

**Request for Pre-Qualifications
RFQ-TF-2020-5
Hazard Mitigation Grant Program
Residential Construction Services for Housing Elevations**

September 18, 2020

Re: ORANGE COUNTY REQUEST FOR PRE-QUALIFICATION for HAZARD MITIGATION
ASSISTANCE ACTIVITIES

Dear Engineering Service Providers:

Orange County intends to pre-qualify residential construction contractors to elevate twelve (12) homes as described in HMGP Contract DR-4332-036. Attached is a copy of Orange County's Request for Qualifications.

Multiple contracts may be awarded as a result of this solicitation. A contractor pre-qualified to receive construction contracts shall remain eligible to receive contracts based on the terms and conditions of this solicitation until all County disaster recovery efforts have been completed, the contractor requests to be removed from the list of pre-qualified contractors, or contractor is removed from the list of pre-qualified contractors because of performance issues.

The submission requirements for this proposal are included on the attached Request for Qualification (RFQ-TF-2020-5) form. Proposals must be received no later than Thursday, October 22, 2020 at 3:00 p.m. CST. It is the responsibility of the submitting entity to ensure that the proposal is received in a timely manner. Proposals received after the deadline will not be considered, regardless of whether or not the delay was outside the control of the submitting firm. Please submit five (5) copies and one (1) original in a sealed envelope, clearly marked on the outside RFQ-TF-2020-5 HMGP DR-4332-036 Residential Construction Services to the following address: Orange County Texas, Purchasing Department, 714 Polk, Orange, TX, 77630.

The deadline for submission of proposals is Thursday, October 22, 2020 at 3:00 p.m. CST. The County of Orange, Texas reserves the right to negotiate with any and all persons or firms submitting proposals. It is the responsibility of the submitting entity to ensure that the proposal is received in a timely manner.

Orange County, Texas is an Affirmative Action/Equal Opportunity Employer. The County of Orange, Texas reserves the right to negotiate with any and all individuals or firms that submit proposals, as per the Texas Professional Services Procurement Act and the Uniform Grant and Contract Management Standards. Minority Business Enterprises, Small Business Enterprises, Women Business Enterprises, and labor surplus area firms are encouraged to submit proposals.

Sincerely,

Tim Funchess
Purchasing Agent
Orange County Texas

ORANGE COUNTY RESPONDENT CERTIFICATION

RFQ-TF-2020-5

REQUEST TO PRE-QUALIFY CONTRACTORS FOR RESIDENTIAL CONSTRUCTION SERVICES for the ELEVATION OF HOMES USING HAZARD MITIGATION GRANT PROGRAM FUNDING

LEGAL NAME OF CONTRACTING COMPANY

FEDERAL I.D. # (Company or Corporation)

SOCIAL SECURITY # (Individual)

TELEPHONE NUMBER

FACSIMILE NUMBER

CONTACT PERSON

TITLE

COMPLETE MAILING ADDRESS

COUNTY & STATE

ZIP CODE

COMPLETE STREET ADDRESS

COUNTY & STATE

ZIP CODE

EMAIL ADDRESS

CERTIFICATION

By my signature hereon, I certify that the Goods and/or Services that I propose to furnish will meet or exceed every specification contained herein, and that I have read each and every page of this Request of Qualifications, including the Scope of Work/Technical Specifications, other requirements, as well as, the Exhibits. Further, I agree that if my offer is accepted, I shall perform as required in these Contract documents.

SIGNATURE

DATE

Typewritten or Printed Name

Title

RFQ-TF-2020-5 HMGP DR-4332-036

Residential Construction Services

Orange County is seeking to pre-qualify contractors for the elevation of approximately twelve (12) residential structures located throughout the County based on qualifications via the RFQ process. The following outlines this request for qualifications.

- I. Scope of Work – The residential construction services contracts will encompass all project-related services required to successfully implement activities as described in HMGP Contract DR-4332-036 as awarded to Orange County, including but not limited to the following:
- Development of plans/specification for the elevation of property
 - Elevation of property in compliance with local ordinances and grant award (see attached HMA guidance)
 - Conduct all field testing and inspections (interim and final); and
 - Other special services, including coordination with utility providers and relocation of utilities, where permissible and applicable.

Please specify actual tasks to be performed under each of these categories.

- II. Statement of Qualifications - Orange County is seeking to pre-qualify competent residential construction services firms, registered to practice in the State of Texas, that has experience in the following areas:
- Municipal construction including but not limited to home elevation projects;
 - Registered and in good standing with Secretary of State;
 - Federally-funded construction projects; and
 - Projects located in this general region of the state.

