



Commonwealth of Kentucky

CONTRACT

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Document Description: 2023 EMA Program Funds (EMPG 2023 Cycle)

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Grant activity-Div of Emergency Mgmt

Reason for Modification:

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Effective From: 10/01/2023 **Effective To:** 09/30/2025

Line Item	Delivery Date	Quantity	Unit	Description	Unit Price	Contract Amount	Total Price
1		0.00000		FY 2023 EMA Program Funds	\$0.000000	\$2,679,893.00	\$2,679,893.00

Extended Description:

1. FAIN # EMA-2023-EP-00004-S01
2. Federal award date is July 10, 2023.
3. The purpose of the EMPG Program is to provide Federal funds to states to assist state and local governments in preparing for all hazards, as authorized by Section 662 of the Post Katrina Emergency Management Reform Act (6 U.S.C. Section 762) and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.) The FY 2023 EMPG will provide federal funds to assist state and local emergency management agencies to obtain the resources required to support the National Preparedness Goals associated mission areas and core capabilities.
4. Federal awarding agency is the Department of Homeland Security, Federal Emergency Management Agency FEMA, Region IV) Pass-through entity is the Commonwealth of Kentucky, Department of Military Affairs, Division of Emergency Management.
5. CFDA # 97.042, Emergency Management Performance Grant Program (EMPG) \$5,515,786.00(Federal Share)
6. Federal Award Period: October 1, 2023, through September 30, 2025

Shipping Information:	Billing Information:
DMA - Division of Emergency Management	DMA - Division of Emergency Management

100 Minuteman Pkwy Bldg 110 Frankfort KY 40601	100 Minuteman Pkwy Bldg 110 Frankfort KY 40601
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TOTAL CONTRACT AMOUNT:	\$2,679,893.00
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Memorandum of Agreement Terms and Conditions

This Memorandum of Agreement (MOA) is entered into, by and between the Commonwealth of Kentucky, Department of Military Affairs, Division of Emergency Management (“the “Commonwealth”) and each of one hundred and twenty (120) local jurisdictions of the Commonwealth (“the Contractor”) to establish an agreement for an Emergency Management Assistance (EMA) program funded by a federal Emergency Management Performance Grant (EMPG) program. This MOA is effective from October 1, 2023, through September 30, 2025.

Scope of Services:

(This MOA implements elements of an EMPG program authorized by Catalog of Federal Domestic Assistance (CFDA) 97.042 and administered by the First Party. Approved support includes project scope and associated expenses identified in 2020 KYEM EMA Guidance, 2022 Federal Emergency Management Agency (FEMA) EMPG Funding Opportunity Announcement, and the FEMA Preparedness Grants Manual, February 2022.

One hundred twenty local jurisdictions within the Commonwealth of Kentucky (including, e.g. Adair, Allen, Anderson, Ballard, Barren, Bath, Bell, Boone, Bourbon, Boyd, Boyle, Bracken, Breathitt, Breckinridge, Bullitt, Butler, Caldwell, Calloway, Campbell, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clay, Clinton, Crittenden, Cumberland, Daviess, Edmonson, Elliott, Estill, Fleming, Floyd, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harlan, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jackson, Jessamine, Johnson, Kenton, Knott, Knox, Larue, Laurel, Lawrence, Lee, Leslie, Letcher, and Lewis Counties; Lexington-Fayette Urban County Government; Lincoln, Livingston, Logan, Louisville Jefferson Metro Government, Lyon, McCracken, McCreary, McLean, Madison, Magoffin, Marion, Marshall, Martin, Mason, Meade, Menifee, Mercer, Metcalfe, Monroe, Montgomery, Morgan, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Owsley, Pendleton, Perry, Pike, Powell, Pulaski, Robertson, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Trimble, Union, Warren, Washington, Wayne, Webster, Whitley, Wolfe, and Woodford Counties; and the City of Frankfort) are contemplated individually, as eligible Contractors/Second Parties hereto as defined by KRS 45A.030 (9), and agree that they are willing, available, and qualified to perform the scope of work as detailed in this contract and as specifically outlined.

Performance Specifications:

The second party shall submit twelve operational claims or until second party allocation is met during the period of performance of October 1, 2023, through September 30, 2025. Operational claims include regular allocation expenditures to include but not limited to salary, mileage, utilities, etc.

- Operational Claim #1 - October 2023
- Operational Claim #2 - November 2023

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Operational Claim #3 - December 2023
Operational Claim #4 - January 2024
Operational Claim #5 - February 2024
Operational Claim #6 - March 2024
Operational Claim #7 - April 2024
Operational Claim #8 - May 2024
Operational Claim #9 - June 2024
Operational Claim #10 - July 2024
Operational Claim #11 - August 2024
Operational Claim #12 - September 2024

The Second Party may submit additional claims if allocation has not been met after the submission of all operational claims. The remaining allocation shall be encumbered from October 1, 2024, through March 31, 2025. Allocations not encumbered by March 31, 2025 shall be reallocated for Additional Allocation Funding requests. The Additional Allocation funding request period shall be April 1, 2025, through September 30, 2025.

