

AGENDA ITEM SUMMARY

DATE: 3/22/2010

DEPARTMENT: Legal

DEPT. HEAD SIGNATURE: \_\_\_\_\_

SUBJECT:

Fireworks Contract

AUTHORITY:  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code \_\_\_\_\_  
(IF APPLICABLE)

BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:

I am enclosing a proposed Fireworks Contract for the 4<sup>th</sup> of July celebration. Please note that the provider is new.

Ned

FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS

Budget Line Item # \_\_\_\_\_ Case # \_\_\_\_\_  
Estimated Hours Spent to Date: \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_  
Staff Contact: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_  
Comments: \_\_\_\_\_ Phone # \_\_\_\_\_

ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS: (IF APPLICABLE)

_____ City Attorney	_____ Clerk / Finance Director	_____ Engineer	_____ Building
_____ Library	_____ Planning	_____ Fire Dept.	_____
_____ Safety Committee	_____ P & Z Commission	_____ Police	_____
_____ Streets	_____ Public Works, Parks	_____ Mayor	_____

RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:

Make a motion to approve the Fireworks Contract and authorize the Council President to sign.

FOLLOW-UP REMARKS:

Permits  
50%/50%

Show # 1077

FIREWORKS DISPLAY CONTRACT AND PURCHASE ORDER

THIS CONTRACT, entered into on February 26, 2010 and between LANTIS PRODUCTIONS, INC. (a Utah corporation hereinafter referred to as LANTIS), and City of Hailey (hereinafter referred to as CLIENT).

WITNESSETH: LANTIS agrees to furnish the CLIENT, in accordance with the terms and conditions hereinafter set forth, a Fireworks Display Show as per our proposal, a copy of which is attached as exhibit "A", including the services of a licensed and trained Pyrotechnician to take charge of and fire the Display.

CLIENT shall pay LANTIS the sum of twenty thousand and No/100 (\$20,000.00) DOLLARS, in United States Currency, according to the following terms and conditions:

1. Due upon execution of contract \$ 10,000.00 (the "Deposit")
2. Check due time of show \$ 10,000.00

All sums due herein shall be mailed directly to the corporate offices of Lantis Productions Inc., P.O. Box 491, Draper, Utah 84020, unless otherwise directed in writing.

Note: Balance due within (10) days of the show.

The said display is hereby scheduled to be performed on July 4, 2010. The display may be cancelled by CLIENT up to ten (10) days before display's date. At this time only the cost of the set pieces (if applicable) and permit fees will be paid for by CLIENT and Lantis shall refund the remainder of the Deposit. If for reasons other than adverse weather conditions the display shall be cancelled within the ten (10) days prior to the show date, the CLIENT agrees to forfeit the Deposit as a cancellation fee.

If the scheduled presentation of the show is delayed due to adverse weather conditions, or other circumstances beyond the reasonable control of either LANTIS or CLIENT, each shall bear an equal share (i.e., 50%) of all "out-of-pocket" expenses incurred by LANTIS due to the delay. Such expenses shall include, but shall not be limited to, additional lodging, meals, Pyrotechnician fees, permits, vehicle rentals, and equipment rentals (if any) incurred by authorized representatives of LANTIS necessary to present the show.

CLIENT hereby agrees that any show so delayed must be presented within 10 calendar days of the originally scheduled date without incurring additional expenses except as detailed in the paragraph above. If the presentation of the show is delayed beyond ten (10) calendar days from the originally scheduled date, this contract shall be subject to renegotiation between LANTIS and CLIENT.

The parties intend on using the Wood River High School parking lot to stage the fireworks launch site. Lantis shall contact the Blaine County School District to obtain written permission to use the parking lot. Client shall be responsible for cleaning of the parking lot after the show with street sweeper and Lantis shall be responsible for cleaning after the show in the landscape areas within the parking lot and outside of the parking lot removing debris caused by fireworks. LANTIS, on behalf of CLIENT, will secure all required state and/or local fireworks permits. Any required marine permits will be obtained by LANTIS on behalf of the CLIENT. CLIENT will obtain any required event permits, and will arrange for any security bonds as required by law in CLIENT'S community when necessary. CLIENT agrees to furnish necessary and adequate police and/or private security, fire and other necessary protection for proper crowd control, auto parking control, and proper security around the designated safety area during the set-up, during firing, and for a minimum of thirty minutes following show completion.

