

APPENDIX 1

ADDITIONAL CONTRACT CLAUSES

ADVANCED METERING INFRASTRUCTURE (AMI)

APPENDIX II TO PART 200 – CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following as applicable.

1. Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by [41 U.S.C. 1908](#), 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.
2. All contracts in excess of \$10,000 must address termination for cause and for convenience by Contractor and its subcontractors including the manner by which it will be effected and the basis for settlement.

3. EQUAL EMPLOYMENT OPPORTUNITY 41 CFR PART 60

Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Chapter 60).

During the performance of this Agreement, Contractor agrees as follows:

Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

- A. 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. 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.
- B. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of 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.

- C. 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.
- D. 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.
- E. 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.
- F. Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- G. In the event of Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and 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.
- H. 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. Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, Contractor may request the United States to enter into such litigation to protect the interests of the United States.

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.

4. DAVIS-BACON ACT WAGE COMPLIANCE (40 U.S.C. 3141-3148)

During the performance of this Agreement, Contractor shall comply with the provisions of the Davis-Bacon Act, incorporated herein to this Agreement by reference, and shall incorporate the provisions for compliance into any contracts in excess of \$2,000 between the Contractor and any subcontractors which are entered into for the performance of construction, alteration or repair work:

- A. All transactions regarding this Agreement shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148) and the requirements of 29 C.F.R. Part 5 as may be applicable. Contractor shall comply with 40 U.S.C. 3141-3144 and 3146-3148 and the requirements of 29 C.F.R. Part 5 as applicable.
- B. Contractors are 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.
- C. Contractors are required to pay wages not less than once per week.

5. COPELAND "ANTI-KICKBACK" ACT

During the performance of this Agreement, Contractor agrees as follows:

- A. Contractor: Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. Part 3 as may be applicable, which are incorporated herein by reference into this Agreement.
- B. Subcontracts: Contractor or subcontractor(s) shall insert in any subcontracts the clause above and such other clauses as 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.
- C. 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."

6. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

During the performance of this Agreement, Contractor shall comply with the provisions of the Contract Work Hours and Safety Standards Act, incorporated herein by reference into this Agreement, and shall incorporate the provisions for compliance into any contracts in

excess of \$100,000 between the Contractor and any subcontractors which are entered into for the performance of construction, alteration or repair work:

- A. *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.
- B. *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in this section, 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 this section, in the sum of \$27 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 this section.
- C. *Withholding for unpaid wages and liquidated damages.* District 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 this section.
- D. *Subcontracts.* Contractor or subcontractor shall insert in any subcontracts the clauses set forth in 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 this section.
- E. Further Compliance with the Contract Work Hours and Safety Standards Act:
 - (1) The contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and

mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

- (2) The records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the EPA, the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

F. Health and Safety Standards in Building Trades and Construction Industry Provisions of the Contract Work Hours and Safety Standards Act:

- (1) No contractor or subcontractor contracting for any part of the contract work shall require any laborer and mechanic employed in the performance of the contract to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to health or safety, as established under construction safety and health standards the Secretary of Labor prescribes by regulation based on proceedings pursuant to Section 553 of Title 5 provided that the proceedings include a hearing similar in nature to that authorized under Section 553.
- (2) Compliance. The District, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, may make inspections, hold hearings, issue orders and make decisions based on findings of fact considered necessary to gain compliance with this section and any health and safety standard prescribed by the Secretary of Labor.
- (3) Remedy When Noncompliance Found. After an opportunity for an adjudicatory hearing and noncompliance is established, the District, upon written request of the EPA Award Official or an authorized representative of the Department of Labor, cancel the contract and make other contracts for the completion of the contract work, charging any additional cost to the original contractor; or the EPA may withhold the guarantee, assistance, or insurance attributable to the performance of the contract.

7. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

During the performance of this Agreement, Contractor shall report any discovery or invention that arises during the course of the contract to the District. Contractor shall promptly report inventions to the contracting officer (within two months) after the inventor discloses it in writing to Contractor personnel responsible for patent matters. The federal awarding agency shall determine how rights in the invention/discovery shall be allocated consistent with Government Patent Policy and 37 CFR § 401.

8. CLEAN AIR ACT

- A. 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.* and incorporated herein by reference into this Agreement.
- B. Contractor agrees to report each violation to the District and understands and agrees that the District will, in turn, report each violation as required to assure notification to the appropriate Environmental Protection Agency Regional Office.
- C. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by the EPA.

