

FLORIDA STATE UNIVERSITY'S ("FSU")
FEDERAL PROCUREMENT REGULATION APPLICABILITY ADDENDUM

Contractor or Supplier agrees to comply with all applicable federal laws, rules, and regulations including, but not limited to, the requirements of 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II. Further, Contractor agrees to the following:

1. Precedence. The terms of this Federal Procurement Regulation Applicability Addendum ("Addendum") are intended to supplement and/or amend the Agreement, Contract and/or FSU Purchase Order ("Agreement") as applicable. The terms of this are to be read in conjunction with the Agreement to every extent possible. However, in the event of a conflict, this Addendum will control.
2. Termination.
 - a. *Termination for Convenience.* This Agreement may be terminated by FSU without cause upon no less than thirty (30) days written notice.
 - b. *Termination for Cause.* Each term and condition of the Agreement is material and any breach or default by either party in the performance of each term and condition will be considered a material breach or default of the Agreement. Either party may terminate this Agreement in the event the other party materially breaches or defaults in the performance of any of its obligations hereunder, and such default continues for thirty (30) days after written notice thereof is provided to the breaching party by the non-breaching party. Any termination will become effective at the end of such thirty (30) day period unless the breaching party cures any such breach or default prior to the expiration of such period.
 - c. *Administration of Termination.* All written notices must be delivered by certified mail, return receipt requested, or in person with proof of delivery. In case of termination under this Agreement, only fees for Services actually rendered by Contractor through the date of termination, if any, will be due and payable, and all work in progress will become property of FSU and will be turned over promptly by Contractor. Upon receipt of written notice of termination, up until the date of termination, Contractor will make reasonable efforts to limit the incursion of additional fees and perform only those Services necessary for the timely delivery of work in progress to FSU and/or to correct a material breach or default, as applicable. The Parties will not be relieved of the duty to perform their obligations up to and including the date of termination. A termination penalty may not be charged against FSU.
3. Non-Discrimination. The following statutes and regulations are applicable, without limitation:
 - a. *Title VI of the Civil Rights Acts of 1964* (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin.
 - b. *The Fair Housing Act, Title VIII of the Civil Rights Act of 1968* (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.
 - c. *Section 504 of the Rehabilitation Act of 1973*, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of disability under any program or activity.
 - d. *The Age Discrimination Act of 1975*, as amended (42 U.S.C. §§6101 et seq.), and the Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities.
 - e. *Title II of the Americans with Disabilities Act of 1990*, as amended (42 U.S.C. §§12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services.
 - f. If the Services provided under this Agreement include construction, then the Contractor agrees as follows:
 - i. Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, promotion, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

- ii. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
 - iii. Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of Contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - iv. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
 - v. Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- g. In the event of Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- h. Contractor will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (v) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction by the administering agency Contractor may request the United States to enter into such litigation to protect the interests of the United States.
4. Davis-Bacon Act. If the Agreement NOT TO EXCEED amount is in excess of Two Thousand & 00/100 Dollars (\$2,000.00) and Services include construction, then Contractor must comply with the Davis-Bacon Act (40 U.S.C. § 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction).
5. Copeland "Anti-Kickback" Act. If the Agreement NOT TO EXCEED amount is in excess of Two Thousand & 00/100 Dollars (\$2,000.00) and Services include construction, then Contractor agrees as follows:
- a. *Contractor*. Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.P.R. pt. 3 as may be applicable, which are incorporated by reference into this Agreement.
 - b. *Subcontracts*. Contractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
 - c. *Breach*. A breach of the contract clauses above may be grounds for termination of the Agreement, and for debarment of Contractor and/or subcontractor(s), if any, as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.
6. Contract Work Hours and Safety Standards Act. If the Agreement NOT TO EXCEED amount is in excess of One Hundred Thousand & 00/100 Dollars (\$100,000.00) and Contractor employs mechanics or laborers, then Contractor agrees as follows:
- a. *Overtime Requirements*. Contractor and their subcontractor(s), if any, providing Services under this Agreement which may require or involve the employment of laborers or mechanics will not require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such

workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times (1 ½) the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.