Any vehicles or personal property located within the designated safety area shall be removed at the CLIENT'S Expense. Any damage or destruction of vehicles or personal property left remaining in the designated safety area shall be the sole responsibility of the CLIENT.

CLIENT hereby acknowledges and agrees that the LANTIS Pyrotechnician, the CLIENT, or Local Fire Authority, shall have the right to delay the start of, or terminate the firing of, the Fireworks Display Show if, in any one of the individuals' reasonable judgment, unsafe conditions exist as detailed in the LANTIS Safety Procedures Manual, NFPA 1123 Guidelines, or other applicable local law or regulation.

LANTIS shall provide insurance coverage provided by a responsible insurance company licensed to do business in the state of Idaho for the following amounts and specified risks only:

Bodily Injury and Property Damage, including Product Liability of \$2,000,000.00.

Under the provisions of our insurance coverage, this protection shall be extended to the CLIENT as an additional named insured only upon receipt by LANTIS of a properly executed original copy of this contract.

It is agreed that this contract shall be governed by the laws of the State of Utah. Should any legal action be brought to enforce or interpret the terms or provisions of this Contract, any court of competent jurisdiction shall be proper venue for such an action. Interest at 1 1/2% per month (AN ANNUAL PERCENTAGE RATE OF EIGHTEEN PERCENT PER ANNUM A.P.R. 18%) will be charged on all accounts past due, and the

Client agrees to pay the same. If any legal action is brought to enforce or interpret the terms or provision of this Contract, the prevailing party shall be entitled to reasonable attorney's fees and costs in addition to any other relief they may be entitled to.

It is further agreed that nothing in this Contract shall be construed as forming a partnership, the parties hereto being severally responsible for their own separate debts and obligations, and neither party shall be held responsible for any agreement not stated in this Contract. The parties hereto do mutually and severally guarantee the terms, conditions and payments of this Contract and these articles shall be binding on the parties themselves and on their heirs, executors, administrators, successors and assigns. CLIENT further warrants that the signature affixed hereto on their behalf is properly authorized to execute such documents and incur such obligations on behalf of the CLIENT. The parties further agree that none of the provisions of this contract may be changed or modified in any way without the express written permission of LANTIS and client.

Additional Provisions: LANTIS WILL PROVIDE A Christmas in the Nighttime Sky Fireworks Display for the City of Hailey, if the city council members feel Lantis did not provide a good fireworks display. The Christmas in the Nighttime Sky fireworks show is usually done to raise gifts for less fortunate families within the city community.

IN WITNESS WHEREOF, the parties hereto, by and through their duly authorized agents, have set their duly authorized signatures and seals the dates and places indicated below.

LANTIS

Executed on behalf of LANTIS PRODUCTIONS INC. on \_\_\_\_\_ at Fairfield, UT.

Lantis Productions Inc.

by: \_\_\_\_\_  
Kenneth L. Lantis, President

CLIENT

Executed on behalf of \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_,  
at,

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

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

# CLIENT COMMUNICATIONS DATA

Lantis Productions Inc.

Show # 1077

Please provide requested information to assure constant and immediate communication with Lantis Productions Inc. Fairfield, Utah and the Show Sponsor

Show Sponsor: HAILEY CITY

BillingAddress:

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Show Date: JULY , 2010

Approximate Time \_\_\_\_\_ PM

Show Location:

Lantis Productions representative should contact the following person or persons for instructions:

Primary Contact

2<sup>ND</sup> Alternate

---

Name

Name

---

Address

Address

---

City, State, Zip

City, State, Zip

---

Phone Office \_\_\_\_\_

Phone Office \_\_\_\_\_

Home \_\_\_\_\_

Home \_\_\_\_\_

Cell \_\_\_\_\_

Cell \_\_\_\_\_

Specific Address of Display Site \_\_\_\_\_

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Routing to Location from Major Highway:

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**Extremely Important**

**Nearest Airport:**

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Approximate Distance: \_\_\_\_\_ Miles

Additional Comments. \_\_\_\_\_ Use reverse side if needed.

