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## **REQUEST FOR PROPOSALS**

**Consulting Services for Disaster Recovery,  
FEMA Public Assistance (Stand-by Contract)**

**July 1, 2024  
Bid No. 2024-001**

Deadline:  
**July 15, 2024, at 4:00 P.M.**

**Town of Kinder  
333 N. 8<sup>th</sup> Street  
P.O. Box 947  
Kinder, LA 70648  
337-738-2620**

**[traci.fontenot@townofkinder.com](mailto:traci.fontenot@townofkinder.com)**

Town of Kinder, Louisiana

**A. PURPOSE**

It is the intent of the **Town of Kinder** (“Kinder”) to obtain proposals from qualified firms to establish a Standby Contract for Professional Consulting Services for Disaster Recovery and FEMA Public Assistance in accordance with the specifications and conditions contained in this RFP. These services will not be authorized until such time as a Notice to Proceed has been issued; typically, in response to a natural or man-made disaster.

Kinder is seeking Competitive Sealed Proposals from qualified organizations to provide This RFP has been compiled for the purpose of providing information, requirements, guidelines, specifications, and other data that can be used by Proposers who wish to submit a proposal for consideration. It is the intent to enter into a pre-event contract, which would result in no immediate cost to Kinder. The Contractor shall provide all materials and services necessary in the performance of this bid. Kinder does not guarantee a minimum value for this contract.

- B. DEFINITIONS:** Whenever, in these Instructions, the terms defined in the Contract are used (or pronouns used in their place), the intent and meaning of such terms shall be interpreted as indicated in the Contract.

In addition, the following definitions shall apply:

1. Proposal means an executed formal document submitted to Kinder stating the goods, consultant services, and/or services, as applicable, offered by the proposer to satisfy the needs as requested in the Request for Proposal.
2. Contract means the Agreement between the successful Contractor(s) and Kinder in the form attached and included in this RFP Document.

**C. GENERAL INFORMATION AND SCHEDULE**

All Firms interested in submitting a proposal **MUST SUBMIT all addendums if applicable with their proposal.**

Kinder may award the bid to the vendor demonstrating the most complete response and full compliance with the specifications and in accordance with procurement requirements set forth by the Federal Government. Kinder is an Equal Opportunity Employer and encourages all small and minority-owned businesses to submit proposals.

Kinder reserves the right to offer an award based on any combination of factors it determines to be in the best interests of Kinder and the Kinder’s residents. Price may be a factor but will not determine the awarding of the bid. The bid will be awarded to the “best bidder” and not the “low bidder”. Kinder will make the determination of which bidder is the “best bid” and not the vendor.

A pre-bid conference will not be held at this time.

## D. INSTRUCTION TO BIDDERS

Any questions and/or misunderstandings that may arise from this bid must be submitted in writing and forwarded to Traci Fontenot at the above address or by email at [traci.fontenot@townofkinder.com](mailto:traci.fontenot@townofkinder.com). **NO PHONE CALLS**. It shall be the Bidders responsibility to seek clarification as early as possible prior to the last day to submit questions. It is the proposer's responsibility to follow this bid process so that they will be aware of all addenda being posted prior to bid opening. Acknowledgement of all addenda is required.

An original, five (5) copies and one (1) digital copy of this RFP are to be submitted to:

Town of Kinder  
Attn: Traci Fontenot, Town Clerk  
Physical Address: 333 N. 8<sup>th</sup> Street, Kinder, LA 70648  
Mailing Address: P.O. Box 947, Kinder, LA 70648

Proposals **must** be submitted no later than **4:00 PM, July 15, 2024**. **Proposals must be received in a sealed envelope or container marked "Request for Proposals for Standby Contract for Professional Consulting Services for Disaster Recovery and FEMA Public Assistance". Place the Project name, number, and opening date on the submitting envelope or container.**

**No proposal will be received or accepted after the above specified date and time of the proposal opening. Proposals submitted after the designated date and time will be deemed invalid and returned unopened to the proponent.**

All materials and documents submitted in the response shall become the property of Kinder and will not be returned.

