment of Wages.-
  - (1) In general.- The Comptroller General shall pay directly to laborers and mechanics from any accrued payments withheld under the terms of a contract any wages found to be due laborers and mechanics under this subchapter.
  - (2) Right of action.- If the accrued payments withheld under the terms of the contract are insufficient to reimburse all the laborers and mechanics who have not been paid the wages required under this subchapter, the laborers and mechanics have the same right to bring a civil action and intervene against the contractor and the contractor's sureties as is conferred by law on persons furnishing labor or materials. In those proceedings it is not a defense that the laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.
- (b) List of Contractors Violating Contracts.-
  - (1) In general.- The Comptroller General shall distribute to all departments of the Federal Government a list of the names of persons whom the Comptroller General has found to have disregarded their obligations to employees and subcontractors.
  - (2) Restriction on awarding contracts.- No contract shall be awarded to persons appearing on the list or to any firm, corporation, partnership, or association in which the persons have an interest until three years have elapsed from the date of publication of the list.

\* \* \* \* \*

#### **Sec. 3146. Effect on other federal laws**

This subchapter does not supersede or impair any authority otherwise granted by federal law to provide for the establishment of specific wage rates.

#### **Sec. 3147. Suspension of this subchapter during a national emergency**

The President may suspend the provisions of this subchapter during a national emergency.

#### **Sec. 3148. Application of this subchapter to certain contracts**

This subchapter applies to a contract authorized by law that is made without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), or on a cost-plus-a-fixed-fee basis or otherwise without advertising for proposals, if this subchapter otherwise would apply to the contract.

<sup>1</sup> Pub. L. 109-284 Sec. 6(11), (12), and (13) made three minor technical corrections in Secs 3141(1), and 3142(d) and (e). (Sept. 27, 2006, 120 Stat.1213.)

<sup>2</sup> The Davis-Bacon Act, referred to in par. (1), is act of Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which was classified generally to sections 276a to 276a-5 of former Title 40, Public Buildings, Property, and Works, and was repealed and reenacted as sections 3141-3144, 3146, and 3147 of this title by Pub. L. 107-217, Secs. 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304.

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**ATTACHMENT #2**

**Administrative and National Policy Requirements for Grants from the Department  
of Homeland Security**

## **B. Administrative and National Policy Requirements**

The recipient and any sub-recipient(s) must, in addition to the assurances made as part of the application, comply and require each of its subcontractors employed in the completion of the project to comply with all applicable statutes, regulations, executive orders, OMB circulars, terms and conditions of the award, and the approved application.

**1. Standard Financial Requirements.** The grantee and any subgrantee(s) shall comply with all applicable laws and regulations. A non-exclusive list of regulations commonly applicable to DHS grants are listed below:

### **1.1 – Administrative Requirements.**

- 44 CFR Part 13, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*
- 2 CFR Part 215, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations* (formerly OMB Circular A-110)

### **1.2 – Cost Principles.**

- 2 CFR Part 225, *Cost Principles for State, Local, and Indian tribal Governments* (formerly OMB Circular A-87)
- 2 CFR Part 220, *Cost Principles for Educational Institutions* (formerly OMB Circular A-21)
- 2 CFR Part 230, *Cost Principles for Non-Profit Organizations* (formerly OMB Circular A-122)
- Federal Acquisition Regulations (FAR), Part 31.2 *Contract Cost Principles and Procedures, Contracts with Commercial Organizations*

### **1.3 – Audit Requirements.**

- OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*

**1.4 – Duplication of Benefits.** There may not be a duplication of any Federal assistance, per 2 CFR Part 225, Basic Guidelines Section C.3 (c), which states: Any cost allocable to a particular Federal award or cost objective under the principles provided for in this Authority may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by law or terms of the Federal awards, or for other reasons. However, this prohibition would not preclude governmental units from shifting costs that are allowable under two or more awards in accordance with existing program agreements. Non-governmental entities are also subject to this prohibition per 2 CFR Parts 220 and 230 and FAR Part 31.2.



2. **Payment.** DHS/FEMA uses the Direct Deposit/Electronic Funds Transfer (DD/EFT) method of payment to Recipients. To enroll in the DD/EFT, the Recipient must complete a Standard Form 1199A, Direct Deposit Form.