9. FEDERAL WATER POLLUTION CONTROL ACT

- A. 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.* and incorporated herein by reference into this Agreement.
- B. Contractor agrees to report each violation to the District and understands and agrees that the District will, in turn, report each violation as required to assure notification to the appropriate Environmental Protection Agency Regional Office.
- C. Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with federal assistance provided by the EPA.

10. DEBARMENT AND SUSPENSION 2 CFR 1400 (EXECUTIVE ORDERS 12549 AND 12689)

The Department of the Interior regulations at 2 CFR 1400 – Governmentwide Debarment and Suspension (Nonprocurement) which adopt the common rule for the governmentwide system of debarment and suspension for nonprocurement activities, are incorporated herein by reference into this Agreement. Contractor and all subcontractors agree to comply with 2 CFR 1400, Subpart C and agree to include a similar term or condition in all lower tier covered transactions.

- A. This Agreement is a covered transaction for purposes of 2 CFR 180 and 2 CFR 3000. As such, Contractor is required to verify that none of the Contractor's principals (defined at 2 CFR § 180.995) or its affiliates (defined at 2 CFR § 180.905) are excluded (defined at 2 CFR § 180.940) or disqualified (defined at 2 CFR § 180.935).

- B. Contractor must comply with 2 CFR 180, subpart C and 2 CFR 3000, subpart C, and must include a requirement to comply with these regulations in any subcontract it enters into.
- C. If it is later determined that Contractor did not comply with 2 CFR 180, subpart C and 2 CFR 3000, subpart C, in addition to remedies available to the District, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.
- D. Bidder or proposer agrees to comply with the requirements of 2 CFR 180, subpart C and 2 CFR 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. Bidder or proposer further agrees to include a provision requiring such compliance in its subcontracts.

11. BYRD ANTI-LOBBYING AMENDMENT (31 U.S.C. 1352)

- A. Contractors who apply or bid for an award of more than \$100,000 shall file the required certification. Contractor certifies to the District and every subcontractor certifies to the Contractor 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. Contractor and every subcontractor 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 District who in turn will forward the certification(s) to the Bureau of Reclamation.

Required Certification Language:

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.
- 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 section 1352, Title 31, U.S.C. 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."

Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, Bidder understands and agrees that the provisions of 31 U.S.C. Chapter 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Contractor's Signature

Type or Print Name

Title

Contractor's Name

Date

12. PROCUREMENT OF RECOVERED MATERIALS

- A. In the performance of this Agreement, Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired competitively within a timeframe providing for compliance with the contract performance schedule;

- (1) Meeting contract performance requirements; or
 - (2) At a reasonable price.
- B. Information about this requirement, along with the list of EPA-designated items, is available at EPA's Comprehensive Procurement Guidelines webpage: <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
- C. Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

13. PROHIBITION ON CONTRACTING FOR COVERED TELECOMMUNICATIONS EQUIPMENT OR SERVICES

- A. Contractor and subcontractors are prohibited from obligating or expending loan or grant funds to:
 - (1) Procure or obtain;
 - (2) Extend or renew a contract to procure or obtain; or
 - (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems 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. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - a. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - b. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - c. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

- (2) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

14. BUY AMERICA DOMESTIC PROCUREMENT PREFERENCES

Pursuant to Section 70911 et seq. of the Bipartisan Infrastructure Law (also known as the Infrastructure Investment and Jobs Act), Public Law 117-58, federal financial assistance funds made available on or after May 14, 2022, require that all iron, steel, manufactured products, and construction materials used in the Project are produced in the United States unless subject to an approved waiver.

- A. Contractor hereby represents and warrants to and for the benefit of the District and the EPA that Contractor has reviewed and understands the Buy America preference requirements and agrees to include the requirements of this section in all subawards, including all subcontracts and purchase orders for work or products which are entered into for the performance of construction, alteration or repair work under this Agreement unless a waiver of the requirement is approved:
 - (1) That all iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
 - (2) That all manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States and that the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under the applicable or regulation, and
 - (3) All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

For purposes of this clause:

- (1) *“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.