The bid specifications are to be considered as a minimum set of specifications and standards.

Failure to provide adequate information to enable Kinder to evaluate the bidder, or proposed services, will be considered failure to meet bid requirements and may result in the elimination of the bidder's response.

Failure on the part of a vendor to honor a bid which they have submitted will be considered breach of contract and may result in said vendor being deemed ineligible to bid on future purchases and disqualified from any successful award on this bid. Vendors are encouraged to double check bid pricing to make sure it is accurate. The bidder agrees to hold the bid price for 90 days following the bid opening.

## **Warranty**

All services provided by the vendor must have a 100% guarantee. If services are not performed as bid, the vendor shall be liable for any damages or loss of funds associated with the failure.

## **Pricing and Quote Preparation**

Bidders are encouraged to list any options or services it may provide that it feels might be of interest to Kinder, not included in base bid price.

## **Qualifications of Vendor**

**Summary of Qualifications:** Proposals must include a cover letter, a description of the firm's capabilities and services, a discussion of the firm's expertise relative to the background and experience requirements contained herein and resumes of qualified professionals who will be responsible for completing assigned tasks. This material should also be provided for key sub-Consultants.

**Litigation Summary:** Provide a list of all claims, arbitrations, administrative hearings, and lawsuits related to debris monitoring, brought against your company.

## **E. BACKGROUND**

As Kinder has been impacted by natural disasters in the past, the town feels the need to be prepared for any future events for the well-being, safety, and health of its citizenry. This RFP will allow Kinder to be able to quickly begin any cleanup that will assist in alleviating the effects of such an event.

## **F. SCOPE OF SERVICES**

### **INTRODUCTION**

Kinder requests proposals for assistance to support the Town's Disaster Recovery operations and FEMA Public Assistance preparation to expedite financial recovery and mitigation to minimize impacts from future disasters. This will include, but not limited to, reporting, and other consulting services associated with damages sustained as a result of any future disasters that may arise. The selected consultant shall possess demonstrated experience in disaster recovery programs, and have extensive knowledge and expertise in the operations of the Federal Emergency Management Agency's (FEMA) Public Assistance (PA) Program, Hazard Mitigation Program (HMP), and other federal and state programs to ensure full compliance with all applicable federal, state, and local laws, regulations, executive orders and FEMA requirements.

**The executed contract will meet all rules for Federal grants, as provided for in Title 44 Code of Federal Regulations and 2CFR 200.317 through 200.237 and Appendix II.**

## **SCOPE OF SERVICES**

The Services to be provided are expected to include, but not limited to the following:

### **FEMA Public Assistance Advisory Services:**

Provide assistance to Kinder with regard to disaster recovery efforts and compliance with applicable local, State, and Federal laws, regulations, executive orders, and FEMA requirements.

Provide guidance in recovering reimbursement for the repair/replacement of the loss of critical infrastructure.

Collaborate with Kinder's staff and others, as needed, on project formulation, including damage assessments, information gathering, project development, preparation of project worksheets, to the Federal Emergency Management Agency (FEMA).

Attend all meetings with FEMA, state and insurance representatives, as well as, participate regularly with Kinders's designated FEMA workgroup. The awarded Firm will attend in- person meetings as required.

Identify and communicate risks within Kinder's operation that could preclude its ability to optimize reimbursement.

Assist with the management of /FEMA-administered and/or other Federal or State grants.

Assist Kinder in establishing pragmatic document control, establishing a file retention system and data management processes to ensure disaster records are complete and ready for audit.

Generate project extension requests and amendments when necessary, and any other reports or documents to ensure grant reimbursement eligibility is not de-obligated.

Provide engineering, planning and permitting as required as a result of damages from disasters within Kinder.

- A cost proposal will be required for any and all projects as they are identified.

Develop and execute a process/system for Kinder, from inception through the project closeout, to prepare and submit its disaster recovery program; this is to include documentation, procurement, contracts, payroll, and grant submission support.

Develop and execute processes for obtaining, analyzing and gathering field documentation; including, but not limited to, records related to procured goods and services, timekeeping, and force account labor and equipment; this should include processes for disaster debris monitoring services.