FEMA uses the FEMA Payment and Reporting System (PARS) for payments made under this program: <https://isource.fema.gov/sf269/> (Note: Link connects to Federal Financial Report [SF-425])

**2.1 – Advance Payment.** In accordance with Treasury regulations at 31 CFR Part 205, the Recipient shall maintain procedures to minimize the time elapsing between the transfer of funds and the disbursement of said funds (See 44 CFR Part 13.21(c)) regarding payment of interest earned on advances. In order to request an advance, the Recipient must maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of funds from DHS and expenditure and disbursement by the Recipient. When these requirements are not met, the Recipient will be required to be on a reimbursement for costs incurred method.

**2.2 – Forms.** In order to download the Standard Form 1199A, the Recipient may use the following Internet site: <http://www.fms.treas.gov/eft/1199a.pdf>.

**NOTE: FUNDS WILL NOT BE AUTOMATICALLY TRANSFERRED UPON ISSUANCE OF THE GRANT. GRANTEES MUST SUBMIT A REQUEST FOR ADVANCE/REIMBURSEMENT IN ORDER FOR THE FUNDS TO BE TRANSFERRED TO THE GRANTEE’S ACCOUNT.**

3. **Non-supplanting Requirement.** Grant funds will be used to supplement existing funds, and will not replace (supplant) funds that have been appropriated for the same purpose. Applicants or grantees may be required to supply documentation certifying that a reduction in non-Federal resources occurred for reasons other than the receipt or expected receipt of Federal funds.

#### 4. Technology Requirements.

**4.1 – National Information Exchange Model (NIEM).** FEMA requires all grantees to use the latest NIEM specifications and guidelines regarding the use of Extensible Markup Language (XML) for all grant awards. Further information about the required use of NIEM specifications and guidelines is available at <http://www.niem.gov>.

**4.2 – Geospatial Guidance.** Geospatial technologies capture, store, analyze, transmit, and/or display location-based information (i.e., information that can be linked to a latitude and longitude). FEMA encourages grantees to align any geospatial activities with the guidance available on the FEMA website at <http://www.fema.gov/grants>.

**4.3 – 28 CFR Part 23 Guidance.** FEMA requires that any information technology system funded or supported by these funds comply with 28 CFR Part 23, *Criminal Intelligence Systems Operating Policies*, if this regulation is determined to be applicable.

**4.4 – Best Practices for Government Use of CCTV.** DHS recommends that grantees seeking funds to purchase and install closed circuit television (CCTV) systems, or funds to provide support for operational CCTV systems, review and utilize the guidance in *Best Practices for Government Use of CCTV: Implementing the Fair Information Practice Principles* available on the DHS Privacy Office website at [http://www.dhs.gov/xlibrary/assets/privacy/privacy\\_rpt\\_cctv\\_2007.pdf](http://www.dhs.gov/xlibrary/assets/privacy/privacy_rpt_cctv_2007.pdf).

## 5. Administrative Requirements.

**5.1 – Freedom of Information Act (FOIA).** FEMA recognizes that much of the information submitted in the course of applying for funding under this program or provided in the course of its grant management activities may be considered law enforcement sensitive or otherwise important to national security interests. While this information under Federal control is subject to requests made pursuant to the *Freedom of Information Act* (FOIA), 5 U.S.C. §552, all determinations concerning the release of information of this nature are made on a case-by-case basis by the FEMA FOIA Office, and may likely fall within one or more of the available exemptions under the Act. The applicant is encouraged to consult its own State and local laws and regulations regarding the release of information, which should be considered when reporting sensitive matters in the grant application, needs assessment, and strategic planning process. The grantee should be familiar with the regulations governing Sensitive Security Information (49 CFR Part 1520), as it may provide additional protection to certain classes of homeland security information.

**5.2 – Protected Critical Infrastructure Information (PCII).** The PCII Program, established pursuant to the *Critical Infrastructure Act of 2002* (Public Law 107-296) (CII Act), created a framework which enables members of the private sector, States, local jurisdictions, and tribal nations to voluntarily submit sensitive information regarding critical infrastructure to DHS. The Act provides statutory protection from public disclosure and civil litigation for CII that is validated as PCII. When validated as PCII, the information can only be shared with government employees who complete the training requirement, who have homeland security duties, and a need to know.