**INSURANCE CERTIFICATE REQUISITION**  
**Lantis Productions Inc**

Show # 1077

Client Name

Address:

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Display Date July , 2010

Approximate Time: \_\_\_\_\_ PM

Location of Display

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Exact Names of those to be Insured: \_\_\_\_\_

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Name of Site Property Owner: \_\_\_\_\_

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Insurance Certificate is to be issued to:

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

Address: \_\_\_\_\_

This form must be returned with your signed contract in order for the Insurance Certificate to be processed. Our Insurance Carrier requires that we have this form in addition to the signed contract prior to the Certificate being issued and the coverage extended to the show sponsor(s).

The Insurance Carrier also requires that a diagram of the display show site and a description of the surrounding properties be submitted before the show. Please attach this diagram to this form. If you have any questions, please contact our Corporate Office at 1-800-443-3040 8 a.m. to 5 p.m. Mountain Time.

# REQUEST FOR DIAGRAM OF FIRING AREA

Lantis Productions Inc.

Show # 1077

Dear Customer:

In an effort to better understand and plan for your fireworks display show, it is of the utmost importance that you supply our office with a diagram or map of the proposed display site and the surrounding areas in all directions.

The map should show distances (in feet) from spectators and parking areas as well as buildings wires and overhead obstructions. We need to receive this information before we can apply for permits and insurance.

Preparation and planning can bring out the best in a fireworks display. It can also reduce accidents. Thank you for your cooperation and attention to this matter!

Lantis Productions Inc.

Exhibit "A"

Schedule 5

*Product Description and Quantity List*

Lantis Productions, Inc. does not use "pre-packaged" fireworks shows. The interrelationship between the mood and rhythm of the soundtrack and the visual effects created requires that final shell selection await the actual choreographing of the show to this allows our designers and pyro-artists the largest possible palate from which to paint the sky.

This approach is different from many pyrotechnic companies, and sometimes makes it difficult to compare our proposals with companies who sell prepackaged shows. While we are careful to specify the quantity, quality, and size of fireworks shells, we are reluctant to identify specific individual shells until show design and choreography is complete.

We hope that you will consider the value of this approach in evaluating our proposals

4" Aerial Shells

These spectacular shells travel up to 450 feet high and then burst in a spectrum of colors and effects. The world famous Hummer Shells, Special Effect Willows, three color changing Stars with Palm Core and Sky Mines are some of our exclusive 4" shells. We have 125 varieties to choose from. For your display we have selected:

Total 4" Aerial Shells = Proposal "A" 175 Shells to be Designed into the show  
70 Finale

5" Aerial Shells

Our 5" aerial shells are individually designed to add a new dimension to the display. As these shells are larger in diameter this allows our designers to place more effects inside the shell to create effects such as Saturn Rings, Smiley Faces, Butterflies, Sky Mines, Silver Serpents and the beautiful gold "Kamouro" stars which burst over 500 feet high and then suspend in the night sky slowly descending towards the ground. We have over 130 varieties in stock. For your display we have selected:

Total 5" Aerial Shells = Proposal "A" 120 Shells to be Designed into the shells.  
50 Finale

### 6" Aerial Shells

These magnificent shells are the biggest crowd pleasers of all. A massive aerial shell, which weighs 4kg, is fired up to 620 feet, leaving a silver trail as it soars into the night sky. As the shell reaches its programmed height it bursts into a huge colored chrysanthemum, falling leaves, Variegated Dahlia, Special pattern fish or one of our other shells that we have in stock. There are over 115 varieties to choose from in this selection of shells. For your Display we have selected:

Total 6" Shells = Proposal "A" 30 Shells to be Designed into the show  
10 Finale

7" Aerial Shells = Proposal "A" 20 Shells to be Designed into the show  
5 Finale

8" Aerial Shells = Proposal "A" 2 Shells to be Designed into the show

### 10" Aerial Shells

Display Shells Premium shells with similar effects as Listed for shells starting at the size of 4" to 16" shells.