Develop improved and/or alternate project requests for FEMA and/or other Federal or State grants. Develop Hazard Mitigation Strategies and Proposals, as appropriate.

Assist with the submission of first and second appeals to FEMA, as appropriate.

Possess the expertise to assist in the preparation of accurate PA emergency and permanent work project estimates including but not limited to cost estimating, developing detailed damage descriptions and dimensions, scope of work, and accurate force account labor and equipment summary reports.

Coordinate and interface with engineering and design efforts for repair and/or construction of damaged facilities and infrastructure that will comply with FEMA eligibility and cost reasonableness determinations. Provide oversight of repair/construction efforts to ensure work complies with applicable Project Worksheets and related FEMA Public Assistance grant requirements and guidelines.

### **Financial Payroll and Grant Management**

Ensure Kinder's disaster recovery and restoration processes comply with laws, regulations and guidelines to maximize reimbursement for eligible disaster expenditures and to minimize timing for reimbursement.

Possess the expertise to assist in all disaster-recovery financial reimbursement and reporting processes required by FEMA, State or other agency. Ensure there are no duplications of submission if varying agencies are involved.

Possess the expertise to assist Kinder through FEMA, State (or other agency) guidelines to capture force account labor eligible expenses accurately for timesheets and project cost accounting. Assist in the review of Kinder's personnel policies to ensure compliance for eligible cost reimbursement.

Possess the expertise to assist Kinder through federal, state (or other agency) guidelines to ensure the capture of relevant data related to procured goods and services. Provide oversight of contractor's billing to ensure all costs eligible for disaster grant funding are documented and claimed.

Perform interval review and reconciliation of actual project spending to ensure project costs are accurately captured.

### **Procurement and Contract Management/Monitoring Support**

Ensure Kinder's disaster recovery and restoration procurement processes comply with laws, regulations and guidelines as required by federal, state or other agencies.

Possess the expertise to assist in the review of Kinder's Purchasing policies to ensure compliance for eligible cost reimbursement.

Develop processes for ensuring compliance related to contract monitoring and contract close-out as required by federal, state, or other agencies.

Ensure Kinder's documentation is sufficient to respond to audits and reviews.

### **Information Technology & Data Management**

Possess the expertise to assist Kinder's staff in the development of IT solutions that support the management and implementation of disaster recovery programs.

Develop processes for Kinder to properly collect data and document information as necessary to optimize compliance with federal, state, or other agencies.

Ensure Kinder's documentation is sufficient to respond to audits and reviews.

### **Insurance and Other Funding Support**

Review and understand Kinder's insurance coverage in order to ensure Kinder's disaster recovery and restoration processes comply with laws, regulations and guidelines as required by federal, state, or other agencies.

Develop process to assist Kinder in routing eligible expenses correctly, including insurance coverage guidelines.

Possess the expertise to assist Kinder with identifying other disaster recovery funding opportunities, including Community Development Block Grant Disaster Recovery programs. Ensure there are no duplications of funding or submissions if varying agencies are involved.

### **Hazard Mitigation Support**

Provide expertise in identifying, developing and evaluating opportunities for the development of hazard mitigation programs to reduce or eliminate risk from future events.

Possess the expertise to assist Kinder in preparing relevant documentation and analysis related to hazard mitigation grant programs.

Ensure Kinder’s hazard mitigation programs comply with laws, regulations and guidelines as required by federal, state or other agencies.

**Emergency Management Support Services**

Provide expertise related to post-disaster recovery continuity of operations, training, development of teams, monitoring, review and test of plans related to future events.

**CFR 200 Compliance Language – Procurement**

While assisting Kinder with project procurements or in the event the vendor must procure additional resources post-contract award, the awarded Proposer will strictly adhere to 2 CFR 200 procurement rules. This includes adhering to the strictest provisions of Federal, State, and Local Procurement Rules, Regulations and/or Ordinances, etc.