As such, please provide within your proposal a list of past local government clients, at least three (3) references from past clients for whom you performed similar work, as well as resumes or a brief description of experience of all staff that will or may be assigned to this project if you receive the residential construction services contract award.

Also, please provide a copy of your current certificate of liability insurance.

- III. Evaluation Criteria - The proposals received will be evaluated and ranked according to the following criteria:

Criteria	Maximum Points
Experience	60
Work Performance	25
Capacity to Perform	15
Total	100

- IV. Award of Contract(s) - For this RFQ, Respondent's qualifications will be evaluated and three (3) to five (5) of the most highly qualified vendors will be placed on the County's pre-qualified list.

Approved contractors will be provided the details of property and elevation requirements. Contractors will be given the opportunity to tour and inspect properties prior to the development of plans/specifications and bids. Though not a factor in this pre-qualification process, cost of services

will be considered by homeowners when selecting contractors to perform the specified work. The following process will be followed for the execution of contracts under this process:

- Contractor design professionals will develop plans/specifications and submit to the County for consideration.
- The County will review the validity of the plans/specifications and evaluate bids submitted.
- After review of a bid, the County may request a best and final offer (BAFO) from the contractor should a bid exceed the FEMA-approved budget for the elevation of the property.
- After BAFOs have been received, all bids less than the FEMA-approved budget for the property will be presented to property owners.
- Homeowners are given discretion to select contractor based on both quality and price.
- After bids are presented to homeowners, contractors will be allowed to market their services directly to homeowners to explain the process/plan by providing marketing materials and other information to the County for disbursement.
- Homeowners will be expected to accept bids within two weeks of presentation of bids.
- Once selected by a homeowner, a contract will be executed between homeowner and contractor.
- Contractor will maintain appropriate insurance, bonding, etc. as required by the County.
- Upon completion of elevation and receipt of occupancy certificate, the County and homeowner will perform final punch list/inspection.

V. Deadline for Submission - Proposals must be received no later than Thursday, July 30, 2020 at 3:00 p.m. CST. It is the responsibility of the submitting entity to ensure that the proposal is received in a timely manner. Proposals received after the deadline will not be considered, regardless of whether or not the delay was outside the control of the submitting firm. Please submit five (5) copies and one (1) original in a sealed envelope, clearly marked on the outside RFQ-TF-2020-5 DR-4332-036 Residential Construction Services to the following address: Orange County Texas, Purchasing Department, 714 Polk, Orange, TX, 77630. Phone:409-882-7902.

PART II

SCOPE OF SERVICES

Contractor shall render the following services necessary for the elevation of homes in accordance with local ordinances and as required by FEMA:

SCOPE OF SERVICES

1. Attend preliminary conferences with the County regarding the requirements of the project.
2. Make any necessary surveys of existing rights-of-way, topography, utilities, or other field data required for proper design of the project. Provide consultation and advice as to the necessity of the City/County providing or obtaining other services or other special consultations.
3. Tour and inspect properties prior to development of plans and specifications.
4. Contractor design professionals will submit detailed drawings and plans/specifications and bid to County for review.
5. Design for access by persons with disabilities for those facilities in accordance with Public Law 504, as applicable.
6. Construct improvements in accordance with approved plans and specifications.
7. Relocate utilities, when permissible, or coordinate with utility companies to ensure proper disconnection, relocation and reconnection of utilities.
8. Furnish the County written status reports as requested regarding projected completion dates, potential issues, etc.
9. Conduct interim/final inspections.
10. Revise contract drawings to show the work as actually constructed and furnish the County with a set of "record drawings" plans.

SUBCONTRACTS

1. No work under this Agreement shall be subcontracted by the Contractor without prior approval, in writing, from the County.
2. The Firm shall, prior to proceeding with the work, notify the County in writing of the name of any subcontractors proposed for the work, including the extent and character of the work to be done by each.
3. If any time during progress of the work, the County determines that any subcontractor is incompetent or undesirable, the County will notify the Contractor who shall take reasonable and immediate steps to satisfactorily cure the problem, substitute performance, or cancel such subcontract. Subletting by subcontractors shall be subject to the same regulations. Nothing contained in this Agreement shall create any contractual relation between any subcontractor and the County.
4. The Contractor will include in all contracts and subcontracts in excess of \$150,000 a provision which requires compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). The provisions shall require reporting of violations to FEMA and to the Regional Office of the Environmental Protection Agency (EPA).
5. The Contractor will include in all contracts and subcontracts in excess of \$150,000 provisions or conditions which will allow for administrative, contractual or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as may be appropriate.