- b. *Violation; Liability for Unpaid Wages; Liquidated Damages.* In the event of any violation of the clause set forth in paragraph (a) of this section Contractor and their subcontractor(s), if any, responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and their subcontractor(s), if any, shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this section.
 - c. *Withholding for Unpaid Wages and Liquidated Damages.* FEMA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by Contractor and/or subcontractor(s), if any, under any such contract or any other Federal contract with FSU, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by FSU, such sums as may be determined to be necessary to satisfy any liabilities of Contractor and/or subcontractor(s), if any, for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this section.
 - d. *Subcontracts.* Contractor and subcontractor(s), if any, shall insert in any subcontracts the clauses set forth in paragraph (a) through (d) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a) through (d) of this section.
7. Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient shall comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
8. Clean Air Act and the Federal Water Pollution Control Act. If the Agreement NOT TO EXCEED amount is in excess of One Hundred Fifty Thousand & 00/100 Dollars (\$150,000.00), then Contractor agrees as follows:
- a. *Clean Air Act.*
 - i. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et seq.
 - ii. Contractor agrees to report each violation to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
 - iii. Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.
 - b. *Federal Water Pollution Control Act.*
 - i. Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
 - ii. Contractor agrees to report each violation to FSU and understands and agrees that FSU will, in turn, report each violation as required to assure notification to Federal Emergency Management Agency and the appropriate Environmental Protection Agency Regional Office.
 - iii. Contractor agrees to include these requirements in each subcontract exceeding One Hundred Thousand & 00/100 Dollars (\$100,000) financed in whole or in part with Federal assistance provided by FEMA.
9. Energy Policy and Conservation. Contractor will comply with the Energy Policy and Conservation Act (P.L. 94-163; 42 U.S.C. § 6201-6422), and Florida’s State Energy Management Plan adopted pursuant to Section 255.257, FLORIDA STATUTES

10. Suspension and Debarment.

- a. If this Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000, then Contractor hereby certifies that neither Contractor, its principals (defined at 2 C.F.R. § 180.995), nor its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- b. Contractor must comply with 2 C.P.R. pt. 180, subpart C and 2 C.P.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transactions with subcontractors and/or suppliers.
- c. This certification is a material representation of fact relied upon by FSU. If it is later determined that Contractor did not comply with 2 C.P.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Florida and FSU, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- d. Contractor agrees to comply with the requirements of 2 C.P.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C throughout the period of this Agreement. Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions with subcontractor and/or suppliers.

11. Byrd Anti-Lobbying Amendment. If the Agreement NOT TO EXCEED amount is One Hundred Thousand & 00/100 Dollars (\$100,000) or more, then Contractor shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

- a. For agreements in amounts less than \$100,000, Contractor additionally agrees to comply with 31 C.F.R., Part 21.

12. Procurement of recovered materials. Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

13. Records Access. FSU and/or Federal agency(ies), the Comptroller General of the United States, the Treasury Office of Inspector General and the Government Accountability Office, or any of their duly authorized representatives, shall have access to any books, documents, papers and records (electronic and otherwise) of the Contractor which are directly pertinent to a specific program for the purpose of making audit, examinations, excerpts and transcriptions. Contractor should maintain records for a period of ten (10) years following completion of the Agreement, in accordance with the State of Florida General Records Schedule GS1-SL for State and Local Agencies. In no circumstance shall Contractor maintain records for a period less than five (5) years, in compliance with Section 602 of the Social Security Act.