PCII accreditation is a formal recognition that the covered government entity has the capacity and capability to receive and store PCII appropriately. DHS encourages all States, local jurisdictions, and tribal nations to pursue PCII accreditation to cover their government agencies. Accreditation activities include signing a memorandum of agreement (MOA) with DHS, appointing a PCII Officer

and developing a standard operating procedure for handling PCII. For additional information about PCII or the accreditation process, please contact the DHS PCII Program Office at [pcii-info@dhs.gov](mailto:pcii-info@dhs.gov).

**5.3 – Compliance with Federal Civil Rights Laws and Regulations.** The grantee is required to comply with Federal civil rights laws and regulations. Specifically, the grantee is required to provide assurances as a condition for receipt of Federal funds that its programs and activities comply with the following:

- *Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000 et. seq.* – Provides that no person on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination in any program or activity receiving Federal financial assistance. Title VI also extends protection to persons with Limited English Proficiency (LEP). (42 U.S.C. §2000d et seq.)
- *Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §1681 et. seq.* – Provides that no person, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any education program or activity receiving Federal financial assistance.
- *Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794* – Provides that no otherwise qualified individual with a disability in the United States, shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or subject to discrimination in any program or activity receiving Federal financial assistance.
- *The Age Discrimination Act of 1975, as amended, 20 U.S.C. §6101 et. seq.* – Provides that no person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance.

Grantees must comply with all regulations, guidelines, and standards adopted under the above statutes. The grantee is also required to submit information, as required, to the DHS Office for Civil Rights and Civil Liberties concerning its compliance with these laws and their implementing regulations.

**5.4 – Services to Limited English Proficient (LEP) Persons.** Recipients of FEMA financial assistance are required to comply with several Federal civil rights laws, including Title VI of the *Civil Rights Act of 1964*, as amended. These laws prohibit discrimination on the basis of race, color, religion, natural origin, and sex in the delivery of services. National origin discrimination includes discrimination on the basis of limited English proficiency. To ensure compliance with Title VI,

recipients are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. The grantee is encouraged to consider the need for language services for LEP persons served or encountered both in developing their proposals and budgets and in conducting their programs and activities. Reasonable costs associated with providing meaningful access for LEP individuals are considered allowable program costs. For additional information, see <http://www.lep.gov>.

**5.5 – Certifications and Assurances.** Certifications and assurances regarding the following apply:

- *Lobbying. 31 U.S.C. §1352, Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions* – Prohibits the use of Federal funds in lobbying members and employees of Congress, as well as employees of Federal agencies, with respect to the award or amendment of any Federal grant, cooperative agreement, contract, or loan. FEMA and DHS have codified restrictions upon lobbying at 44 CFR Part 18 and 6 CFR Part 9. (Refer to form included in application package)
- *Drug-free Workplace Act, as amended, 41 U.S.C. §701 et seq.* – Requires the recipient to publish a statement about its drug-free workplace program and give a copy of the statement to each employee (including consultants and temporary personnel) who will be involved in award-supported activities at any site where these activities will be carried out. Also, place(s) where work is being performed under the award (i.e., street address, city, state, and zip code) must be maintained on file. The recipient must notify the Grants Officer of any employee convicted of a violation of a criminal drug statute that occurs in the workplace. For additional information, see 44 CFR Part 17.
- *Debarment and Suspension* – Executive Orders 12549 and 12689 provide protection from fraud, waste, and abuse by debarring or suspending those persons that deal in an irresponsible manner with the Federal government. The recipient must certify that they are not debarred or suspended from receiving Federal assistance. For additional information, see 44 CFR Part 17.
- *Federal Debt Status* – The recipient may not be delinquent in the repayment of any Federal debt. Examples of relevant debt include delinquent payroll or other taxes, audit disallowances, and benefit overpayments. (OMB Circular A-129) (Refer to SF 424, item number 17)

- *Hotel and Motel Fire Safety Act of 1990* – In accordance with section 6 of the *Hotel and Motel Fire Safety Act of 1990*, 15 U.S.C. §2225a, the recipient agrees to ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds, complies with the fire prevention and control guidelines of the *Federal Fire Prevention and Control Act of 1974*, 15 U.S.C. §2225.

Grantees must comply with all regulations, guidelines, and standards adopted under the above statutes.