6. The Contractor will include in all contracts and subcontracts in excess of \$10,000 provisions addressing termination for cause and for convenience by the County including the manner by which it will be affected and the basis for settlement.
7. The Firm will include in all contracts and subcontracts provisions requiring compliance with the following, if applicable:
 - a. Prime construction contracts in excess of \$2,000, compliance with the Davis-Bacon Act, as amended (40 U.S.C.3141-3144, 3146-3148) as supplemented by Department of Labor regulations (29 CFR part 5), if applicable;
 - b. Prime construction contracts in excess of \$2,000, compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR part 3)
 - c. Contracts greater than \$10,000, the inclusion of the Equal Opportunity clause provided under 41 CFR 60-1.4(b) (Executive Order 11246);
 - d. Contracts exceeding \$100,000, compliance with the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352);
 - f. For contracts in excess of \$100,000 that involve the employment of mechanics or laborers, compliance with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708), including work week requirements and safety conditions for workers, as supplemented by Department of Labor regulations (29 CFR Part 5); and
8. The Contractor will include in all negotiated contracts and subcontracts a provision which indicates that funds will not be awarded under this contract to any party which is debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs under Executive Order 12549 and 2 CFR Part 2424. A certification shall be provided and received from each proposed subcontractor under this contract and its principals.
9. The Contractor will include in all negotiated contracts and subcontracts a provision to the effect that the County, TDEM, the Texas Comptroller of Public Accounts, the Comptroller General of the United States or any of their duly authorized representatives, shall have access to any books, documents, papers and records of the contractor which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions.
10. The Contractor will include in all contracts and subcontracts a requirement that the contractor maintain all relevant project records for three (3) years after the City/County has made final payment to the contractor and all other pending matters are closed.

STANDARD OF PERFORMANCE AND DEFICIENCIES

1. All services of the Contractor and its independent professional associates, consultants and subcontractors will be performed in a professional, reasonable and prudent manner in accordance with generally accepted professional practice. The Contractor represents that it has the required skills and capacity to perform work and services to be provided under this Agreement.
2. The Contractor represents that services provided under this Agreement shall be performed within the limits prescribed by the County in a manner consistent with that level of care and skill ordinarily exercised by other professional consultants under similar circumstances.
3. Any deficiency in Contractor's work and services performed under this contract shall be subject to the provisions of applicable state and federal law. Any deficiency discovered shall be corrected upon notice from County and at the Contractor's expense if the deficiency is due to Contractor's negligence. The County shall notify the Contractor in writing of any such deficiency and provide an opportunity for mutual investigation and resolution of the problem prior to pursuit of any judicial remedy. In any case, this provision shall in no way limit the judicial remedies available to the County under applicable state or federal law.

4. The Contractor agrees to and shall hold harmless the County, its officers, employees, and agents from all claims and liability of whatsoever kind or character due to or arising solely out of the negligent acts or omissions of the Contractor, its officers, agents, employees, subcontractors, and others acting for or under the direction of the Contractor doing the work herein contracted for or by or in consequence of any negligence in the performance of this Agreement, or by or on account of any omission in the performance of this Agreement.

HMA GUIDANCE

(EXTRACTED FROM *HAZARD MITIGATION ASSISTANCE GUIDANCE, FEBRUARY 2015*)

E. Structure Elevation

Part E of the Addendum supplements the information provided in Parts I through IX of the HMA Guidance. The project-specific guidance in this section does not provide all of the information necessary to apply for funding through an HMA program and must be read in conjunction with all other relevant sections of this guidance. See Part IX, C of the HMA Guidance for additional resources on structure elevation.

E.1 Overview

Structure elevation activities generally involve physically raising an existing structure to an elevation at the BFE or higher if required by FEMA or local ordinance. Structure elevation may be achieved through a variety of methods, including elevating on continuous foundation walls; elevating on open foundations, such as piles, piers, posts, or columns; and elevating on fill. Foundations must be designed to properly address all loads and be appropriately connected to the floor structure above, and utilities must also be properly elevated. Buildings proposed for elevation must be structurally sound and capable of being elevated safely.

E.2 Additional Project Eligibility Requirements

At a minimum, FEMA requires Applicants and subapplicants to design all structure elevation projects in accordance with the NFIP standards in 44 CFR Part 60. For additional information about the NFIP and structure elevation projects, see Part III, E.7 of the HMA Guidance.

FEMA requires Applicants and subapplicants to design all structure elevation projects in accordance with ASCE 24-14, or latest edition, or its equivalent as minimum design criteria.