1. Successful completion by the Second Parties shall include the following deliverables:
 - (a) Within 15 days of the end of each month, the Second Party shall ensure that the local emergency management agency (LEMA) shall upload to www.kyemweb.com, (WEBEOC) a completed claim of reimbursement using KYEM Form 160-1, which shall be signed by the Local Emergency Management Director and Second Party jurisdiction's Treasurer. Supporting documentation shall be in accordance with KYEM Standard Operating Procedures - Reimbursement Guidelines for all Kentucky Emergency Management Grants.
 - (b) The Second Party shall complete Quarterly Performance and Financial Reports within WebEOC on or before the following dates:

For Year One: First Quarter (October 1 through December 31) Due: January 15; Second Quarter (January 1 through March 31) Due: April 15; Third Quarter (April 1 through June 30) Due: July 15; and Fourth Quarter (July 1 through September 30) Due: October 15.

For Year Two: Fifth Quarter (October 1 through December 31) Due: January 15; Sixth Quarter (January 1 through March 31) Due: April 15; Seventh Quarter (April 1 through June 30) Due: July 15; and Eighth Quarter (July 1 through September 30) Due: October 15.

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Quarterly reports shall be based on the Second Party's EMA work plan approved by KYEM. Additional quarterly reports may be required to be filed by the Second Party subject to extension of the period of performance.

2. The First Party shall notify a Second Party that has not expended all available funds to submit a revised work plan and budget. Second Parties are advised that failing to respond to such notification by the First Party may result in partial or complete reduction in funding in the sole discretion of the KYEM Director (the "Director.")
3. The Director shall review the performance and expenditure history of each Second Party quarterly and at any time, may reallocate funds necessary to meet the immediate need of the First Party or a Second Party.

Scope of Work:

- 1) The Second Party shall accomplish goals and objectives as presented through the annual program guidance issued by the Director and the results of internal and external evaluations of capabilities by both federal and Commonwealth evaluations.
- 2) The First Party shall notify the Second Party in writing of allocation amounts made thereto, based upon program analysis. The Director may designate an increase or decrease in allocation amounts to a Second Party based upon the Second Party's performance and/or subject to program requirements.
- 3) Allocation amounts shall be pursuant to KRS 39C.010 and 39C.020; up to, but no more than, 50% of total local funds expended by the Second Party.
- 4) Second Party contributions shall be at least 50% of eligible expenses. Federal funds provide a maximum of 50% reimbursement of eligible expenses.
- 5) Payments shall be made in the form of Electronic Funds Transfer (EFT) to an account designated by the Second Party jurisdiction's fiscal officer.
- 6) Eligible grant reimbursements shall be made for the grant period of October 1, 2023, through September 30, 2025.
- 7) Additional allocations for projects shall begin on October 1, 2023, and conclude on September 30, 2025.
- 8) Each Second Party jurisdiction shall develop a Local Distribution Management Plan ("Plan") to be incorporated into their jurisdiction's Emergency Operations Plan. This plan shall include sections with

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information on the following seven (7) components: 1. Requirement Defining; 2. Resource Ordering; 3. Distribution Methods; 4. Inventory Management; 5. Transportation; 6. Staging and; 7. Demobilization. Second Parties shall ensure their jurisdiction uses a KYEM template to complete the Plan and shall report to the First Party on Plan progress on a quarterly basis.

- 9) The Second Party shall ensure its jurisdiction submits damage assessments to the State EOC on a quarterly basis using applications provided by KYEM.
- 10) The Second Party shall report immediately before, during, and after a disaster event concerning the event's impact, impact to critical facilities, and needed resources. The Second Party shall use the reporting structure provided by KYEM when providing event information to the State EOC. Reporting structures are designed to highlight priority areas and interdependencies, focus attention on actions being taken, communicate coordination efforts towards stabilization, and integrate information.
- 11) Personnel funded pursuant to this MOA shall complete the following training within one (1) year of hire: (1) NIMS Training 100, 200, 700, 800; and (2) either the Emergency Management Institute Professional Development Series, or the Emergency Management Professionals Program Basic Academy.
- 12) Personnel funded pursuant to this MOA shall participate in at least three (3) exercises annually. Exercises shall be designed using the Homeland Security Exercise and Evaluation Program. The Second Party shall ensure that personnel proof of participation is provided to the First Party by uploading said proof into the jurisdiction's WebEOC portal.
- 13) To be considered for reimbursement, equipment must be deemed eligible for EMPG funding as detailed in the FEMA *Authorized Equipment List* (AEL).

Pricing:

The total contract amount is for \$2,679,893.00. Payments from the contract will be made through the reimbursement process, whereby the Second Party provides backup for the expenditures and is reimbursed after review by the First Party.

The Second Party fees and expenses relative to the performance of the scope of services outlined in this Contract and in the detailed attachment(s) to this contract shall not exceed the Total Order Amount as set forth on signature page of this Contract. The subject

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services and functions are to be performed during the term of this contract as set forth on page 1. It is understood that this contract is not effective and binding until approved by the Secretary of the Finance and Administration Cabinet and/or Legislative Research Commission's Government Contract Review Committee per KRS 45A.705.

Payment by the First Party to the Second Party shall be made only after receipt of appropriate, acceptable and timely invoice, as so described in this Contract, and as submitted in written or electronic format to the First Party by the Second Party. The preferred method of payment will be through electronic funds transfer.

(a) The contractor shall be reimbursed for no other expenses than those, which have been expressly detailed in this Contract. All direct charges shall be documented to support the direct charging of the expense.

(b) Where applicable:

(i) Invoicing for fee: The contractor's fee shall be original invoice(s) and shall be documented by the contractor. The invoice(s) must conform to the method prescribed in the specifications of this contract.