Total 10" Aerial Shells = Proposal "A" Shells to be Designed into the show  
Finale

### Salutes

A brilliant silver flash and heavy report, these shells are usually used to note the finale of the display. For your display we have selected:

2.5" Salutes = Proposal "A,B,C" 20 Shells to be Designed into the show

*Cost of either Proposal "A" is \$20,000 15 min. show as per excepted*

Remember this is just an idea, if you would like to make some changes such as a different shell size or count on some shells Please give us a call. I know we can work something out.



**AGENDA ITEM SUMMARY**

**DATE:** 3/22/2010 **DEPARTMENT:** Public Works / Administration **DEPT. HEAD SIGNATURE:** 

**SUBJECT:** Motion to ratify the Mayor signing the Contract for the Renewable Energy Enterprise Zone grant received from the State of Idaho Office of Energy Resources (attached).

**AUTHORITY:**  ID Code \_\_\_\_\_  IAR \_\_\_\_\_  City Ordinance/Code \_\_\_\_\_  
(IF APPLICABLE)

**BACKGROUND/SUMMARY OF ALTERNATIVES CONSIDERED:**

Public Works and Administration teamed with Whole Energy Solar / Whole Water Systems and were successful in obtaining the Renewable Energy Enterprise Zone grant. Hailey's project will assess the viability of a Resource Recovery Center which will receive and process sewage treatment plant sludge, septage, restaurant grease and a wide variety of other potential biosolids wastes. The study will investigate the technological and economic potential for capturing the heat generated by the treatment process for the purpose of heating nearby buildings. The study will also examine the potential for the Resource Recovery Center to be the heart of a Community Campus serving the broader purposes of energy education, local food production and a hands-on sustainable technology showcase.

The grant received is \$30,000, with a \$10,000 in-kind match from Whole Energy Solar / Whole Water Systems and a \$20,000 in-kind match from the city (labor only) The grant comes in the form of American Recovery and Reinvestment Act funds.

**FISCAL IMPACT / PROJECT FINANCIAL ANALYSIS:** Caselle  
# \_\_\_\_\_  
Budget Line Item # \_\_\_\_\_ YTD Line Item Balance \$ \_\_\_\_\_  
Estimated Hours Spent to Date: \_\_\_\_\_ Estimated Completion Date: \_\_\_\_\_  
Staff Contact: \_\_\_\_\_ Phone # \_\_\_\_\_

**ACKNOWLEDGEMENT BY OTHER AFFECTED CITY DEPARTMENTS:** (IF APPLICABLE)  
\_\_\_\_ City Attorney      \_\_\_\_ Clerk / Finance Director      \_\_\_\_ Engineer      \_\_\_\_ Building  
\_\_\_\_ Library      \_\_\_\_ Planning      \_\_\_\_ Fire Dept.      \_\_\_\_  
\_\_\_\_ Safety Committee      \_\_\_\_ P & Z Commission      \_\_\_\_ Police      \_\_\_\_  
\_\_\_\_ Streets      \_\_\_\_ Public Works, Parks      \_\_\_\_ Mayor      \_\_\_\_

**RECOMMENDATION FROM APPLICABLE DEPARTMENT HEAD:**  
Approve request to submit grant application.

**ADMINISTRATIVE COMMENTS/APPROVAL:**  
City Administrator \_\_\_\_\_ Dept. Head Attend Meeting (circle one) Yes No

**ACTION OF THE CITY COUNCIL:**  
Date \_\_\_\_\_  
City Clerk \_\_\_\_\_

**FOLLOW-UP:**  
\*Ord./Res./Agmt./Order Originals: \_\_\_\_\_ \*Additional/Exceptional Originals to: \_\_\_\_\_  
Copies (all info.): \_\_\_\_\_ Copies  
Instrument # \_\_\_\_\_

OFFICE OF ENERGY RESOURCES

C.L. "BUTCH" OTTER  
Governor



322 East Front Street, P.O. Box 83720  
Boise, Idaho 83720-0199

PAUL KJELLANDER  
Administrator

(208) 287-4891  
FAX (208) 287-6713

RECEIVED

MAR 15 2010

TH TA

March 11, 2010

Mayor Rick Davis  
115 Main Street South  
Hailey, ID 83333

**Re: REEZ Program – City of Hailey Contract**

Dear Mayor Davis:

Enclosed please find two original contracts for the Renewable Energy Enterprise Program (REEZ) Contract number CON0094 between the Office of Energy Resources and the City of Hailey.