E.2.1 Eligible Design Standards

Buildings proposed for structure elevation must be structurally sound and capable of being elevated safely. Important design considerations for structure elevations consistent with 44 CFR Part 60 are as follows:

- ◆ The lowest floor of the structure must be elevated to the BFE or to the elevation specified in the local ordinance if higher. Upon completion of the elevation work, an Elevation Certificate (FEMA Form 81-31) verifying “as built” elevations must be completed to ensure that the structure complies with the local floodplain ordinance and NFIP floodplain management and HMA requirements.
- ◆ Elevation projects must be designed and adequately anchored to prevent flotation, collapse, and lateral movement of the structure due to hydrodynamic and hydrostatic loads, including the effects of buoyancy. It is recommended that an engineer certify that the design elevation will withstand the depth and velocity of 100-year flood events (hydrostatic and hydrodynamic loads), any potential increase in wind load, or any other relevant load factors.
- ◆ For elevation projects in Zone V with open foundations (piles, piers, posts, or columns), the space below the lowest floor must be free of obstructions or constructed with non-supporting breakaway walls, open wood lattice-work, or screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. Guidance on free-of-obstruction and breakaway wall requirements is available in FEMA Technical Bulletin (TB) 5, *Free-of-Obstruction Requirements* (2008), and FEMA TB-9, *Design and Construction Guidance for Breakaway Walls Below Elevated Coastal Buildings* (2008).

- ◆ For elevation projects on continuous foundation walls with fully enclosed areas below the lowest floor, the area must be used solely for parking of vehicles, building access, or storage as identified in 44 CFR Section 60.3(c)(5).
- ◆ Elevation projects on continuous foundation walls must be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs to meet these criteria must be certified by a registered Professional Engineer or meet or exceed the criteria in 44 CFR Section 60.3(c)(5). Guidance on meeting this requirement can be found in FEMA TB-1, *Openings in Foundation Walls and Walls of Enclosures* (2008).

E.3 Elevation Project Application Package

In addition to the items identified in Part IV, H of the HMA Guidance, the following data are required for each structure:

- ◆ Physical address and property owner's name
- ◆ Estimated cost to elevate each structure
- ◆ Name and location of flooding source (e.g., creek, river, watershed, or location of stormwater ponding) and location on the applicable Flood Insurance Rate Map
- ◆ The proposed elevation of the lowest floor for each structure to be mitigated, the BFE, and the current elevation of the lowest finished floor
- ◆ Type of existing foundation (slab-on-grade, crawl space, basement, or open foundation) and the proposed elevation method and standard to be used
- ◆ A statement that the project will be designed in compliance with NFIP standards in 44 CFR Part 60

E.4 Implementation

Elevation project implementation entails pre-construction activities, construction, inspection of the completed foundation and engineering certification, and obtaining a Certificate of Occupancy. Before construction of the foundation begins, it is very important to conduct an inspection of the condition of the structure, survey the site, and complete a soil inspection to make sure the proposed elevation project is feasible on the site.

E.4.1 Elevation Methods

Standard structure elevation methods are identified in FEMA P-312, *Homeowner's Guide to Retrofitting – Third Edition* (2014), and FEMA P-347, *Above the Flood: Elevating Your Floodprone House* (2000). In addition, FEMA has developed guidance for the design of appropriate foundations based on the requirements of the International Codes and other applicable standards. This guidance is provided in FEMA P-550, and is available for use with HMA structure elevation projects. Furthermore, FEMA requires Applicants and subapplicants to design all structure elevation projects in accordance with ASCE 24-14, or latest edition.

Available elevation methods, which are thoroughly described in FEMA P-312, Chapter 5, and FEMA P-347 include:

- ◆ Elevating the existing structure on piles, posts, or piers
- ◆ Filling in the basement and replacing it with an elevated floor
- ◆ Elevating by vertically extending the foundation walls of the home

Activities that result in the construction of new living space at or above the BFE are considered only when they are consistent with mitigation reconstruction requirements described in

Addendum Part E.2.1. Activities include structure elevations that abandon a lower enclosed area and add a second story above the BFE to an existing structure.

The method that is selected for elevating a house depends on factors such as:

- ◆ Foundation type
- ◆ Condition of the house
- ◆ Applicable State and local building codes
- ◆ Soil type and bearing capacity
- ◆ Weight of the house and lateral forces on the house from water and other natural hazards, such as winds and earthquakes
- ◆ Height of proposed elevation above the grade level ◆ Number of

additions to the original structure The most common foundation types are:

- ◆ Crawl space on foundation walls
- ◆ Slab-on-grade
- ◆ Open type foundation – piles and posts or piers

Additional details to consider when constructing an elevation project can be found in the following publications:

- ◆ FEMA P-55, *Coastal Construction Manual*, Fourth Edition (2011)
- ◆ FEMA P-259, *Engineering Principles and Practices of Retrofitting Floodprone Structures* (2012)
- ◆ FEMA P-499, *Home Builders Guide to Coastal Construction Technical Fact Sheet Series* (2010)
- ◆ ASCE 24-14, *Flood Resistant Design and Construction* (2014), or latest edition This list is not a comprehensive list of publications on retrofitting and elevations. More documents are available at <http://www.fema.gov/building-science-publications>.