**Vendor Billing**

The winning vendor will be engaged in direct project work; therefore, indirect billing is not anticipated and must be pre-approved by Kinder. All direct project costs will be concisely billed to specific project codes established by Kinder. Vendor invoices will be categorized by: project code and must include:

- Name
- Position
- Billing Rate
- Total Hours
- Costs
- Project
- Sub-task

**Term of Contract**

The proposed stand-by contract will be for one (1) year with the option to renew for four (4) consecutive one (1) year periods, under the same terms and conditions.

Should a contract renewal be desired, written request for said renewal shall be submitted in writing by at least forty-five (45) days prior to the end of the current contract period. Should the contractor wish to request an increase in cost, it will be the contractor’s responsibility to submit a written request for such contract adjustments within ten (10) days after receipt of Kinder’s contract renewal notice to the Town Clerk for approval.

If approved, any change in the contract cost will be effective in an amount equivalent to the percentage increase for the previous calendar year (Jan – Dec), using the Consumer Price Index (CPI-U, South Region, All Items), as published by the U. S. Department of Labor, Bureau of Labor Statistics.



### **Sub-Contractors:**

If the Consultant elects to sub-contract with any firm, for any portion of the work, the Consultant shall be responsible for all work performed by any sub-contract and the Consultant shall not be relieved of any obligations under this Contract.

Each Respondent must provide a list of Sub-Contractors, Qualifications and Experience, and attach a copy of any and all licenses and certificates for each sub-contractor listed and submit with each copy of the RFP Package. If subcontractors are to be included in the proposal, all terms and conditions must be disclosed including method and reason for selection, subcontractor compensation, and subcontractor billing rate. At Kinder's request, provide all internal sub-contractor documentation for federal reimbursement review.

If no sub-contractors are proposed, so state there on.

At any time, Kinder may, at its discretion, require any Respondent to submit all relevant data required to establish to the satisfaction of Kinder, the reliability and responsibility of the proposed sub- contractors to furnish and perform the work proposed.

### **Contractor's Capability**

The Contractor shall have the physical capacity to manage a major workforce with multiple subcontractors and associated equipment. The Contractor shall possess the financial capacity to pay for the expenses associated with a major recovery operation prior to the initial payment and between subsequent payments, as well as the ability to provide the necessary bonds and insurance. The Contractor shall have an experienced management team, an established network of resources to provide the necessary equipment and personnel, comprehensive debris removal and volume reduction operations plans, and demonstrable experience with major disaster recovery projects.

### **Contract Terms**

It is the intent that Kinder enter into a pre-event contract for a one-year renewable up to four (4) years on an annual basis.

### **Other Contracts**

Other contracts may be issued for Kinder. Kinder reserves the right to issue other contracts or direct other contractors to work within the scope of work included in this Agreement.

## **G. INTRODUCTION**

Natural and man-made disasters precipitate a variety of debris that includes, but not limited to, such things as trees, sand, gravel, building/construction materials, vehicles, personal property and etc.

The quantity and type of debris generated from any particular disaster is a function of the location and kind of event experienced, as well as the magnitude, duration and intensity.

The quantity and type of debris generated, its location and the size of the area over which it is dispersed directly impacts the type of collection and disposal methods used to address the debris problem, associated costs incurred, and the speed with which the problem can be addressed.

In a major catastrophic disaster, Kinder may have difficulty locating staff, be understaffed, have problems locating equipment, and may have difficulty funding the debris removal in short term as well as long term.

## **H. INSURANCE REQUIREMENTS**

Prior to the time Contractor is entitled to commence any part of the project, work or services, Contractor shall procure, pay for, and maintain at minimum the following insurance coverages with the stated limits or greater. Said insurance shall be evidenced by delivery to the Town of (1) certificates of insurance executed by the insurers listing coverage's and limits, expiration dates and terms of policies and all endorsements whether or not required by the Town, and listing all carriers issuing said policies; and (2) upon request a certified copy of each policy, including all endorsements. The insurance requirements shall remain in effect throughout the term of this Contract and any additional extensions. In addition, the Town reserves the right to request physical evidence of this coverage by requesting the policy declaration page, and/or an estopped from the agent and/or company verifying the coverage is and/or has been continually in effect. The Contractor shall secure and maintain, at its sole cost and expense during the contract term and any subsequent extensions, the following insurance:

### Required Insurance Policies and Endorsements:

- Commercial General Liability of at least **\$1,000,000** for bodily injury and property damage with the Town of Kinder as additional insured.
- Automobile/Vehicle Liability of at least **\$500,000** each occurrence for bodily injury and property damage covering owned, non-owned, leased and hired autos/vehicles, with the Town of Kinder as additional insured.
- Worker's Compensation - Proposer shall provide a policy with employer's liability coverage with limits of not less than one hundred thousand dollars (\$100,000.00) per occurrence for each accident or illness.
- All insurance policies must provide that Kinder will be notified within 30 days of any changes, restrictions and/or cancellation.
- If applicable, Professional Liability in addition to the above requirements, of at least **\$500,000** each claim.

**I. PROPOSAL FORMAT**

1. Cover Letter – Include the name of the contact person for the Firm. Acknowledge receipt of any Addenda that may be issued by Kinder.
2. History of the Firm – Provide a detailed history of the firm, qualifications, and prior experience that relates to this RFP.
3. Project Approach – Describe the Consultant’s approach.
4. Staff Qualifications – Provide detailed biographical information on the individuals who will provide project services, including education, training, and experience.
5. References – List the names, addresses, and phone number of at least five (5) references for whom the Project Manager’s Team has provided similar services. Please provide a list of services that these references have utilized.
6. Other – Include any other pertinent information that may be used by the Town to evaluate the Firms proposal.
7. Name, address, telephone number, email address of company.
8. Submit a list of current work-in-progress with contract amounts and a list of work currently awarded but not yet started.
9. Submit information describing the company’s safety program and substance abuse program.
10. Submit information describing your company’s quality control program.
11. Submit a sample contract for the performance of the work outlined in this RFP.
12. Please fill out the chart below with all hourly rates that apply and include additional positions as necessary.

Classification	Hourly Rate
Project Manager	\$
Operations Manager	\$
FEMA Specialist	\$
Data Manager	\$
Clerical	\$

## **J. EVALUATION CRITERIA**

1. **(30%)** Past performance on similar projects in terms of quality of work, cost control, and compliance with performance schedules. Document by references and other means.
2. **(20%)** Firm qualifications and experience
3. **(20%)** Project Approach - understanding of the work to be performed.
4. **(20%)** Price proposal / Fee Schedule (In Section I)
5. **(10%)** Technical approach – quality of package (requested information provided, presentation, etc.)

**Total possible cumulative percentage is 100%.**

## **K. SUBMITTAL REQUIREMENTS**

6. Name, address, telephone number, email address of company.
7. List of current stockholders, officers or principals of the company and a current organizational chart for the company.
8. List the contract completion dates of at least two similar projects
9. Submit a list of current work-in-progress with contract amounts and a list of work currently awarded but not yet started.
10. Submit information describing the company's safety program and substance abuse program.
11. Submit information describing your company's quality control program.
12. Submit a sample contract for the performance of the work outlined in this RFP.

## **L. RESERVED RIGHTS**

Issuance of this RFP does not constitute a commitment on the part of Kinder to award a contract pursuant to this RFP. Kinder reserves the rights to:

- a) Amend, modify, or withdraw this RFP.
- b) Revise any requirements under this RFP.
- c) Require supplemental statements of information from any responding party.
- d) Extend the deadline for submission of responses hereto.
- e) Negotiate or hold discussions with any bidder to correct insufficient responses that do not completely conform to the instructions contained herein.
- f) Waive any nonconformity with this RFP.
- g) Cancel, in whole or in part, this RFP if Kinder deems it is in its best interest to do so.
- h) Request additional information or clarification of information provided in the response without changing the terms of the RFP.
- i) Waive any portion of the selection process in order to accelerate the selection and negotiation with the top-ranked contractor.
- j) Not award a contract as a part of, or result of, this RFP process.**

## **M. OWNER QUESTIONS**

Any vendor that submits a proposal may be requested to provide additional information to Kinder. Such information is only for the purpose of clarification and in no way changes the vendor's proposal as originally submitted. Kinder reserves the right to ask any or all vendors to clarify any portion of their proposals after submission.