Please sign both original contracts and return both originals to me within 10 business days. Our Administrator will then sign both originals and I will return a single, fully executed, original to you for your files.

Please call me at 287-4894 or email at [john.crockett@oer.idaho.gov](mailto:john.crockett@oer.idaho.gov) if you have any questions.

Sincerely,

Handwritten signature of John Crockett in black ink.  
John Crockett  
Senior Energy Specialist

Enclosure

STATE ENERGY PROGRAM  
Renewable Energy Enterprise Zone (REEZ) Program

**City of Hailey Resource Recovery Center Feasibility Study**  
CONTRACT No. CON0094

PROVISIONS

This contract, entered into between the OFFICE OF ENERGY RESOURCES ("Office") and the City of Hailey, Idaho ("Contractor") is made in reference to the following facts:

RECITALS

1. Under Title IV of the American Recovery and Reinvestment Act 2009("ARRA"), (Public Law 111-5), Congress appropriated moneys for the U.S. Department of Energy ("DOE") to award grants to states under the existing State Energy Programs ("SEP") to preserve and create jobs, promote economic recovery, spur technological advances in science, and to invest in environmental protection that will provide long-term benefits.
2. On or about March 12, 2009, DOE issued a Funding Opportunity Announcement (CFDA Number. 81.041) that offered States the opportunity to apply for ARRA financial assistance to fund projects under the SEP. These projects would, among other things, increase energy efficiency or, alternatively, make use of renewable energy sources.
3. The Office of Energy Resources applied to DOE for an award of ARRA State Energy Program funding for financial assistance under CFDA Number. 81.041 for several projects, including the Renewable Energy Enterprise Zone ("REEZ") Program. On or about June 24, 2009, DOE issued Award No. DE-EE000141, authorizing the Office to award a grant of \$1,500,000 to proceed with the REEZ Program.

4. The Office of Energy Resources issued a Statewide Request for Proposal for projects to be funded under this program on August 11, 2009, and selections were made on November 17, 2009. The City of Hailey was selected from respondents to the Request for Proposal to conduct a feasibility study for a resource recovery center.
5. The Office of Energy Resources and the City of Hailey desire to cooperate in the implementation of the project referenced in the Recitals above by the execution of this Contract.

IN CONSIDERATION OF THE PROMISES MADE, THE PARTIES AGREE AS FOLLOWS:

**1. Definitions**

- 1.1. The term "Contractor" means the City of Hailey, 115 Main Street. South, Hailey, ID 83333, by and through its authorized representatives.
- 1.2. The term "Office" means the Office of Energy Resources, located at 322 E. Front Street, Suite 560, Boise, Idaho 83702-7374. The mailing address is P.O. Box 83720, Boise, Idaho 83720-0199.
- 1.3. The term "ARRA" means the U.S. American Recovery and Reinvestment Act of 2009.
- 1.4. The term "CFDA" means the Catalog of Federal Domestic Assistance.
- 1.5. The term "EECBG" means Energy Efficiency and Conservation Block Grant.
- 1.6. The term "OMB" means the Office of Management and Budget.
- 1.7. The term "U.S.C." means the United States Code.
- 1.8. Other definitions are given in Attachments A and B as required.

## **2. Project Coordinators**

2.1. The Contractor's Project Coordinator shall be Mayor Rick Davis, telephone number (208) 476-3615 Ext. 30, and e-mail address rick.davis@haileycityhall.org. He shall be the Contractor's representative for the administration of this Contract.