E.4.2 Eligible Structure Elevation Costs

Allowable costs are costs that are necessary and reasonable for the proper and efficient performance and administration of the Federal award. The following costs associated with structure elevation projects are generally allowable:

- ◆ Engineering services for design, structural feasibility analysis, and cost estimate preparation
- ◆ Surveying, soil sampling, completion of Elevation Certificate, title search, deed recordation fees, legal and/or permitting fees, project administration, and construction management
- ◆ Disconnection of all utilities
- ◆ Building of a foundation so that the lowest floor is at the BFE or higher if required by local ordinance or FEMA
- ◆ Physical elevation of the structure and subsequent lowering and attachment of the structure onto a new foundation
- ◆ Construction of a floor system that meets minimum building code requirements when the existing floor system cannot be elevated or is not appropriate for the new foundation
- ◆ Reconnecting utilities and extending lines and pipes as necessary and elevating all utilities and service equipment
- ◆ Debris disposal and erosion control

- ◆ Costs for repair of lawns, landscaping, sidewalks, and driveways if damaged by elevation activities
- ◆ Construction of a utility room above the BFE only if there is no existing space within the house for this purpose or there is no alternative cost-effective way to elevate the utilities
- ◆ Elevation of existing decks, porches, or stairs
- ◆ Construction of new stairs, landings, and railings to access the elevated living space per minimum code or local ordinance
- ◆ Construction of ADA-compliant access facilities or ramps when an owner or a member of the owner's family has a permanent disability and a physician's written certification. An ADAcompliant access to ingress/egress is allowable for funding unless specified otherwise in applicable State or local codes (for more information on ADA, see <http://www.ada.gov>). If ramps are not technically feasible, a mechanical chair lift may be installed.
- ◆ Documented reasonable living expenses (except food and personal transportation) that are incurred while the owner is displaced by the elevation construction
- ◆ Abatement of asbestos and lead-based paint
- ◆ Filling basements with compacted clean fill

E.4.3 Ineligible Structure Elevation Costs

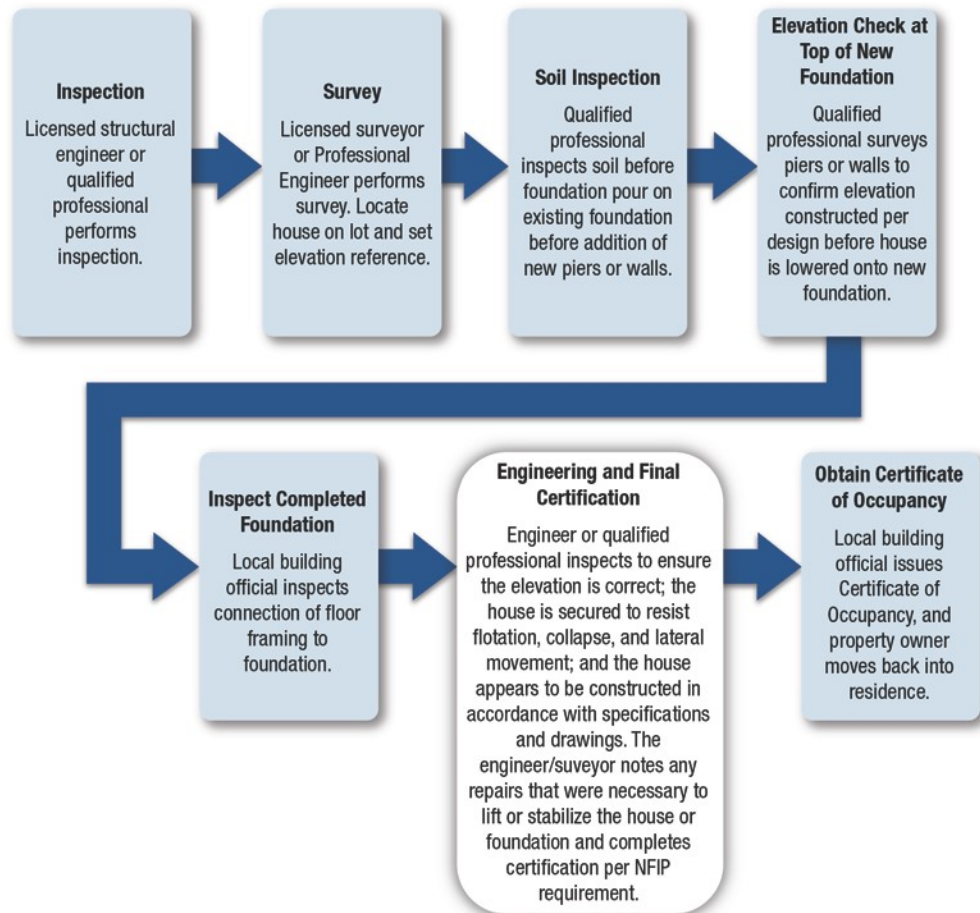
Certain structure elevation activities and their associated costs are not eligible. Ineligible costs for structure elevation include, but are not limited to, the following:

- ◆ Elevating structures that were not in compliance with current NFIP standards at the time of construction
- ◆ Costs related to building additions or auxiliary structures
- ◆ Construction of new decks or porches
- ◆ Any improvements for purely aesthetic reasons, unless required by the EHP compliance review
- ◆ Costs to replace or repair utility service components that are undersized, inadequately designed, or unsafe, unless required by code (except utility rooms noted as eligible costs)
- ◆ Exterior finish on the exposed foundation of the elevated building, unless required by EHP compliance review and or local code
- ◆ Additional landscaping for ornamentation beyond what existed on the site prior to construction of the project (e.g., trees, shrubs)

E.4.4 Survey and Inspection Considerations

Surveying and inspections are encouraged throughout the construction process. Certifications of the surveys ensure that the work has been performed in compliance with the structure-specific plans and specifications, applicable codes and standards, and minimum NFIP requirements. **Figure 1** identifies important inspection and survey considerations.

Figure 1: Inspection and Survey Considerations



E.5 Elevation Closeout

In addition to the typical HMA closeout procedures, closeout of structural elevation projects generally includes:

- ◆ Update of the property site information in the respective HMA system (i.e., eGrants or NEMIS) database for each structure
- ◆ A Certificate of Occupancy for each structure in the project to certify that the structure is code-compliant
- ◆ A Final Elevation Certificate (FEMA Form 81-31) for each structure to ensure the structure has been elevated to the proper elevation
- ◆ A copy of the recorded deed amendment for each property as required by Part III, E.7.1 of the HMA Guidance
- ◆ Certification by an engineer, floodplain manager, or senior local official that the completed structure elevation is in compliance with local ordinances and NFIP regulations, including all applicable NFIP Technical Bulletins
- ◆ A front, rear, and side photograph of the final elevated structure
- ◆ Verification of flood insurance for each structure

Insert Certificate of Insurance

Insert System for Award Management (SAM) record

Vendor Registration: System for Award Management (SAM)

Note: Vendors doing business with Orange County **are required** to be registered with The System for Award Management (SAM), **with an “active” status.**

The Purchasing Department prior to procuring or entering into contract(s) for any goods/services will check the exclusion or debarment record of the vendor using the System for Award Management (SAM) and document by printing out the verification. The System for Award Management (SAM) is the Official U.S. Government System that consolidated the capabilities of CCR/FedReg, ORCA, and EPLS. A copy of the screen print indicating the vendor is not excluded or debarred at the time of the procurement will be included with the paperwork for that purchase and retained with the procurement records.

This policy applies to the procurement of all good(s) or services(s) regardless of unit price or quantity. Vendor(s) will be verified before issuing any new purchase order, blanket purchase order, and contract or single time purchase. Vendor(s) will be verified prior to extending, renegotiating a follow-on contract, or entering into a new contract. Bid respondents are highly encouraged to check their firm’s SAM status prior to bid submission.

The Purchasing Department shall verify all vendors, utilizing the System for Award Management (SAM).

The Purchasing Department will:

1. Go to the EPLS Website (<https://.SAM.Gov>).
2. The Purchasing Agent or their agent will search the EPLS system for the vendor.
3. If the vendor is found to be debarred, the vendor may not be used.
4. If the vendor is found not to be debarred, print the screen page and retain with the procurement documentation.

Vendors may register at NO COST directly at the SAM website: <https://www.sam.gov>.

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.

This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).

By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.

A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY

Date Received

1 Name of vendor who has a business relationship with local governmental entity.

2 ☐ **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

☐ Yes

☐ No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

☐ Yes

☐ No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 ☐ Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

Signature of vendor doing business with the governmental entity

Date

CONFLICT OF INTEREST QUESTIONNAIRE

For vendor doing business with local governmental entity

A complete copy of Chapter 176 of the Local Government Code may be found at <http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.176.htm>. For easy reference, below are some of the sections cited on this form.