### **5.6 – Integrating Individuals with Disabilities into Emergency Planning.**

Section 504 of the *Rehabilitation Act of 1973*, as amended, prohibits discrimination against people with disabilities in all aspects of emergency mitigation, planning, response, and recovery by entities receiving financial funding from FEMA. In addition, Executive Order 13347, *Individuals with Disabilities in Emergency Preparedness*, signed in July 2004, requires the Federal government to support safety and security for individuals with disabilities in situations involving disasters, including earthquakes, tornadoes, fires, floods, hurricanes, and acts of terrorism. Executive Order 13347 requires the Federal government to encourage consideration of the needs of individuals with disabilities served by State, local, tribal, and territorial governments in emergency preparedness planning.

FEMA has several resources available to assist emergency managers in planning and response efforts related to people with disabilities and to ensure compliance with Federal civil rights laws:

- **Comprehensive Preparedness Guide 301 (CPG-301): Interim Emergency Management Planning Guide for Special Needs Populations.** CPG-301 is designed to aid tribal, State, territorial, and local governments in planning for individuals with special needs. CPG-301 outlines special needs considerations for: Developing Informed Plans; Assessments and Registries; Emergency Public Information/Communication; Sheltering and Mass Care; Evacuation; Transportation; Human Services/Medical Management; Congregate Settings; Recovery; and Training and Exercises. CPG-301 is available at <http://www.fema.gov/pdf/media/2008/301.pdf>. CPG-301 and other guidance consider children as special needs populations. However, grantees are strongly encouraged to integrate the needs of infants and children into their planning process and into base plans rather than independently within the special needs framework.
- **Guidelines for Accommodating Individuals with Disabilities in Disaster.** The Guidelines synthesize the array of existing accessibility requirements into a user friendly tool for use by response and recovery

personnel in the field. The Guidelines are available at <http://www.fema.gov/oer/reference/>.

- **Disability and Emergency Preparedness Resource Center.** A web-based “Resource Center” that includes dozens of technical assistance materials to assist emergency managers in planning and response efforts related to people with disabilities. The “Resource Center” is available at <http://www.disabilitypreparedness.gov>.
- **Lessons Learned Information Sharing (LLIS) Resource Page on Emergency Planning for Persons with Disabilities and Special Needs.** A true one-stop resource for planners at all levels of government, non-governmental organizations, and private sector entities, the resource page provides more than 250 documents, including lessons learned, plans, procedures, policies, and guidance, on how to include citizens with disabilities and other special needs in all phases of the emergency management cycle.

LLIS.gov is available to emergency response providers and homeland security officials from the Federal, State, local, tribal, and territorial levels. To access the resource page, log onto <http://www.llis.dhs.gov> and click on *Emergency Planning for Persons with Disabilities and Special Needs* under *Featured Topics*. If you meet the eligibility requirements for accessing LLIS, you can request membership by registering online.

#### **5.7 – Environmental Planning and Historic Preservation Compliance.**

FEMA is required to consider the potential impacts to the human and natural environment of projects proposed for FEMA grant funding. FEMA, through its Environmental Planning and Historic Preservation (EHP) Program, engages in a review process to ensure that FEMA-funded activities comply with various Federal laws including: *National Environmental Policy Act*; *National Historic Preservation Act*; *Endangered Species Act*; the *Clean Water Act*; and Executive Orders on Floodplains (11988), Wetlands (11990), and Environmental Justice (12898). The goal of these compliance requirements is to protect our nation’s water, air, coastal, wildlife, agricultural, historical, and cultural resources, as well as to minimize potential adverse effects to low-income and minority populations.

The grantee shall provide all relevant information to FEMA GPD to ensure compliance with applicable Federal EHP requirements. Any project with the potential to impact natural or biological resources or historic properties cannot be initiated until FEMA has completed the required EHP review. In addition to a detailed project description that describes what is to be done with the grant funds, how it will be done, and where it will be done, grantees shall provide detailed information about the project (where applicable), including, but not limited to, the following:

- Project location (i.e., exact street address or map coordinates)

- Total extent of ground disturbance and vegetation clearing
- Extent of modification of existing structures
- Construction equipment to be used, staging areas, etc.
- Year that any affected buildings or structures were built
- Natural, biological, and/or cultural resources present within the project area and vicinity, including wetlands, floodplains, geologic resources, threatened or endangered species, or National Register of Historic Places listed or eligible properties, etc.
- Visual documentation such as good quality, color and labeled site and facility photographs, project plans, aerial photos, maps, etc.
- Alternative ways considered to implement the project (not applicable to procurement of mobile and portable equipment)