2.2. The Office's Project Coordinator shall be John Crockett, Senior Energy Specialist, telephone (208) 287-4894, fax (208) 287-67000, and e-mail john.crockett@oer.idaho.gov. He shall be the Office's representative for the administration of this Contract.

## **3. Contingency**

This contract is contingent upon Contractor meeting all federal, state and local requirements necessary for the project to qualify for funding under the ARRA including but not limited to Buy-American, Davis-Bacon, NEPA, State Historic Preservation, and other laws and rules stated in Attachments A and B. Contractor must also obtain and abide by all local and state laws including but not limited to building codes, environmental, health, land use, zoning, licensing, permitting, tax laws and all other applicable ordinances, rules and laws. If the Contractor has not provided assurance of obtaining all necessary permits, permissions, licenses, and other necessary legal approvals to the Office within six (6) months of execution of this contract, the Office may, in its sole discretion, terminate this contract, de-obligate the funds, and apply the funds that were obligated to this contract to another purpose allowed under the DOE award.

#### **4. Statement of Purpose**

The purpose of this contract is to provide funding to the City of Hailey to conduct a study to assess the viability of developing a Resource Recovery Center (RRC) within the community. The concept of the RRC is to receive and process sewage treatment plant sludge, septage from onsite septic systems within Blaine County, grease from restaurants and a wide variety of other potential biosolids wastes including agriculture animal waste, food waste from restaurants, grocery stores and homes. The waste material will be used as feedstock with a technology is known as a Vertical-Shaft Biological Reactor (VBR). The VBR is an activated sludge technology creates heat and treated water suitable for non-potable reuse and pathogen free, Class A biosolids.

The focus of the study will be to demonstrate the technological and economic potential for capturing the heat generated by the biological processes of the VBR for purposes of heating nearby buildings. The Study will further examine the potential for the RRC to be the heart of a larger development serving the broader purposes of education, local food production and a hands-on sustainable technology showcase.

#### **5. Scope of Work**

##### 5.1 The Office shall:

- 5.1.1. Task 1: Provide contract, program and project support to the Contractor for project development and implementation.
- 5.1.2. Task 2: Act as liaison between the Contractor and the Executive Office of the Governor of Idaho and its staff to publicize and promote this project.
- 5.1.3. Task 3: Monitor and analyze the project described in this Contract.
- 5.1.4. Task 4: Review a draft of the Project results and supply the Contractor with comments for incorporation into the final document.

5.1.5. Task 5: Provide financial support as described herein.

5.2 The Contractor shall:

5.2.1. Task 1: Select and commission a qualified subcontractor to conduct the feasibility study described under item 4, Statement of Purpose and Task 2 below.

5.2.2. Task 2: Develop and deliver to the Office a feasibility study that includes, but is not limited to, the following:

1. An executive summary that summarizes the findings of the study and any recommendations.
2. An introduction that provides the background and explains the scope and purpose of the study.
3. A detailed assessment of the availability of the sewage treatment plant sludge, septage from onsite septic systems, grease and of other potential biosolids wastes (feedstock) in the region, how much may be obtained under long-term contract. The costs and logistics associated with providing the feedstock to a central location.
4. Based on the estimates of feedstock availability, the study will include conceptual design of the Resource Recovery Center (RRC) that describes the site development, on-site facilities, equipment and processes.
5. An estimate of the heat that would be generated by the facility. The study will address the capital and operational costs, and the markets for the heat and subsequent revenues or energy savings.

7. A discussion of the facility site location considerations, permitting requirements, development risks and public acceptance issues.
  8. The study conclusions and recommendations including cost effectiveness, barriers, and financing options.
- 5.2.3 Task 3: Form a Project Steering Committee composed of local leaders involved in or impacted by the project to meet with the subcontractor on a regular basis to review progress and provide feedback to the subcontractor.
  - 5.2.4. Task 4 Prepare and submit to the Office the reports described under Reports and Deliverables.