(ii) Invoicing for travel expenses: The contractor must follow instructions prescribed in the specifications of this contract. Either original or certified copies of receipts must be submitted for airline tickets, motel bills, restaurant charges, rental car charges, and other miscellaneous expenses.

(iii) Invoicing for miscellaneous expenses: The contractor must follow instructions prescribed in the specifications of this contract. Expenses submitted shall be documented by original or certified copies.

The contractor shall be paid no travel expense unless and except as specifically authorized under the specifications of this contract. Unless otherwise indicated, travel reimbursement shall be in accordance with 200 KAR 2:006. No travel time nor travel expenses will be included in the Second Party's or any subcontractor's hourly rates.

**Agency Standard Terms and Conditions –
Emergency Management Pass-through Agreements
Revised 2023 June**

General

(a) Extension and Amendment. The terms and conditions of this contract may be modified by written agreement of the Parties pursuant to KRS Chapter 45A and subject to the approval of the Secretary of the Finance and Administration

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Cabinet and/or the Legislative Research Commission's Government Contracts Review Committee.

- (b) Successors and Assigns. The Parties shall not assign any right herein without the written consent of the other party. Covenants made herein shall bind and inure to the benefit of any successors and assigns of the Parties whether or not expressly assumed or acknowledged by such successors or assigns.
- (c) Entire Contract. This document forms the entire contract between the Parties. Prior discussions and understandings concerning the scope and subject matter are superseded and incorporated into the express terms herein.
- (d) Severability. If any provision of this contract is held judicially invalid, the remainder shall continue in force and effect to the extent not inconsistent with such holding.
- (e) Breach of Contract. Breach or violation of Terms and Conditions shall be cause for termination of contract.
- (f) Waiver. Waiver of enforcement of any term or condition herein upon an event of breach shall not automatically extend to any other or future event of breach.
- (g) Change of Circumstances. The Parties shall promptly notify each other of any legal impediment, change of circumstances, pending litigation, or any other event or condition that may adversely affect their ability to carry out this contract.
- (h) Liability and Indemnity. Nothing in this contract shall be construed as an indemnification by or among the Parties for liabilities of the first or second party or any third person for property loss, damage, death, or personal injury ("Claims") arising out of and during the performance of this Contract.
- (i) Applicable Federal Laws and Regulations. This contract is incidental to the implementation of a federal grant program and accordingly, shall be governed by and construed according to federal law to the extent it may affect the right, remedies, and obligations of the United States.

Federal Grant Subrecipient Requirements

To the extent not inconsistent with the express terms of this contract, 49 CFR 18, Uniform Administrative Requirements for Grants and Cooperative Contracts and 2 CFR 200, Subpart E, Cost Principles, are hereby incorporated by reference herein. Consistent therewith, the Commonwealth, as a pass-through entity for federal awards, shall monitor the performance of federal grant subrecipients (the "Subrecipients") and impose requirements upon Subrecipients in order for the Commonwealth to meet its responsibility to the federal awarding agency including without limitation, the identification of required financial and performance reports.

- (a) Audits. Subrecipients agree to comply with federally-mandated audits. The Commonwealth agrees to review required audits promptly.
 1. Pursuant to 2 CFR 200.501, Subrecipients expending more than \$750,000 in federal grant monies per fiscal year shall conduct a single or program-specific audit for that fiscal year within nine (9) months of the end thereof and shall provide the final audit report to the Commonwealth within thirty (30) days of receipt.

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2. Pursuant to 2 CFR 200.512, Contractor(s) that are a governmental entity, institution of higher learning, or other nonprofit institution, shall procure an annual audit within nine (9) months of closing of the fiscal year and shall fully comply with Federal Audit Clearinghouse audit submission requirements. The Commonwealth shall access and review audit reporting packages and data collection forms from the Federal Audit Clearinghouse as soon as practicable after the required submission. Notwithstanding the foregoing, the Commonwealth may require Contractor(s) provide it with a copy of any required audit.
- (b) **Reporting.** Subrecipients agree to comply with federally-mandated reporting.
1. Pursuant to 2 CFR 200.112, Subrecipients shall disclose to the Commonwealth in writing and within five (5) days of having knowledge of any real or potential conflict of interest that may arise during the administration of the federal award. For this paragraph, “conflict of interest” is defined by applicable federal, state, and local statutes or regulations, and Subrecipients’ policies.
 2. Pursuant to 2 CFR 200.338, Subrecipients shall disclose to the federal awarding agency and to the Commonwealth in writing and within thirty (30) days of discovering of any violation of federal criminal law concerning fraud, bribery, or gratuity violations which may affect the federal award; failure to act in strict conformity with this section may result in the imposition of any remedy authorized thereby.
- (c) **Monitoring.** The Commonwealth agrees to monitor Subrecipients.
1. **Risk Analysis—2 CFR 200.331(b) requires the Commonwealth evaluate each Subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the award for purposes of determining appropriate Subrecipient monitoring, which may include consideration of such factors as:**
 - a. The Subrecipient's prior experience with the same or similar awards;
 - b. The results of previous audits, including whether or not the Subrecipient receives a single audit and the extent to which the same or similar award has been audited as a major program;
 - c. Whether Subrecipient has new personnel or new or substantially changed systems; and
 - d. The extent and results of federal awarding agency monitoring (e.g., if the Subrecipient also receives federal awards directly from a federal awarding agency.)
 2. **Monitoring Activities—2 CFR 200.331(d) requires the Commonwealth, as the pass-through entity, monitor the activities of Sub-recipients to ensure performance goals are achieved and that awards are used for authorized purposes and in compliance with federal statutes, regulations, and the terms and conditions of the award. Monitoring of the Subrecipient must include:**