For projects that have the potential to impact sensitive resources, FEMA must consult with other Federal and State agencies such as the U.S. Fish and Wildlife Service, State Historic Preservation Offices, and the U.S. Army Corps of Engineers, as well as other agencies and organizations responsible for the protection and/or management of natural and cultural resources, including Federally-recognized Indian tribes, Tribal Historic Preservation Offices, and the Department of the Interior, Bureau of Indian Affairs. For projects with the potential to have adverse effects on the environment and/or historic properties, FEMA's EHP review process and consultation may result in a substantive agreement between the involved parties outlining how the grantee will avoid the effects, minimize the effects, or, if necessary, compensate for the effects. Grantees who are proposing communication tower projects are encouraged to complete their Federal Communications Commission (FCC) EHP process prior to preparing their EHP review materials for GPD, and to include their FCC EHP materials with their submission to GPD. Completing the FCC process first and submitting all relevant EHP documentation to GPD will help expedite FEMA's review.

Because of the potential for adverse effects to EHP resources or public controversy, some projects may require an additional assessment or report, such as an Environmental Assessment, Biological Assessment, archaeological survey, cultural resources report, wetlands delineation, or other document, as well as a public comment period. Grantees are responsible for the preparation of such documents, as well as for the implementation of any treatment or mitigation measures identified during the EHP review that are necessary to address potential adverse impacts. Grantees may use grant funds toward the costs of preparing such documents. The use of grant funds for mitigation or treatment measures that are not typically allowable expenses will be considered on a case-by-case basis. Failure of the grantee to meet Federal, territorial, State, local and tribal EHP requirements, obtain required permits, and comply with any conditions that may be placed on the project as the result of FEMA's EHP review may jeopardize Federal funding.

Recipients shall not undertake any project without the prior approval of GPD, and must comply with all conditions placed on the project as the result of the EHP review. Any change to the approved project description will require re-evaluation for compliance with these EHP requirements. If ground disturbing activities occur during project implementation, the recipient must ensure monitoring of ground disturbance, and if any potential archeological resources are discovered, the recipient will immediately cease construction in that area and notify their GPD Program Analyst, and the appropriate State Historic Preservation Office. Any projects that have been initiated prior to approval will result in a non-compliance finding and will not be eligible for funding.

For more information on FEMA's EHP requirements, SAAs should refer to FEMA's Information Bulletin #329, *Environmental Planning and Historic Preservation Requirements for Grants*, available at <http://www.fema.gov/pdf/government/grant/bulletins/info329.pdf>. Additional information and resources can also be found at <http://www.fema.gov/plan/ehp/ehp-applicant-help.shtm>.

**5.8 – Royalty-free License.** Applicants are advised that FEMA reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use, for Federal government purposes: (a) the copyright in any work developed under an award or sub-award; and (b) any rights of copyright to which an award recipient or sub-recipient purchases ownership with Federal support. Award recipients must agree to consult with FEMA regarding the allocation of any patent rights that arise from, or are purchased with, this funding.

**5.9 – FEMA GPD Publications Statement.** Applicants are advised that all publications created with funding under any grant award shall prominently contain the following statement: "This document was prepared under a grant from the Federal Emergency Management Agency's Grant Programs Directorate (FEMA/GPD) within the U.S. Department of Homeland Security. Points of view or opinions expressed in this document are those of the authors and do not necessarily represent the official position or policies of FEMA/GPD or the U.S. Department of Homeland Security."

**5.10 – Equipment Marking.** Awardees may consider marking equipment in the following manner, "Purchased with funds provided by the U.S. Department of Homeland Security," in order to facilitate their own audit processes, as well as Federal audits and monitoring visits, which may result from receiving Federal funding. Equipment maintenance requirements are outlined in 44 CFR Part 13.32.

**5.11 – Disadvantaged Business Requirement.** Applicants are advised that, to the extent that recipients of a grant use contractors or subcontractors, such recipients shall use small, minority, women-owned or disadvantaged business concerns and contractors or subcontractors to the extent practicable.