## **N. COSTS OF PROPOSALS**

Kinder is not responsible or liable for any of the costs incurred by any vendor in preparing and/or submitting a proposal pursuant to this RFP.

## **O. EQUAL OPPORTUNITY**

Kinder prohibits discrimination on the basis of race, color, gender, religion, national origin, or disability in connection with employment of any person, or the award of any contract with the corporation. Kinder will provide equal opportunities without regard to race, color, gender, religion, national origin, or disability, by requiring that any bank doing business with the corporation provide equal opportunity to persons and businesses employed by, or contracting with the supplier of products and services to the Corporation.

## **P. ACCESS TO PUBLIC RECORDS ACT NOTICE**

Each vendor should give specific attention to the identification of those portions of its proposal that it considers confidential, proprietary commercial information or trade secrets, and provide justification as to why such materials, upon request, should not be disclosed.

## **Q. GENERAL CONDITIONS**

Upon submission of a bid, the bidder hereby certifies on behalf of his company or organization that:

13. This proposal is genuine and not made in the interest of, or on behalf of, an undisclosed person, firm or corporation.
14. This proposal is not submitted in conformity with any agreement or rules of any group, association, organization or corporation.
15. The Firm has not directly or indirectly induced or solicited any other bidder to submit a false or sham bid.
16. The Firm has not solicited or induced any person, firm or corporation to refrain from bidding.
17. The Firm has not sought by collusion to obtain for itself any advantages over any other bidder or over Kinder.

## **R. DRUG FREE WORKPLACE**

Kinder is a drug free work place and contractors are to abide by the Federal Drug Free Workplace Act of 1988 41 U.S Code § 8102.

## **S. INDEMNIFICATION**

Proposer shall indemnify, defend, and hold harmless Kinder, its employees, council members, agents, attorneys, and officers from and against all losses, damages, claims, actions and causes of action, and all expenses, including, but not limited to, attorney's fees and costs, incidental to such losses, damages, claims, actions or causes of action related to Proposer's work stemming from or related to this RFP and all agreements arising therefrom. This obligation includes any losses, damages, claims, actions or causes of action of Proposer. This provision applies to, without limitation, liability resulting from (1) injury to or death of any person, (2) damage to real or personal property, (3) economic loss, and (4) any such other losses, damages, or claims related to the acts or omissions of Proposer or anyone acting under its direction or control or on its behalf. The provision applies regardless of the negligence of Kinder or its employees, be it active or passive, except where such loss, cost, damage, claim, expense, or liability arises from the sole gross negligence or willful misconduct of Kinder. Upon request of Kinder, Proposer shall, at no cost or expense to Kinder, defend any suit asserting a claim for any loss, damage, or liability specified above, and Proposer shall pay any costs and attorney's fees that may be incurred by Kinder in connection with any such claim or suit or in enforcing the provisions of this paragraph.

**PROPOSAL FORM**

Date: \_\_\_\_\_

To: **Town of Kinder**  
Attention: **Traci Fontenot, Town Clerk**  
**P.O. Box 947, Kinder, LA 70648**

Re: Request for Proposal for:  
STANDBY CONTRACT FOR PROFESSIONAL CONSULTING SERVICES FOR DISASTER  
RECOVERY AND FEMA PUBLIC ASSISTANCE

The undersigned, having carefully and to our full satisfaction examined the RFP documents for  
STANDBY CONTRACT FOR PROFESSIONAL CONSULTING SERVICES FOR DISASTER  
RECOVERY AND FEMA PUBLIC ASSISTANCE

1. By submission of this Proposal, the undersigned certifies, and in the case of a joint proposal,  
each party hereto certifies as to his own organization and the joint venture, that this Proposal  
is made in good faith and has arrived at independently, without collusion, consultation,  
communication or agreement as to any matter to this Proposal with any other Proposer.