- (2) “*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, composite building materials and polymers used in fiber optic cables; aggregates such as concrete; glass, including optical fiber; lumber or drywall.
- B. The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies such as temporary scaffolding brought onto the construction site and removed at or before the completion of the infrastructure project.
- C. Information about this Buy America preference requirement is available from the U.S. Department of the Interior website: [“Buy America” Domestic Sourcing Guidance and Waiver Process for DOI Financial Assistance Agreements | U.S. Department of the Interior](#)

15. TRAFFICKING VICTIMS PROTECTION ACT OF 2000 (2 CFR §175.15)

Trafficking Victims Protection Act of 2000 is incorporated herein by reference into this Agreement. Contractor, its employees, contractors and subcontractors and their employees may not (1) engage in severe forms of trafficking in persons during the term of the contract; (2) procure a commercial sex act during the term of the contract; or (3) use forced labor in the performance of the contract. Contractor must include this provision in its contracts and subcontracts under the contract. The Contractor must inform the District immediately of any information regarding a violation of the foregoing. Contractor understands that failure to comply with this provision may subject the District to loss of federal funding. The District may unilaterally terminate the contract if Contractor, its employees, contractors or subcontractors or their employees are determined by the EPA to have violated the foregoing.

16. NEW RESTRICTIONS ON LOBBYING (43 CFR §18)

New Restrictions on Lobbying (43 CFR 18) are incorporated herein by reference into this Agreement. Contractor and its subcontractors shall ensure that:

- A. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Contractor and its subcontractors, to any person for influencing or attempting to influence an officer or employee of an agency, a member of Congress, and 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 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. Contractor and its subcontractors agree to comply with 43 CFR 18, New Restrictions on Lobbying. Contractor and its subcontractors agree to submit certification and disclosure forms in accordance with these provisions. 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 Section 1352, title 31, U.S. Code. Any contractor or subcontractor 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.

17. RECIPIENT EMPLOYEE WHISTLEBLOWER RIGHTS AND REQUIREMENT TO INFORM EMPLOYEES OF WHISTLEBLOWER RIGHTS (SEPT 2013)

- A. Contractor, its employees, contractors, and subcontractors and their employees working on the project are subject to the whistleblower rights and remedies in the Federal pilot program to enhancing whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal year 2013 (P.L. 112-239).
- B. Contractor and its subcontractors shall inform their employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712.
- C. Contractor shall insert the substance of this clause, including this paragraph C. in all subawards or subcontracts over the simplified acquisition threshold. 48 CFR § 52.203-17 (as referenced in 48 CFR § 3.908-9).

18. ACCESS TO RECORDS

- A. Contractor and its subcontractors shall maintain separate books, records and other materials relative to the Project and shall make such books, records and other material available at all reasonable times (at a minimum during normal business hours) to inspection, copying and audit by the District, the EPA or any of their authorized representatives for the purposes of making audits, examinations, excerpts, and transcriptions as reasonably needed. Contractor and subcontractors shall allow interviews during normal business hours of any employees who might reasonably have information related to such records.
- B. Contractor shall include a similar duty to audit, interviews, and records retention in all subcontracts related to this Agreement. Obligations under this provision shall survive the expiration or termination of the Agreement.

- C. Contractor agrees to provide the EPA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the Agreement.

19. COMPLIANCE WITH FEDERAL LAW, REGULATIONS AND EXECUTIVE ORDERS

Contractor acknowledges that EPA Community Grants program will be used to fund all or part of the contract. Contractor will comply with all applicable Federal law, regulations, executive orders, EPA policies, procedures and directives.

20. DISADVANTAGED BUSINESS ENTERPRISE (DBE) OPPORTUNITY; GOOD FAITH EFFORTS PER 40 CFR § 33

Contractor is required to make at least six (6) good faith efforts and maintain all records documenting its compliance with the requirements listed below. Examples of proper documentation include, but are not limited to, email logs, phone logs, electronic searches and communication, handouts at conferences, flyers sent to DBEs or similar records. In addition, if one or more of the good faith efforts cannot be performed, EPA recommends that the circumstances that have precluded the efforts be documented and retained in the recipient's records.

(a) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

(b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.

(c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in [paragraphs \(a\)](#) through [\(e\)](#) of this section.

Prime contractors shall pay its subcontractors for satisfactory performance no more than 30 days from the prime contractor's receipt of payment from the District. District must be notified in writing by the prime contractor prior to any termination of a DBE subcontractor for convenience by the prime contractor. If a DBE subcontractor fails to complete work under the subcontract for any reason, the prime contractor is required to employ six good faith efforts if soliciting a replacement subcontractor.

The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of [40 CFR part 33](#) in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract or other legally available remedies.