**5.12 – National Preparedness Reporting Compliance.** The *Government Performance and Results Act of 1993* (Public Law 103-62) requires that the Department collect and report performance information on all programs. For grant programs, the prioritized Investment Justifications and their associated milestones provide an important tool for assessing grant performance and complying with these national preparedness reporting requirements. FEMA will work with grantees to develop tools and processes to support this requirement. FEMA anticipates using this information to inform future-year grant program funding decisions. Award recipients must agree to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within their grant agreement. This includes any assessments, audits, or investigations conducted by DHS, the Office of the Inspector General, or the Government Accountability Office (GAO).

### **C. Reporting Requirements**

Reporting requirements must be met throughout the life of the grant (refer to the program guidance and the special conditions found in the award package for a full explanation of these requirements). Any reports or documents prepared as a result of this grant shall be in compliance with Federal “plain English” policies, directives, etc. Please note that PARS contains edits that will prevent access to funds if reporting requirements are not met on a timely basis.

- 1. Federal Financial Report (FFR) – required quarterly.** Obligations and expenditures must be reported on a quarterly basis through the FFR (SF-425), which is due within 30 days of the end of each calendar quarter (e.g., for the quarter ending March 31, the FFR is due no later than April 30). A report must be submitted for every quarter of the period of performance, including partial calendar quarters, as well as for periods where no grant activity occurs. Future awards and fund drawdowns may be withheld if these reports are delinquent. The final FFR is due 90 days after the end date of the performance period.

OMB has directed that the FFR SF-425 replace the use of the SF-269, SF-269A, SF-272, and SF-272A, which will no longer be available after October 1, 2009. The SF-425 is intended to provide Federal agencies and grant recipients with a standard format and consistent reporting requirements throughout the government.

**FFRs must be filed online** through the PARS.

Reporting periods and due dates:

- October 1 – December 31; *Due January 30*
- January 1 – March 31; *Due April 30*
- April 1 – June 30; *Due July 30*
- July 1 – September 30; *Due October 30*

2. **Semi-Annual Progress Report (SAPR).** Following an award, the awardees will be responsible for providing updated obligation and expenditure information on a semi-annual basis. The applicant is responsible for completing and submitting the SAPR reports. The awardee should include a statement in the narrative field of the SAPR that reads: *See BSIR*

The SAPR is due within 30 days after the end of the reporting period (July 30 for the reporting period of January 1 through June 30; and January 30 for the reporting period of July 1 through December 31). Future awards and fund drawdowns may be withheld if these reports are delinquent.

SAPRs must be filed online at <https://grants.ojp.usdoj.gov>. Guidance and instructions can be found at <https://grants.ojp.usdoj.gov/gmsHelp/index.html>.

***Required submission: SAPR (due semi-annually).***

3. **Initial Strategy Implementation Plan (ISIP).** Following an award, the awardees will be responsible for providing updated obligation and expenditure information to meet the pass-through requirement. The applicable SAAs are responsible for completing and submitting the ISIP online.

***Required submission: ISIP (due within 45 days of the award date).***

4. **Biannual Strategy Implementation Reports (BSIR).** Following an award, the awardees will be responsible for providing updated obligation and expenditure information on a semi-annual basis. The applicable SAAs are responsible for completing and submitting the BSIR reports which is a component of the SAPR. The BSIR submission will satisfy the narrative requirement of the SAPR. SAAs are still required to submit the SAPR with a statement in the narrative field that reads: *See BSIR*.

The BSIR is due within 30 days after the end of the reporting period (July 30 for the reporting period of January 1 through June 30; and January 30 for the reporting period of July 1 through December 31). Updated obligations and expenditure information must be provided with the BSIR to show progress made toward meeting strategic goals and objectives. Future awards and fund drawdowns may be withheld if these reports are delinquent.

5. **Exercise Evaluation and Improvement.** Exercises implemented with grant funds should be capabilities and performance-based and should evaluate performance of the targeted capabilities required to respond to the exercise scenario. Guidance related to exercise evaluation and the implementation of improvements is defined in the Homeland Security Exercise and Evaluation Program (HSEEP) located at <https://hseep.dhs.gov>. Grant recipients must report on scheduled exercises and ensure that an After Action Report (AAR) and Improvement Plan (IP) are prepared for each exercise conducted with FEMA support (grant funds or direct support) and

submitted to the FEMA Grants and Preparedness Community of Interest (COI) on the Homeland Security Information Network (HSIN) within 90 days following completion of the exercise.

The AAR documents the demonstrated performance of targeted capabilities and identifies recommendations for improvements. The IP outlines an exercising jurisdiction(s) plan to address the recommendations contained in the AAR. At a minimum, the IP must identify initial action items and be included in the final AAR. Guidance for the development of AARs and IPs is provided in the HSEEP manual.