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- a. Reviewing financial and performance reports required by the First Party;
 - b. Following-up and ensuring that the Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the Subrecipient from the First Party detected through audits, on-site reviews, and other means; and
 - c. Issuing a management decision for audit findings pertaining to the Federal award provided to the Subrecipient from the First Party as required by 2 CFR §200.521 Management decision.
3. Monitoring Tools—Depending upon Commonwealth’s assessment of risk posed by the Subrecipient, monitoring tools may be utilized to ensure accountability and compliance with program requirements and achievement of performance goals. Monitoring tools include but are not limited to:
- a. Providing Subrecipients with training and technical assistance on program-related matters;
 - b. Performing on-site reviews of the Subrecipient's program operations;
 - c. Arranging for agreed-upon-procedures engagements as described in 2 CFR §200.425 Audit services; and
 - d. Imposition of specific award conditions.
4. Subaward Conditions—2 CFR 200.331(c) requires the Commonwealth consider imposing specific subaward conditions upon Sub-recipients as needed, consistent with 2 CFR 200.207. The Commonwealth shall consider:
- a. Criteria set forth in 2 CFR 200.205, federal awarding agency review of risk posed by applicants;
 - b. Whether the applicant or recipient has a history of failing to comply with federal award terms and conditions;
 - c. Whether the applicant or recipient fails to meet expected performance goals as described in 2 CFR 200.210; and
 - d. Whether the applicant or recipient is not otherwise responsible.
5. Additional Conditions—The Commonwealth may impose upon Subrecipients additional federal award conditions.
- a. Additional federal award conditions may include:
 - i. Requiring payment as reimbursement rather than advance payments;
 - ii. Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
 - iii. Requiring additional, detailed financial reports;
 - iv. Requiring additional project monitoring;
 - v. Requiring the non-federal entity obtain technical or management assistance; or
 - vi. Establishing additional prior approvals.

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- b. If the Commonwealth imposes an additional federal award condition upon Sub-recipients, the Commonwealth shall notify the Subrecipient in writing as to:
 - i. The nature of the additional requirements;
 - ii. The reason why the additional requirements are being imposed;
 - iii. The nature of the action needed to remove the additional requirement, if applicable;
 - iv. The time allowed for completing the actions if applicable, and
 - v. The method for requesting reconsideration of the additional requirements imposed.
- 6. Removal of Conditions—Any specific condition imposed shall be promptly removed once the conditions prompting such condition has been corrected.
- 7. Remedies For Noncompliant Sub-recipients—2 CFR 200.331(h) requires the Commonwealth consider taking enforcement action against Subrecipients who fail to comply with federal statutes, regulations or the terms and conditions of a federal award when the Commonwealth determines that noncompliance cannot be remedied by imposing additional conditions as described above: In accordance with 2 CFR 200.338, the Commonwealth may take one or more of the following actions, as appropriate in the circumstances:
 - a. Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action.
 - b. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
 - c. Wholly or partly suspend or terminate the Federal award.
 - d. Recommend to the Federal awarding agency to initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency.
 - e. Withhold further Federal awards for the project or program.
 - f. Take other remedies that may be legally available.

Subcontractor Agreements – Incorporation of Terms

The Parties agree that all subcontractors performing Activities in furtherance of this contract shall be bound by the terms and conditions herein. Contractor(s) further agrees to incorporate this contract by reference in any written agreement with a subcontractor performing Activities in furtherance of this contract.

Lobbying and Political Activity

If applicable:

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No funds expended or reimbursed under this contract shall be used to influence, directly or indirectly, the introduction or modification of any federal or state legislation or the outcome of any federal, state or local election, referendum, or initiative.

- (a) Certification. Contractor(s) certify to the best of their knowledge and belief, that for the preceding contract period, if any, and for this current contract period:
1. No federal funds have been paid or will be paid, by or on behalf of Contractor(s) to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative contract, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative contract;
 2. If any funds, other than federal funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan or cooperative contract, Contractor(s) shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying;"
 3. Contractor(s) shall require that the language of this certification be included in award documents for all sub-awards at all tiers, including subcontractors, sub-grants, and contracts under grants, loans, and cooperative contracts, and that all sub-recipients shall certify and disclose; accordingly, and
 4. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction under section 31, U. S. C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for such failure.
- (b) Byrd Anti-Lobbying Amendment (if applicable) 31 U.S.C. 1352 is incorporated by reference herein. Pursuant thereto, Contractor(s) that apply or bid for an award exceeding \$100,000 must file 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, member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining a federal contract, grant or other award. Each tier shall disclose lobbying with non-federal funds that take place in connection with obtaining a federal award. Disclosures under this paragraph shall be forwarded tier-to-tier up to the non-federal awarding agency.

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- (c) The Hatch Act (if applicable) Contractor(s) agrees to comply with 5 U.S.C. 1501 *et seq.*, the Hatch Act, and regulations promulgated thereunder including 5 CFR Part 151, limiting 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.