## **6. Reports**

- 6.1 The Contractor shall submit a progress report through the 25<sup>th</sup> day of each month no later than the last full business day of the month for all work performed under this contract since the beginning of the contract or the previous report.
- 6.2 These reports will be used by the Office for its reports to the U.S. Department of Energy. They may also be used by the Office when audited pursuant to Idaho Code Section 67-450C and Federal Single Audit Act Amendments of 1996 (Title 31 U.S.C. Chapter 75) and OMB Circular A-133, to provide evidence of due diligence by the Office in its expenditure of ARRA funds.
- 6.3 The Office is subject to multiple federal reporting requirements, and the specific information that must be reported by the Contractor may change. Contractor agrees to comply with changed reporting requirements when requested by the Office.

- 6.4 Each report shall be in Microsoft Word and shall contain:
- 6.4.1 The Contractor's name and address;
  - 6.4.2 The name of the Project;
  - 6.4.3 A description of the Project;
  - 6.4.4 The total amount of ARRA funds expended and the amount billed;
  - 6.4.5 The number of hours worked on the Project; and
  - 6.4.6 An evaluation of the completion status of the Project, including problems encountered and the solutions to them.
- 6.5. The report shall be submitted via email to the Office's Project Coordinator. The Office may change this process at any time by written notice to the Contractor.
- 6.6 Time is of the essence in report delivery, and payment may be delayed by late reports. Late report delivery is a material breach of contract and, in the sole discretion of the Office, may result in immediate termination of this contract.

## **7. Deliverables**

The performance of each task stated in Section 5.2 is a deliverable. Contractor's delivery of these deliverables to and acceptance of them by the Office is the task completion upon which payment is made as stated in Section 8. The progress reports required by Section 6 shall be updates on the work done in completing the deliverables described in Section 5.2. The study required by Task 2 shall be presented to the Office in one hard copy and one CD/DVD. The copy on the CD/DVD shall be in Microsoft Office format. The Office has the right to review each deliverable for compliance with this contract, and to require changes to make the deliverable comply prior to acceptance. No compensation is earned by Contractor prior to acceptance of the deliverable by the Office.

## **8. Invoice(s) and Payment(s)**

- 8.1 The parties agree that this contract is a fixed price Contract. The Office shall pay, and the Contractor shall accept a total sum of THIRTY THOUSAND DOLLARS (\$30,000) as payment in full for the work done under this Contract.
- 8.2 The Contractor shall submit invoice(s) to the Office on letterhead stationery. Each invoice shall contain the Contractor's name, DUNS number, physical location and mailing address, telephone number, the contract number from the first page of this instrument, the dollar amount due and the submission date. Invoice(s) shall be for deliverables made in timely compliance with Section 7 of this contract.
- 8.3 The Contractor may submit an invoice for THIRY THOUSAND DOLLARS (\$30,000) after acceptance by the Office of all of the deliverables.
- 8.4 The Office shall make every effort to approve and pay the invoice within twenty-one (21) business days of receipt and acceptance of the deliverable(s) accompanying the invoices, PROVIDED THAT the Office may, in its discretion, delay making payment for any deliverable until reports required by Section 6 are current to the date payment is made.

## **9. Limitations of funds**

The Office certifies that state or federal funds are presently available and authorized for expenditure to pay the portion of costs that will accrue during the current state or federal fiscal year or applicable grant period. The Contractor agrees that all obligations of the Office, including the continuance of payments under this Contract, are contingent upon the availability and continued appropriation of funds. In the event state or federal funds become unavailable as determined by the office, the Office may immediately terminate this contract or amend it accordingly. (Section III Attachment A is restated here for emphasis.)

**10. Term**

This contract shall take effect on April 1, 2010, and shall continue in effect until March 31, 2011, unless terminated earlier under the provisions of Attachment A.

**11. General Terms and Conditions**

The Contractor shall abide by all applicable terms and conditions contained in the "Standard Contract Provisions, Office of Energy Resources," attached hereto as Attachment A and incorporated by this reference.

**12. Federal Provisions**

The Contractor shall abide by all applicable terms and conditions contained in "Standard Federal Provisions", written for use with all contracts and agreements funded by the ARRA. This is attached hereto as Attachment B and incorporated herein by this reference.

**13. Selection Procedure**

This contract is awarded to the City of Hailey in accordance with the selection procedures established by the State of Idaho.