***Required submissions: AARs and IPs (as applicable).***

6. **Financial and Compliance Audit Report.** Recipients that expend \$500,000 or more of Federal funds during their fiscal year are required to submit an organization-wide financial and compliance audit report. The audit must be performed in accordance with GAO's, *Government Auditing Standards*, located at <http://www.gao.gov/govaud/ybk01.htm>, and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, located at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. Audit reports are currently due to the Federal Audit Clearinghouse no later than nine months after the end of the recipient's fiscal year. In addition, the Secretary of Homeland Security and the Comptroller General of the United States shall have access to any books, documents, and records of recipients of FY 2010 HSGP assistance for audit and examination purposes, provided that, in the opinion of the Secretary or the Comptroller, these documents are related to the receipt or use of such assistance. The grantee will also give the sponsoring agency or the Comptroller, through any authorized representative, access to, and the right to examine all records, books, papers or documents related to the grant.

The State shall require that subgrantees comply with the audit requirements set forth in OMB Circular A-133. Recipients are responsible for ensuring that sub-recipient audit reports are received and for resolving any audit findings.

7. **Monitoring.** Grant recipients will be monitored periodically by FEMA staff, both programmatically and financially, to ensure that the project goals, objectives, performance requirements, timelines, milestone completion, budgets, and other related program criteria are being met. Programmatic monitoring may also include the Regional Federal Preparedness Coordinators, when appropriate, to ensure consistency of project investments with regional and national goals and policies, as well as to help synchronize similar investments ongoing at the Federal, State, and local levels.

Monitoring will be accomplished through a combination of desk-based reviews and on-site monitoring visits. Monitoring will involve the review and analysis of the financial, programmatic, performance, and administrative issues relative to each

program and will identify areas where technical assistance and other support may be needed.

The recipient is responsible for monitoring award activities, to include sub-awards, to provide reasonable assurance that the Federal award is administered in compliance with requirements. Responsibilities include the accounting of receipts and expenditures, cash management, maintaining of adequate financial records, and refunding expenditures disallowed by audits.

8. **Grant Close-Out Process.** Within 90 days after the end of the period of performance, grantees must submit a final FFR and final SAPR detailing all accomplishments throughout the project. After these reports have been reviewed and approved by FEMA, a close-out notice will be completed to close out the grant. The notice will indicate the project as closed, list any remaining funds that will be deobligated, and address the requirement of maintaining the grant records for three years from the date of the final FFR. The grantee is responsible for returning any funds that have been drawn down but remain as unliquidated on grantee financial records.

***Required submissions: (1) final SF-425, due 90 days from end of grant period; and (2) final SAPR, due 90 days from the end of the grant period.***

**ATTACHMENT #3**

**Required Contract Provisions for ARRA**

## **REQUIRED CONTRACT PROVISIONS FOR ARRA:**

(3-17-09) (Rev 3-31-09)

SP1 G86

### **Reporting Requirements**

The Contractor is hereby notified that this project will be financed with *American Recovery and Reinvestment Act of 2009 (ARRA)* Funds. The Contractor shall assure that all subcontracts, and other contracts for services for an ARRA funded project shall also have these provisions in their contracts. As such the Department may require that the Contractor provide reports and other employment information as evidence to document the number of jobs created and/or sustained by this project for the Contractor's own workforce and any sub-contractors. No direct payment will be made for providing said reports as the cost for same shall be included in the various items in the contract.

### **Posting with the Local Employment Security Commission**

In addition to any other job postings the Contractor normally utilizes, the Contractor shall post with the local Employment Security Commission Office, all positions for which he intends to hire workers as a result of being awarded this contract.

### **Required Contract Provision to Implement ARRA Section 902**

*Section 902 of the American Recovery and Reinvestment Act (ARRA) of 2009* requires that each contract awarded using ARRA funds must include a provision that provides the U.S. Comptroller General and his representatives with the authority to:

- (1) to examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and
- (2) to interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

Accordingly, the Comptroller General and his representatives shall have the authority and rights as provided under Section 902 of the ARRA with respect to this contract, which is funded with funds made available under the ARRA. Section 902 further states that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

### **Authority of the Inspector General**

*Section 1515(a) of the ARRA* provides authority for any representatives of the Inspector General to examine any records or interview any employee or officers working on this contract. The contractor is advised that representatives of the inspector general have the authority to examine any record and interview any employee or officer of the contractor, its subcontractors or other

firms working on this contract. Section 1515(b) further provides that nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an inspector general.