14. Federal Emergency Management Agency ("FEMA"). Contractor must comply with federal procurement standards found at 2 C.F.R § 200.318 - 200-326 and 2 C.F.R part 200, Appendix II in its activities related to the Agreement to assure qualification for all available reimbursement including, but not limited to, accurate record keeping and documentation of services performed, supplies purchased and used and other related expenses, retention and availability of all records and cooperation with FSU and/or FEMA in all efforts to seek available reimbursement for work done.

15. Conflict of Interest.

- a. Contractor must disclose any conduct or relationship that could present an actual or perceived conflict with FSU's interests. Contract shall maintain a list of current employees, directors, officers, and contracted entities and ensure that any relationship with an FSU employee, spouse, or relative is made known to FSU and any conflict is managed.
- b. Contractor is prohibited from soliciting FSU employees for current or future employment.

c. *Gifts.*

- i. Contractor is prohibited from offering or providing any gifts, meals, travel, or entertainment to FSU employees for any purpose that is unlawful, unethical, or improper. No gifts, meals, travel, entertainment, or other thing of value may be offered or given to FSU employees while a procurement action is active or being negotiated. The giving or receiving of cash, or a cash equivalent, as a business gift to FSU employees is also prohibited.
 - ii. Subject to the foregoing, gifts that are reasonable, appropriate, do not exceed \$100 in value, and do not violate applicable law may be acceptable, excepting employees in FSU's division of Finance and Administration, for whom the acceptance of gifts, regardless of dollar amount, is prohibited.
- d. Contractors and their agents shall make a reasonable effort to familiarize themselves with the provisions of Florida's Code of Ethics for Public Officers and Employees, contained at ss. 112-311-112.3261, Florida Statutes, to ensure compliance with gift laws and the reporting of qualifying gifts.
- e. Any identified conflict of interest must be disclosed in writing to Treasury or the appropriate pass-through entity in accordance with 2 C.F.R. § 200.112.\

16. Publications. Any publications produced with funds from this Agreement must display the following language: "This project may be supported, in whole or in part, by federal award awarded to the State of Florida by the U.S. Department of the Treasury."

17. False Statements. Contractor understands that making false statements or claims in connection with this Agreement is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

18. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. §4712, Contractor may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A Member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of FSU, Contractor, or subcontractor, who has the responsibility to investigate, discover, or address misconduct.
- c. Contractor shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

19. 2 C.F.R. 200.216 Prohibition on certain telecommunications and video surveillance services or equipment. Contractor affirms that no equipment, services, or systems; or substantial or essential component of; or critical technology as part of a system provided for under this Agreement uses covered telecommunications equipment, as defined by Public Law 115-232, section 889.

20. 2 C.F.R. 200.322 Domestic Preference for Procurements. As appropriate, and to the extent consistent with law, the Contractor shall, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause:

- a. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- b. "Manufactured products" mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

21. General Provisions

- a. Contractor shall comply with applicable provisions of 200 C.F.R. 200 sections 317-326 and 200 C.F.R 220, 225, and 230.
- b. Contractor shall comply with applicable provisions of the 2 C.F.R. 200 of the Uniform administrative requirements, cost principles, and audit requirements for Federal awards.
- c. Costs must be reasonable and allocable as outlined in 2 CFR 200.404 and 2 CFR 200.405.
- d. Contractor shall comply with any special requirements provided for in the Federal award and included in the bid or solicitation.
- e. Contractor shall comply with all applicable federal laws, rules, regulations and/or ordinances and all other governmental requirements as applicable and/or required within Contractor's industry standards in the performance of the Agreement.
- f. Contractor shall comply with the FSU Drug and Alcohol Policy located here: <https://hr.fsu.edu/hr-forms/drug-policy> and incorporated and included herein by reference.
- g. Contractor shall comply, as applicable, with the Hatch Act (5 U.S.C. 1501-1508 and 7324-7328).

All other terms and conditions of the Agreement and prior amendments, if any, which are not in conflict with this, are only altered to the extent provided in this Federal Procurement Regulation Applicability schedule and remain otherwise unchanged and in full effect.