Information Ownership and Management

- (a) Unless otherwise stated herein, data and information shared or acquired by the Parties in furtherance of this contract (“Data”) shall be and remain the sole property of the Commonwealth. Contractor(s) and their agents and assigns shall not use Data for any other purpose not expressly authorized herein to extent permitted by state and federal law.
- (b) Contractor(s) agrees to comply with KRS 61.931 *et seq.*, Kentucky’s Personal Information Security and Breach Investigation Procedures and Practices Act, (the “Act.”) To the extent Contractor(s) receives Personal Information as defined by and in accordance with the Act, in furtherance of Activities performed hereunder, Contractor(s) shall secure and protect Personal Information by, and without limitation:
1. Utilizing security and breach investigation procedures appropriate to the nature of the Personal Information disclosed, reasonably designed to protect the Personal Information from unauthorized access, use, modification, disclosure, manipulation or destruction; and
 2. Notifying the Commonwealth of a security breach relating to Personal Information in the possession of practice or subcontractors without undue delay.

Financial Management System

Contractor(s) agrees to establish and maintain a financial management system which shall provide accurate, current, and complete disclosure of financial reporting for Activities in accordance with reporting requirements set forth in this contract including, without limitation:

- (a) Records identifying the source and application of funds which shall contain information pertaining to federal and state funds received, obligations, unobligated balances (if applicable), assets, liabilities, expenditures and income.
- (b) Effective control over and accountability for all funds, property, and assets to safeguard and assure that they are used solely for authorized purposes under this contract.
- (c) Procedures for determining the reasonableness of costs in accordance with the terms and conditions of this contract; and
- (d) Accounting records supported by source documentation.

Drug-Free Workplace

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- (a) Contractor(s) agree to comply with 41 U.S.C. 701 *et seq.*, the Drug-Free Work Place Act of 1988, and maintain a drug-free workplace.
- (b) Contractor(s) covenant and agree to comply with Final Rule, Government-Wide Requirements for Drug-Free Workplace (Grants), issued by the United States Office of Management and Budget, and any amendments thereto.

Environmental Standards

- (a) Contractor(s) agree that Activities performed in furtherance of this contract shall comply with the Clean Air Act, the Federal Water Pollution Control Act, the Resources Conservation and Recovery Act (RCRA), the Comprehensive Environmental Response, Compensation, and Liabilities Act (CERCLA), National Environmental Policy Act (NEPA), and any other applicable federal, state, or local environmental law, regulation, or policy.
- (b) Contractor(s) shall ensure that Activities shall not occur at a facility listed on the Environmental Protection Agency (EPA) list of violating facilities pursuant to 40 CFR 15 without the prior written agreement of the Commonwealth. Contractor(s) shall notify the Commonwealth immediately upon receipt of any communication from the EPA relating to performance of this contract.
- (c) Contractor(s) is encouraged to integrate National Environmental Policy Act compliance and related legislation as implemented under 44 CFR and 2 CFR 200, in the execution and administration of this contract.

Preference for U.S. Flag Carriers

Contractor(s) agree to comply with 46 U.S.C. 1241(b), and regulations issued thereunder to include 46 CFR 381, concerning the use of privately-owned United States flag commercial vessels.

Debarment and Suspension

- (a) Contractor(s) shall not make any award or permit any award, subgrant, or contract at any tier to any party debarred, suspended, or excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 and 12689, "Debarment and Suspension."
- (b) The Final Rule, Government-Wide Debarment and Suspension (Non-procurement), issued by the United States Office of Management and Budget is incorporated by reference and the Second Party covenants and agrees to comply with all the provision thereof, including any amendments to the Final Rule that may hereafter be issued.

Copeland "Anti-Kickback" Act

Contractor(s) agrees to comply with 40 U.S.C. 3145, the Copeland Anti-Kickback Act, and regulations promulgated thereunder including 29 CFR 3, whereby, it shall be unlawful to induce, by force, intimidation, threat, procuring dismissal from employment, or otherwise, any person employed in the construction or repair of public buildings or public works,

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finance in whole or in part by the United States, to give up any part of the compensation to which that person is entitled under a contract of employment.

Contract Work Hours and Safety Standards Act

Contractor(s) shall comply with 40 U.S.C. 3701 et seq., the Contract Work Hours and Safety Standards Act.

Patent Rights

The Patent Right Clause found at 37 CFR 401.12, is hereby incorporated by reference herein, which governs rights to inventions made by non-profit organizations and small business firms under government grants, contracts, and cooperative contracts.

Davis-Bacon Act (if applicable)

40 U.S.C. 3141 *et seq.* and regulations 29 CFR 5 are incorporated by reference herein. The Davis-Bacon Act requires contractors pay laborers and mechanics at prevailing wages determined by the Secretary of Labor, and to make payment at least once per week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency.

Procurement

- (a) Contractor(s) shall acquire goods and service consistent with KRS 45A and applicable federal standards and procedures including, without limitation, 2 CFR 200, 44 CFR, 49 CFR, and 32 CFR.
- (b) Contractor(s) agrees to comply with 41 U.S.C. 10, the Buy American Act, the Memorandum of Understanding between the United States of America and the European Economic Community on Government Procurement, and the North American Free Trade Contract (NAFTA.)
- (c) Contractor(s) shall comply with the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, to procure:
 - 1. Items designated within Environmental Protection Agency (EPA) guideline 40 CFR 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;
 - 2. Solid waste management services in a manner that maximizes energy and resource recovery; and

Establish an affirmative procurement program for the procurement of recovered materials identified in EPA guidelines.