Local Government Code § 176.001(1-a): "Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on:

- (A) a transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;
- (B) a transaction conducted at a price and subject to terms available to the public; or
- (C) a purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency.

Local Government Code § 176.003(a)(2)(A) and (B):

(a) A local government officer shall file a conflicts disclosure statement with respect to a vendor if:

(2) the vendor:

(A) has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that

(i) a contract between the local governmental entity and vendor has been executed;

or

(ii) the local governmental entity is considering entering into a contract with the vendor;

(B) has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:

(i) a contract between the local governmental entity and vendor has been executed; or

(ii) the local governmental entity is considering entering into a contract with the vendor.

Local Government Code § 176.006(a) and (a-1)

(a) A vendor shall file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and:

(1) has an employment or other business relationship with a local government officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(A);

(2) has given a local government officer of that local governmental entity, or a family member of the officer, one or more gifts with the aggregate value specified by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1); or

(3) has a family relationship with a local government officer of that local governmental entity.

(a-1) The completed conflict of interest questionnaire must be filed with the appropriate records administrator not later than the seventh business day after the later of:

(1) the date that the vendor:

(A) begins discussions or negotiations to enter into a contract with the local governmental entity; or

(B) submits to the local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential contract with the local governmental entity; or

(2) the date the vendor becomes aware:

(A) of an employment or other business relationship with a local government officer, or a family member of the officer, described by Subsection (a);

(B) that the vendor has given one or more gifts described by Subsection (a); or

(C) of a family relationship with a local government officer.

Certification Regarding Lobbying

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned certifies, to the best of his or her knowledge and belief, that:

(a) 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.

(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 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.

(c) The undersigned shall require that the language paragraph 1 and 2 of this anti-lobbying 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).

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

Printed Name and Title of Contractor's Authorized Official

Date

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity 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 a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitations for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Included prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503

Disclosure of Lobbying Activities

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure)

Type of Federal Action: _____ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	Status of Federal Action: _____ a. bid/offer/application b. initial award c. post-award	Report Type: _____ a. initial filing b. material change
Name and Address of Reporting Entity: ____ Prime _____ Subawardee Tier _____, if Known:		If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime:
Congressional District, if known:		Congressional District, if known:
Federal Department/Agency:		7. Federal Program Name/Description: CFDA Number, if applicable: _____
Federal Action Number, if known:		9. Award Amount, if known: \$
10. a. Name and Address of Lobbying Registrant (if individual, last name, first name, MI):		b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only		Authorized for Local Reproduction Standard Form - LLL (Rev. 7-97)

CERTIFICATE OF INTERESTED PARTIES**FORM 1295**

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

OFFICE USE ONLY

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

5 Check only if there is NO Interested Party. ☐

6 UNSWORN DECLARATION

My name is _____, and my date of birth is _____.

My address is _____, _____, _____, _____, _____.
 (street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in _____ County, State of _____, on the _____ day of _____, 20____.
 (month) (year)

 Signature of authorized agent of contracting business entity
 (Declarant)

ADD ADDITIONAL PAGES AS NECESSARY

CONTRACT PROVISIONS

Requirement under the Uniform Rules. A non-Federal entity's contracts must contain the applicable provisions described in Appendix II to the Uniform Rules (Contract Provisions for non-Federal Entity Contracts Under Federal Awards), which are set forth below. 2 C.F.R. § 200.326. FEMA has provided model language for these required contract clauses at <https://www.fema.gov/media-library-data/1557346958767-7fe2feb2ef09f7c3d0d2411a9a718f7/PDATContractProvisionsTemplate.pdf>.

1. Remedies

- a. Standard: Contracts for more than the simplified acquisition threshold (\$150,000) 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).
- b. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.

2. Termination for Cause and Convenience.

- a. 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).
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

3. Equal Employment Opportunity.

- a. Standard. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, (C).
- b. Key Definitions.
 - (1) Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or

any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

(2) Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

c. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

d. The regulation at 41 C.F.R. Part 60-1.4(b) requires the insertion of the following contract clause:

“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, 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, 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 considerations for employment without regard to race, color, religion, sex, or national origin.

(3) 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.

(4) 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.

- (5) 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.
- (6) 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 as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) 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."

4. Davis Bacon Act and Copeland Anti-Kickback Act.

- a. Applicability of Davis-Bacon Act. The Davis-Bacon Act only applies to the emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. It does not apply to other FEMA grant and cooperative agreement programs.
- b. All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). See 2 C.F.R. Part 200, Appendix II, (D).
- c. In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a

wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.