Submitted by: \_\_\_\_\_

Title: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_

Company Name (print): \_\_\_\_\_

Phone (print): \_\_\_\_\_

Company Address (print): \_\_\_\_\_

City, State, Zip Code (print): \_\_\_\_\_

Federal Tax I.D. Number: \_\_\_\_\_

Phone/Fax Number: \_\_\_\_\_

## **ATTACHMENT: FEDERAL CONTRACT CLAUSES**

Since the parties anticipate that federal funding will be applied to this Agreement, the following federal contract clauses must be complied with, where applicable, in addition to the clauses already mentioned.

### **REMEDIES**

1. Standard: Contracts for more than the simplified acquisition threshold must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. See 2 C.F.R. Part 200, Appendix II, ¶ A.
2. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.

### **TERMINATION FOR CAUSE AND CONVENIENCE**

1. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. See 2 C.F.R. Part 200, Appendix II, ¶ B.
2. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

### **EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. 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 compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or



workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, 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 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. 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 administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance

to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

### **COMPLIANCE WITH THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT.**

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$31 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) *Withholding for unpaid wages and liquidated damages.* The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

### **CLEAN AIR ACT**

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

(2) The Contractor agrees to report each violation to Town of Kinder and understands and agrees that Town of Kinder will, in turn, report each violation as required to assure notification to FEMA, and the appropriate Environmental Protection Agency Regional Office.

(3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

## **FEDERAL WATER POLLUTION CONTROL ACT**

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §1251 *et seq.*
- (2) The Contractor agrees to report each violation to Town of Kinder and understands and agrees that Town of Kinder will, in turn, report each violation as required to assure notification to the FEMA, and the appropriate Environmental Protection Agency Regional Office.
- (3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

## **SUSPENSION AND DEBARMENT**

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by Town of Kinder. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to Town of Kinder, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

## **BYRD ANTI-LOBBYING ACT**

The Contractor will be expected to comply with Federal statutes required in the Anti-Lobbying Act.

Contractors who apply or bid for an award of more than \$100,000 shall file the required certification. Each tier certifies to the tier above that it will not and has not used federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the federal awarding agency.

## **PROCUREMENT OF RECOVERED MATERIALS**

In the performance of this Contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

- i. Competitively within a timeframe providing for compliance with the Contract performance schedule;
- ii. Meeting Contract performance requirements; or
- iii. At a reasonable price.

Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

## **PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES.**

(a) *Definitions.* As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

(b) *Prohibitions.*

- (1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug.13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- (2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:
  - (i) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
  - (ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
  - (iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
  - (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) *Exceptions.*

- (1) This clause does not prohibit contractors from providing—
  - (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or

(ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to:

(i) Covered telecommunications equipment or services that:

- i. Are *not used* as a substantial or essential component of any system; *and*
- ii. Are *not used* as critical technology of any system.

(ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) *Reporting requirement.*

(1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:

- (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
- (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) *Subcontracts.* The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

## **DOMESTIC PREFERENCES FOR PROCUREMENTS.**

As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products.

For purposes of this clause:

*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* mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

## **ACCESS TO RECORDS**

The following access to records requirements apply to this contract:

(1) The Contractor agrees to provide GOHSEP, Town of Kinder, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

### **DHS SEAL, LOGO, AND FLAGS**

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

### **COMPLIANCE WITH FEDERAL EXECUTIVE ORDERS**

This is an acknowledgement that FEMA financial assistance will be used to fund the Contract only. The Contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.

### **NO OBLIGATION BY THE FEDERAL GOVERNMENT**

The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-Federal entity, Contractor, or any other party pertaining to any matter resulting from the Contract.

### **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS**

The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.

### **CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS.**

(a) Any party to this contract must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. These steps are also required for the hiring of any subcontractors under this contract.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

## **COPYRIGHT AND DATA RIGHTS**

The Contractor grants to the Town of Kinder, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the Town of Kinder or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the Town of Kinder data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the Town of Kinder.

BYRD ANTI-LOBBYING AMENDMENT CERTIFICATION  
(To be submitted with each bid or offer exceeding \$100,000)

The undersigned, \_\_\_\_\_ certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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 agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. 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 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 agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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 imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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.

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
Date