## SPECIAL REQUIREMENTS FOR CONSTRUCTION CONTRACTS FUNDED UNDER ARRA

The American Recovery and Reinvestment Act (ARRA) contains special requirements for construction projects. These requirements apply to all construction contracts under the State of Texas State Revolving Funds for the Clean Water Act and the Safe Drinking Water Act. The construction contracts funded through loans or grants from the Texas Water Development Board's State Revolving Funds programs must contain the conditions contained in this Appendix.

**Procurement Practices:** The applicable state and local construction contract rules and laws must be complied with in any solicitations and contract awards for projects funded under ARRA. These provisions include, but are not limited to, advertising for bids; HUB subcontracting plan; Professional Services Procurement Act and any other normal procurement and contracting requirements.

**ARRA Requirements:** The following ARRA requirements shall be incorporated into solicitations and construction contracts.

### **(1) Davis-Bacon Wage Act**

All laborers and mechanics employed by contractors and subcontractors shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality.

See [www.wdol.gov/wdol/scafiles/davisbacon/TX](http://www.wdol.gov/wdol/scafiles/davisbacon/TX).

**(2) Buy American** (Sources: OMB Implementing Guidance for the AARA of 2009 and 48 CFR Part 5, subpart 25.6 relating to ARRA—Buy American Act ---Construction Materials and 48 CFR Part 52 relating to Solicitation Provisions and Contract Clauses) Iron, steel and other manufactured goods used for a project for the construction, alteration, maintenance or repair of a public work must be produced or manufactured in the United States.

**DEFINITIONS:** (48 CFR § 25.601)

**Domestic construction material:** (1) An unmanufactured construction material mined or produced in the U.S. or (2) a construction material manufactured in the U.S.

**Foreign construction material:** a construction material other than a domestic construction material.

**Manufactured construction material:** any construction material that is not unmanufactured construction material.

**Unmanufactured material:** raw material brought to the construction site for incorporation into the work that has not been (1) processed into a specific form or shape or (2) combined with other raw material to create a material that has different properties than the properties of the individual raw materials.



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

**Iron and Steel:** The Buy American provision requires that all manufacturing processes for the production of the iron or steel used in the construction must take place in the U.S., except metallurgical processes involving refinement of steel additives.

Components or subcomponents in other manufactured construction material are not affected by the Buy American provision, but the manufacture of the construction material must occur in the U.S.

**ARRA Required Language for Solicitations for Construction Contracts:** The solicitation for a construction contract shall contain this notice.

**NOTICE OF REQUIRED USE OF AMERICAN IRON, STEEL, AND OTHER MANUFACTURED GOODS**

The contractor shall use only domestic construction material in performing this contract.

**(3) Ready to Proceed / Contract Termination**

Each solicitation document and construction contract shall contain a notice relating to dates for commencement of construction or for execution of a construction contract.

**NOTICE: THIS CONTRACT SHALL TERMINATE IF THE PROJECT IS NOT ACTUALLY UNDER CONSTRUCTION OR UNDER A BINDING CONSTRUCTION CONTRACT ON (Date). FAILURE TO MEET THIS DEADLINE SHALL RESULT IN THE RETURN OF ALL FUNDS FORWARDED BY THE TWDB BY NO LATER THAN (Date)**

ARRA requires funds to be committed to contracts for construction or the project must be under construction by (Date). The failure to have projects either under actual construction or under a construction contract by XXXXX shall result in the termination of the TWDB's grant or loan commitment. Any funds that were advanced to or paid for reimbursement to the ENTITY shall be reimbursed to the TWDB no later than (Date).

All solicitations for construction contracts shall state that construction must be commenced by no later than February 17, 2009 or \_\_\_\_\_. In the event that the entity soliciting the construction contractor does not have a construction contract in place by February 17, 2009, the U.S. Environmental Protection Agency (EPA) is required to re-allocate the funds. This means that any entity who has been awarded a loan or grant from the TWDB's SRF programs shall be required to return all funds paid to the entity under the SRF loan or grant. Funds that have already been expended must be reimbursed.