- d. 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.
- e. In contracts subject to the Davis-Bacon Act, the contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti-Kickback Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA.
- f. The regulation at 29 C.F.R. § 5.5(a) does provide the required contract clause that applies to compliance with both the Davis-Bacon and Copeland Acts. However, as discussed in the next subsection, the Davis-Bacon Act does not apply to Public Assistance recipients and subrecipients. As such, FEMA requires the following contract clause:

“Compliance with the Copeland “Anti-Kickback” Act

- (1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- (2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- (3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.”

5. Contract Work Hours and Safety Standards Act.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.

- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, (E).
- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

“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 (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 (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (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 (2) of this section.
- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (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 (1) through (4) of this section.”

6. Rights to Inventions Made Under a Contract or Agreement.

- a. Stafford Act Disaster Grants. This requirement does not apply to the Public Assistance, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of “funding agreement.”
- b. If the FEMA award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by FEMA. See 2 C.F.R. Part 200, Appendix II, (F).
- c. The regulation at 37 C.F.R. § 401.2(a) currently defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

7. Clean Air Act and the Federal Water Pollution Control Act. Contracts of amounts in excess of \$150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II, (G).

- a. The following provides a contract clause concerning compliance for contracts of amounts in excess of \$150,000:

“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 the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$100,000 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 the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.”

8. Debarment and Suspension

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Non-federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).
- c. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II, (I); and Chapter IV, (6.d) and Appendix C, (2). A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530; Chapter IV, (6.d) and Appendix C, (2).
- d. In general, an "excluded" party cannot receive a Federal grant award or a contract within the meaning of a "covered transaction," to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a "covered transaction," which is any nonprocurement transaction (unless excepted) at either a "primary" or "secondary" tier. Although "covered transactions" do not include contracts awarded by the Federal Government for purposes of the nonprocurement common rule and DHS's implementing regulations, it does include some contracts awarded by recipients and subrecipient.
- e. Specifically, a covered transaction includes the following contracts for goods or services:
 - (1) The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.
 - (2) The contract requires the approval of FEMA, regardless of amount.
 - (3) The contract is for federally-required audit services.
 - (4) A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.

- d. The following provides a debarment and suspension clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified:

“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, its 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 (insert name of subrecipient). 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 (name of state agency serving as recipient and name of subrecipient), 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.”

9. Byrd Anti-Lobbying Amendment.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Contractors that apply or bid for an award of \$100,000 or more must file the required certification. See 2 C.F.R. Part 200, Appendix II, (J); 44 C.F.R. Part 18; Chapter IV, 6.c; Appendix C, (4).
- c. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must 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 non-Federal award. See Chapter IV, (6.c) and Appendix C, (4).

- d. The following provides a Byrd Anti-Lobbying contract clause:

"Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award 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 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."

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements (To be submitted with each bid or offer exceeding \$100,000). The undersigned [Contractor] 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"

10. Procurement of Recovered Materials.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). See 2 C.F.R. Part 200, Appendix II, (K); 2 C.F.R. § 200.322; Chapter V, (7).
- c. The requirements of Section 6002 include procuring only items designated in guidelines of the 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, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- d. The following provides the clause that a state agency or agency of a political subdivision of a state and its contractors can include in contracts meeting the above contract thresholds:

(1) 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.

(2) Information about this requirement is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpg/>. The list of EPA-designate items is available at <http://www.epa.gov/cpg/products.htm>.

11. Additional FEMA Requirements.

a. The Uniform Rules authorize FEMA to require additional provisions for non- Federal entity contracts. FEMA, pursuant to this authority, requires or recommends the following:

b. Changes

To be eligible for FEMA assistance under the non-Federal entity's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope. See Chapter V, (8). FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

c. Access to Records

All non-Federal entities must place into their contracts a provision that all contractors and their successors, transferees, assignees, and subcontractors acknowledge and agree to comply with applicable provisions governing Department and FEMA access to records, accounts, documents, information, facilities, and staff. See DHS Standard Terms and Conditions, v 3.0, (XXVI) (2013).

d. The following provides a contract clause regarding access to records:

“Access to Records. The following access to records requirements apply to this contract:

- (1) The contractor agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of recipient), 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.”

12. DHS Deal, Logo, and Flags

All non-Federal entities must place in their contracts a provision that a 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. See DHS Standard Terms and Conditions, v 3.0, (XXV) (2013).

13. Compliance with Federal Law, Regulations, and Executive Orders

All non-Federal entities must place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable federal law, regulations, executive orders, and FEMA policies, procedures, and directives. See Standard Form 424D, (19); Chapter IV, (10.b.v); Appendix C, (3).

14. No Obligation by Federal Government

The non-Federal entity must include a provision in its contract that states that the Federal Government is not a party to the 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.

15. Program Fraud and False or Fraudulent Statements or Related Acts

The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.