Program Agreement Requirements

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Assurances, Administrative Requirements, Cost Principles, Representations and Certifications

1. DHS financial assistance recipients must complete either the Office of Management and Budget (OMB) Standard Form 424B Assurances – Non-Construction Programs, or OMB Standard Form 424D Assurances – Construction Programs, as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances as instructed by the awarding agency.
2. DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations (C.F.R.) Part 200 and adopted by DHS at 2 C.F.R. Part 3002.
3. By accepting this agreement, recipients, and their executives, as defined in 2 C.F.R. § 170.315, certify that their policies are in accordance with OMB's guidance located at 2 C.F.R. Part 200, all applicable federal laws, and relevant Executive guidance.

General Acknowledgements and Assurances

All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

1. Recipients must cooperate with any DHS compliance reviews or compliance investigations conducted by DHS.
2. Recipients must give DHS access to examine and copy records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities or personnel.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law, or detailed in program guidance.
5. Recipients (as defined in 2 C.F.R. Part 200 and including recipients acting as pass-through entities) of federal financial assistance from DHS or one of its awarding component agencies must complete the DHS Civil Rights Evaluation Tool within thirty (30) days of receipt of the Notice of Award for the first award under which this term applies. Recipients of multiple awards of DHS financial assistance should only submit one completed tool for their organization, not per award. After the initial

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submission, recipients are required to complete the tool once every two (2) years if they have an active award, not every time an award is made. Recipients should submit the completed tool, including supporting materials, to CivilRightsEvaluation@hq.dhs.gov. This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS Standard Terms and Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at <https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool>.

The DHS Office for Civil Rights and Civil Liberties will consider, in its discretion, granting an extension if the recipient identifies steps and a timeline for completing the tool. Recipients should request extensions by emailing the request to CivilRightsEvaluation@hq.dhs.gov prior to expiration of the 30-day deadline.

Standard Terms & Conditions

Acknowledgement of Federal Funding from DHS

Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

Activities Conducted Abroad

Recipients must ensure that project activities performed outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

Age Discrimination Act of 1975

Recipients must comply with the requirements of the Age Discrimination Act of 1975, Public Law 94-135 (1975) (codified as amended at Title 42, U.S. Code, § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

Americans with Disabilities Act of 1990

Recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. 101-336 (1990) (codified as amended at 42 U.S.C. §§ 12101–12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

Best Practices for Collection and Use of Personally Identifiable Information

Recipients who collect personally identifiable information (PII) are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines PII as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy Template as useful resources respectively.

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Civil Rights Act of 1964 – Title VI

Recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (codified as amended at 42 U.S.C. § 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

Civil Rights Act of 1968

Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (see 42 U.S.C. § 3601 et seq.), as implemented by the U.S. Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D.)

Copyright

Recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

Debarment and Suspension

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, which are at 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3002. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

Drug-Free Workplace Regulations

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of Sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101-8106).

Duplication of Benefits

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations,

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or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX

Recipients must comply with the requirements of Title IX of the Education Amendments of 1972, Pub. L. 92-318 (1972) (codified as amended at 20 U.S.C. § 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.

Energy Policy and Conservation Act

Recipients must comply with the requirements of the Energy Policy and Conservation Act, Pub. L. 94- 163 (1975) (codified as amended at 42 U.S.C. § 6201 et seq.), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

False Claims Act and Program Fraud Civil Remedies

Recipients must comply with the requirements of the False Claims Act, 31 U.S.C. §§3729-3733, which prohibit the submission of false or fraudulent claims for payment to the Federal Government. (See 31 U.S.C. §§ 3801-3812, which details the administrative remedies for false claims and statements made.)

Federal Debt Status

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)

Federal Leadership on Reducing Text Messaging while Driving

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the Federal Government.

Fly America Act of 1974

Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C.) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. § 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

Hotel and Motel Fire Safety Act of 1990

Recipients must 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 Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. § 2225a

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John S. McCain National Defense Authorization Act of Fiscal Year 2019

Recipients, subrecipients, and their contractors and subcontractors are subject to the prohibitions described in section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232 (2018) and 2 C.F.R. §§ 200.216, 200.327, 200.471, and Appendix II to 2 C.F.R. Part 200. Beginning August 13, 2020, the statute – as it applies to DHS recipients, subrecipients, and their contractors and subcontractors – prohibits obligating or expending federal award funds on certain telecommunications and video surveillance products and contracting with certain entities for national security reasons.

Limited English Proficiency (Civil Rights Act of 1964, Title VI)

Recipients must comply with Title VI of the Civil Rights Act of 1964, (42 U.S.C. § 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

Lobbying Prohibitions

Recipients must comply with 31 U.S.C. § 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

National Environmental Policy Act

Recipients must comply with the requirements of the National Environmental Policy Act of 1969, (NEPA) Pub. L. 91-190 (1970) (codified as amended at 42 U.S.C. § 4321 et seq. and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

Nondiscrimination in Matters Pertaining to Faith-Based Organizations

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in

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6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

Non-Supplanting Requirement

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

Notice of Funding Opportunity Requirements

All the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

Patents and Intellectual Property Rights

Recipients are subject to the Bayh-Dole Act, 35 U.S.C. § 200 et seq, unless otherwise provided by law. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14.

Procurement of Recovered Materials

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. 89-272 (1965), (codified as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6962.) The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

Rehabilitation Act of 1973

Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. 93-112 (1973), (codified as amended at 29 U.S.C. § 794,) which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Reporting of Matters Related to Recipient Integrity and Performance

General Reporting Requirements:

If the total value of any 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 the recipients must comply with the requirements set forth in the government-wide Award Term and Condition for

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Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

Reporting Subawards and Executive Compensation

Reporting of first tier subawards.

