

LOCAL AGENCY PROGRAM FEDERAL-AID TERMS For PROFESSIONAL SERVICES CONTRACTS

TERMS FOR FEDERAL AID CONTRACTS (APPENDIX I):

The following terms apply to all contracts in which it is indicated that the services involve the expenditure of federal funds:

- A. It is understood and agreed that all rights of the Local Agency relating to inspection, review, approval, patents, copyrights, and audit of the work, tracing, plans, specifications, maps, data, and cost records relating to this Agreement shall also be reserved and held by authorized representatives of the United States of America.
- B. All tracings, plans, specifications, maps, computer files and/or reports prepared or obtained under this Agreement, as well as all data collected, together with summaries and charts derived therefrom, will be considered works made for hire and will become the property of the Agency upon completion or termination without restriction or limitation on their use and will be made available, upon request, to the Agency at any time during the performance of such services and/or completion or termination of this Agreement. Upon delivery to the Agency of said document(s), the Agency will become the custodian thereof in accordance with Chapter 119, Florida Statutes. The Consultant will not copyright any material and products or patent any invention developed under this agreement. The Agency will have the right to visit the site for inspection of the work and the products of the Consultant at any time.
- C. It is understood and agreed that, in order to permit federal participation, no supplemental agreement of any nature may be entered into by the parties hereto with regard to the work to be performed hereunder without the approval of the U.S. Department of Transportation, anything to the contrary in this Agreement notwithstanding.
- D. The Consultant shall provide access by the Florida Department of Transportation (recipient), the Agency (subrecipient), the Federal Highway Administration, the U.S. Department of Transportation's Inspector General, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the Consultant which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.
- E. Compliance with Regulations: The Consultant shall comply with the Regulations: relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- F. Nondiscrimination: The Consultant, with regard to the work performed during the contract, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subcontractors, including procurements of material and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- G. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations made by the Consultant, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials and leases of equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this contract and the Regulations relative to nondiscrimination on the basis of race, color, national origin, sex, age, disability, religion or family status.
- H. Information and Reports: The Consultant will provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Local Agency, Florida Department of Transportation, Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or Federal Motor Carrier Safety Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Local Agency, Florida Department of Transportation, Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
- I. Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this contract, the Local Agency shall impose such contract sanctions as it or the Florida Department of Transportation, Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or Federal Motor Carrier Safety Administration may determine to be appropriate, including, but not limited to,
 - 1. withholding of payments to the Consultant under the contract until the Consultant complies and/or
 - 2. cancellation, termination or suspension of the contract, in whole or in part.
- J. Incorporation or Provisions: The Consultant will include the provisions of Paragraph C through K in every subcontract, including procurements of materials and leases of equipment unless exempt by the Regulations, order, or instructions

**LOCAL AGENCY PROGRAM FEDERAL-AID TERMS
For PROFESSIONAL SERVICES CONTRACTS**

375-040-84
PROGRAM MANAGEMENT
1/24
Page 2 of 4

issued pursuant thereto. The Consultant shall take such action with respect to any subcontract or procurement as the Local Agency, Florida Department of Transportation, Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, and/or the Federal Motor Carrier Safety Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance. In the event a Consultant becomes involved in, or is threatened with, litigation with a subconsultant or supplier as a result of such direction, the Consultant may request the Local Agency to enter into such litigation to protect the interests of the Local Agency, and, in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

- K. Compliance with Nondiscrimination Statutes and Authorities: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21; The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects); Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex); Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27; The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age); Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex); The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not); Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38; The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex); Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations; Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100); Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).
- L. Interest of Members of Congress: No member of or delegate to the Congress of the United States will be admitted to any share or part of this contract or to any benefit arising therefrom.
- M. Interest of Public Officials: No member, officer, or employee of the public body or of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof. For purposes of this provision, public body shall include municipalities and other political subdivisions of States; and public corporations, boards, and commissions established under the laws of any State.
- N. Participation by Disadvantaged Business Enterprises: The Consultant shall agree to abide by the following statement from 49 CFR 26.13(b). This statement shall be included in all subsequent agreements between the Consultant and any subconsultant or contractor.

"The subconsultant, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this contract, which may result in termination of this contract or other such remedy as the recipient deems appropriate."