Recipients are required to comply with the requirements set forth in the government-wide award term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.

Required Use of American Iron, Steel, Manufactured Products, and Construction Materials

Recipients and subrecipients must comply with the Build America, Buy America Act (BABAA), which was enacted as part of the Infrastructure Investment and Jobs Act §§ 70901-70927, Pub. L. No. 117-58 (2021); and Executive Order 14005, Ensuring the Future is Made in All of America by All of America's Workers. See also Office of Management and Budget (OMB), Memorandum M-22-11, Initial Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure.

Recipients and subrecipients of federal financial assistance programs for infrastructure are hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:

- (1) all iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- (2) all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- (3) all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

Waivers

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When necessary, recipients may apply for, and the agency may grant, a waiver from these requirements.

(a) When the federal agency has made a determination that one of the following exceptions applies, the awarding official may waive the application of the domestic content procurement preference in any case in which the agency determines that:

(1) applying the domestic content procurement preference would be inconsistent with the public interest;

(2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or

(3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

A request to waive the application of the domestic content procurement preference must be in writing. The agency will provide instructions on the format, contents, and supporting materials required for any waiver request. Waiver requests are subject to public comment periods of no less than 15 days and must be reviewed by the OMB Made in America Office.

There may be instances where an award qualifies, in whole or in part, for an existing waiver described. For awards by the Federal Emergency Management Agency (FEMA), existing waivers are available and the waiver process is described at ["Buy America" Preference in FEMA Financial Assistance Programs for Infrastructure | FEMA.gov](#). For awards by other DHS components, please contact the applicable DHS FAO.

To see whether a particular DHS federal financial assistance program is considered an infrastructure program and thus required to include a Buy America preference, please either contact the applicable DHS FAO, or for FEMA awards, please see [Programs and Definitions: Build America, Buy America Act | FEMA.gov](#).

SAFECOM

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

Terrorist Financing

Recipients must comply with E.O. 13224 and U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

Trafficking Victims Protection Act of 2000 (TVPA)

Trafficking in Persons.

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Recipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106 (g) of the Trafficking Victims Protection Act of 2000 (TVPA), codified as amended at 22 U.S.C. § 7104. The award term is located at 2 C.F.R. § 175.15, the full text of which is incorporated here by reference.

Universal Identifier and System of Award Management

Requirements for System for Award Management and Unique Entity Identifier Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference.

USA PATRIOT Act of 2001

Recipients must comply with requirements of Section 817 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), which amends 18 U.S.C. §§ 175–175c.

Use of DHS Seal, Logo and Flags

Recipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

Whistleblower Protection Act

Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C § 2409, 41 U.S.C. § 4712, and 10 U.S.C. § 2324, 41 U.S.C. §§ 4304 and 4310.

Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired under this award by the recipient or its subrecipients is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, you must request instructions from KYEM to make proper disposition of the equipment pursuant to 2 C.F.R. Section 200.313.

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**Memorandum of Agreement Standard Terms and Conditions
Revised January 2023**

1.00 Effective Date

All Memorandum of Agreements are not effective until the Secretary of the Finance and Administration Cabinet or his authorized designee has approved the agreement and until the agreement has been submitted to the government contract review committee. However, in accordance with KRS 45A.700, memoranda of agreement in aggregate amounts of \$50,000 or less are exempt from review by the committee and need only be filed with the committee within 30 days of their effective date for informational purposes.

KRS 45A.695(7) provides that payments on personal service contracts and memoranda of agreement shall not be authorized for services rendered after government contract review committee disapproval, unless the decision of the committee is overridden by the Secretary of the Finance and Administration Cabinet or agency head, if the agency has been granted delegation authority by the Secretary.

2.00 EEO Requirements

The Equal Employment Opportunity Act of 1978 applies to All State government projects with an estimated value exceeding \$500,000. The contractor shall comply with all terms and conditions of the Act.

3.00 Cancellation Clause

Both parties shall have the right to terminate and cancel this contract at any time not to exceed thirty (30) days' written notice served on the Contractor by registered or certified mail.

4.00 Funding Out Provision

The state agency may terminate this agreement if funds are not appropriated to the contracting agency or are not otherwise available for the purpose of making payments without incurring any obligation for payment after the date of termination, regardless of the terms of the agreement. The state agency shall provide the Contractor thirty (30) calendar day's written notice of termination of the agreement due to lack of available funding.

5.00 Reduction in Contract Worker Hours

The Kentucky General Assembly may allow for a reduction in contract worker hours in conjunction with a budget balancing measure for some professional and non-professional

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service contracts. If under such authority the agency is required by Executive Order or otherwise to reduce contract hours, the agreement will be reduced by the amount specified in that document. If the contract funding is reduced, then the scope of work related to the contract may also be reduced commensurate with the reduction in funding. This reduction of the scope shall be agreeable to both parties and shall not be considered a breach of contract.