Pursuant to 49 CFR 26.11(c), the Consultant shall submit the bid opportunity list at the time of contract execution, and shall enter DBE commitment and payment information in the Florida Department of Transportation Equal Opportunity Compliance (EOC) system. The Consultant shall request access to the EOC system using Form No. 275-021-30.

- O. Prompt Payment of and Return of Retainage to Subconsultants: The Consultant will pay monies owed to subconsultants, suppliers or other parties within thirty (30) days of the Consultant receiving payment from the Local Agency. The Local Agency is prohibited from withholding retainage from consultants. To the extent the selected consultant withholds retainage from its subconsultants, it must be returned in its entirety within thirty (30) days of satisfactory completion of the subconsultant work. The Local Agency is the arbiter of what constitutes satisfactory completion. These provisions apply to all subconsultants and at all tiers of subcontracting.
- P. It is mutually understood and agreed that the willful falsification, distortion or misrepresentation with respect to any facts related to the project(s) described in this Agreement is a violation of the Federal Law. Accordingly, United States Code, Title 18, Section 1020, is hereby incorporated by reference and made a part of this Agreement.

**LOCAL AGENCY PROGRAM FEDERAL-AID TERMS
For PROFESSIONAL SERVICES CONTRACTS**

375-040-84
PROGRAM MANAGEMENT
1/24
Page 3 of 4

Q. It is understood and agreed that if the Consultant at any time learns that the certification it provided the Local Agency in compliance with 49 CFR, Section 26.51, was erroneous when submitted or has become erroneous by reason of changed circumstances, the Consultant shall provide immediate written notice to the Local Agency. It is further agreed that the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction" as set forth in 49 CFR, Section 29.510, shall be included by the Consultant in all lower tier covered transactions and in all aforementioned federal regulation.

R. The Local Agency hereby certifies that neither the Consultant nor the Consultant's representative has been required by the Local Agency, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this contract, to

1. employ or retain, or agree to employ or retain, any firm or person, or
2. pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind;

The Local Agency further acknowledges that this agreement will be furnished to a federal agency, in connection with this contract involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

S. The Consultant hereby certifies that it has not:

1. employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for the above contractor) to solicit or secure this contract;
2. agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out this contract; or
3. paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for the above contractor) any fee contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the contract.

The Consultant further acknowledges that this agreement will be furnished to the Local Agency, the State of Florida Department of Transportation and a federal agency in connection with this contract involving participation of Federal-Aid funds, and is subject to applicable State and Federal Laws, both criminal and civil.

T. The Consultant shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of the Contract and shall expressly require any subcontractors performing work or providing services pursuant to the Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term.

U. Clean Air Act: The Consultant agrees to comply with applicable standards, orders or regulations issued pursuant to Clean Air Act (42 U.S.C § 7401 et seq), as amended..

The Consultant agrees to report each violation to the Florida Department of Transportation (Department) and understands and agrees that the Department will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

The Consultant agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

V. Federal Water Pollution Control Act: The Consultant agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended.

The Consultant agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance.

W. Byrd Anti-Lobbying: Consultants awarded a contract of \$100,000 or more 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

**LOCAL AGENCY PROGRAM FEDERAL-AID TERMS
For PROFESSIONAL SERVICES CONTRACTS**

375-040-84
PROGRAM MANAGEMENT
1/24
Page 4 of 4

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 who in turn will forward the certification(s) to the awarding agency.

CERTIFICATION FOR DISCLOSURE OF LOBBYING ACTIVITIES ON FEDERAL AID CONTRACTS: (Compliance with 49 CFR, Section 20.100(b))(1) The Consultant certifies that: (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Consultant, to any person for influencing or attempting to influence either directly or indirectly an officer or employee of any state or Federal agency, a member of the Florida Legislature, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Agreement, the Consultant shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities". (2) 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 was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. (3) The Consultant also certifies by signing this contract that the Consultant shall require the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

Statement for Loan Guarantees and Loan Insurance

Per 49 CFR Part 20, Appendix A, the undersigned states, to the best of his or her knowledge and belief, that:

If any 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 commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10, 000 and not more than \$100,000 for each such failure.

- X. Buy America: As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award per 2 CFR part 200.322.

"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.

"Manufactured products" means 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.

Furthermore Federal agencies providing Federal financial assistance for infrastructure projects must implement the Buy America preferences set forth in 2 CFR part 184.