6.00 Access to Records

The state agency certifies that it is in compliance with the provisions of KRS 45A.695, "Access to contractor's books, documents, papers, records, or other evidence directly pertinent to the contract." The Contractor, as defined in KRS 45A.030, agrees that the contracting agency, the Finance and Administration Cabinet, the Auditor of Public Accounts, and the Legislative Research Commission, or their duly authorized representatives, shall have access to any books, documents, papers, records, or other evidence, which are directly pertinent to this agreement for the purpose of financial audit or program review. The Contractor also recognizes that any books, documents, papers, records, or other evidence, received during a financial audit or program review shall be subject to the Kentucky Open Records Act, KRS 61.870 to 61.884. Records and other prequalification information confidentially disclosed as part of the bid process shall not be deemed as directly pertinent to the agreement and shall be exempt from disclosure as provided in KRS 61.878(1)(c).

7.00 Violation of tax and employment laws

KRS 45A.485 requires the Contractor and all subcontractors performing work under the contract to reveal to the Commonwealth any final determination of a violation by the Contractor within the previous five (5) year period of the provisions of KRS chapters 136, 139, 141, 337, 338, 341, and 342. These statutes relate to corporate and utility tax, sales and use tax, income tax, wages and hours laws, occupational safety and health laws, unemployment insurance laws, and workers compensation insurance laws, respectively. Disclosure of any violations is required prior to the award of any state contract and throughout the duration the contract.

Failure to disclose violations, shall be grounds for the Commonwealth's disqualification of a contractor or subcontractor from eligibility for future state contracts for a period of two (2) years.

To comply with KRS 45A.485, the Contractor and all subcontractors performing work

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under this contract shall report any such final determination(s) of any violation(s) within the previous five (5) years to the Commonwealth by providing a list of the following information regarding any violation(s): (1) specific KRS violated, (2) date of any final determination of a violation, and (3) state agency which issued the final determination.

A list of any disclosures made prior to award of a contract shall be attached to the contract.

The Contractor affirms that it has not violated any of the provisions of the above statutes within the previous five (5) year period, aside from violations explicitly disclosed and attached to this contract. Contractor further affirms that it will (1) communicate the above KRS 45A.485 disclosure requirements to any subcontractors and (2) disclose any subcontractor violations it becomes aware of to the Commonwealth.

8.00 Discrimination

This section applies only to agreements disbursing federal funds, in whole or part, when the terms for receiving those funds mandate its inclusion. Discrimination (because of race, religion, color, national origin, sex, sexual orientation, gender identity, age, or disability) is prohibited. During the performance of this agreement, the Contractor agrees as follows:

The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, sexual orientation, gender identity or age. The Contractor further agrees to comply with the provisions of the Americans with Disabilities Act (ADA), Public Law 101-336, and applicable federal regulations relating thereto prohibiting discrimination against otherwise qualified disabled individuals under any program or activity. The Contractor agrees to provide, upon request, needed reasonable accommodations. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability. Such action shall include, but not be limited to the following; employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensations; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

In all solicitations or advertisements for employees placed by or on behalf of the Contractor, the Contractor will, state that all qualified applicants will receive consideration

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for employment without regard to race, religion, color, national origin, sex, sexual orientation, gender identity, age or disability.

The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965 as amended, and of the rules, regulations and relevant orders of the Secretary of Labor.

The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the 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.

In the event of the Contractor's noncompliance with the nondiscrimination clauses of this agreement or with any of the said rules, regulations or orders, this agreement may be cancelled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further government contracts or federally-assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies invoked as provided in or as otherwise provided by law.

The Contractor will include the provisions of paragraphs (1) through (7) of section 202 of Executive Order 11246 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 No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency,

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the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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Approvals

This contract is subject to the terms and conditions stated herein. By affixing signatures below, the parties verify that they are authorized to enter into this contract and that they accept and consent to be bound by the terms and conditions stated herein. In addition, the parties agree that (i) electronic approvals may serve as electronic signatures, and (ii) this contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all counterparts together shall constitute a single contract.

1st Party:

Signature

Title

Printed Name

Date

2nd Party:

Linda Gorton

Signature

Mayor
Title

Linda Gorton

Printed Name

1/30/2024
Date

Other Party:

Signature

Title

Printed Name

Date

Approved as to form and legality:

Attorney

**KENTUCKY EMERGENCY MANAGEMENT
EMERGENCY MANAGEMENT ASSISTANCE PROGRAM
NON-SUPPLANTING CERTIFICATION**

It is necessary to provide assurance that sub-grant funds will not be used to replace (supplant) funds that would normally be available or appropriated for the same purpose. The certificate is to be signed by the County Judge/Executive and the County Emergency Manager.

This certification is a required component of the EMA Special Project application process and affirms that federal funds will be used to supplement existing funds, and will not replace (supplant) funds that have been appropriated for the same purpose. Potential supplanting will be addressed in the application review as well as in the pre-award review, post-award monitoring, and the annual site visit.

Supplanting general definition: The act of a unit of government that reduces funds for an activity specifically because federal funds are available (or expected to be available) to fund that same activity. Supplanting is not permitted. Federal funds must be used to supplement existing State or local funds for program activities and may not replace funds that have been budgeted, appropriated, or allocated for the same purpose.

I certify I have read, understand, and agree to ensure that federal funds awarded under the Emergency Management Assistance Grant Program will not be used to supplant (replace) funds or other resources that would otherwise have been made available or previously budgeted for the county's emergency management program.

Applicant Name: Lexington- Fayette Urban County Government

County Judge/Executive Name: Linda Gorton

County Judge/Executive Signature: *Linda Gorton*

Date: 1/30/2024

County Emergency Manager Name: Robert Larkin

County Emergency Manager Signature: *Robert Larkin*

Date: 1/23/2024