**14. Duplicate Originals**

This contract is executed in duplicate. Each of the two documents with an original signature of each party shall be an original.

///////

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IN WITNESS THEREOF, the parties have executed this contract on the date specified below.

STATE OF IDAHO  
OFFICE OF ENERGY RESOURCES

CONTRACTOR

\_\_\_\_\_  
Paul Kjellander  
Administrator

  
\_\_\_\_\_  
Rick Davis  
Mayor, City of Hailey

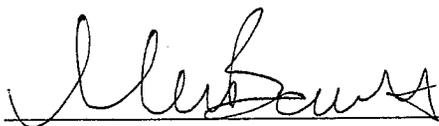
\_\_\_\_\_  
Date

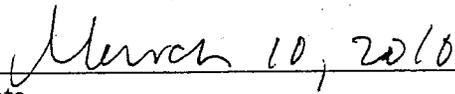
\_\_\_\_\_  
Date

\_\_\_\_\_  
Tax ID. Number

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APPROVED AS TO FORM

  
\_\_\_\_\_  
Maria Barratt  
Financial Review

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Ken Eklund  
Legal Review

  
\_\_\_\_\_  
Date

**STANDARD CONTRACT PROVISIONS  
IDAHO OFFICE OF ENERGY RESOURCES**

**I. DEFINITIONS**

- A. "Project Coordinator" shall mean that person appointed by the Office to administer this Contract on behalf of the Office and the term includes, except as otherwise provided in this Contract, an authorized representative of the Project Coordinator acting within the limits of his or her authority.
- B. "Subcontractor" shall mean one, not in the employment of any party to this Contract, who is performing all or part of those services under this Contract under agreement with the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.

**II. PROJECT COORDINATION**

- A. All communications given to a party's Project Coordinator shall be as binding as if given to the party.
- B. The Office's administrator or anyone authorized to act on his or her behalf, may change the Office's Project Coordinator at any time by written notice to the Contractor.
- C. The Contractor's Project Coordinator shall be the entity's representative for administration of this Contract and shall have full authority to act on behalf of the Contractor, unless specified otherwise in the main body of the Contract. The Contractor may change Contractor's Project Coordinator at any time by written notice to the Office.
- D. It shall be the obligation of Contractor's Project Coordinator and staff to communicate in a way that promotes exchange of information and creates a productive and cordial project work environment. If the Office has documented reason that the Contractor or staff are not meeting this communication requirement, the Office may request that the Contractor to appoint another project manager and assign other staff, and the Contractor shall take the action requested if possible, or, if alternates are not possible, to take other affirmative action to correct the situation. Failure to do so is a material breach of this agreement.

**III. LIMITATION OF PROGRAM FUNDS**

- A. The Contractor acknowledges that the Office cannot obligate funds prior to obtaining funding approval.
- B. The Office certifies that state or federal funds are presently available and authorized for expenditure to pay the portion of costs that will accrue during the current state or federal fiscal year or applicable grant period.
- C. The Contractor agrees that all obligations of the Office, including the continuance of payments under this Contract, are contingent upon the availability and continued appropriation of funds. In the event state or federal funds become unavailable as determined by the Office, the Office may immediately terminate this Contract or amend it accordingly. In no event shall the Office be liable for any payments in excess of approved or appropriated funds available for this project.

IV. TERMINATION FOR CONVENIENCE

A. Office's Right to Terminate for Convenience

1. The Office may terminate this Contract in whole or in part for its convenience. In such event the Office shall serve a written Notice of Termination on the Contractor by deposit in the United States mail, certified mail, return receipt requested, with proper postage affixed. Notice of Termination shall be deemed served upon its receipt.
2. The Contractor shall not incur after the date of service of the Notice of Termination any noncancellable obligations, except as authorized in the written Notice of Termination.
3. A Notice of Termination shall be effective for professional and other services authorized in the Contract on the date of service of Notice of Termination.
4. If a Termination for the convenience of the Office is effected, an equitable adjustment in the payments, if any, authorized in this Contract shall be made. Such adjustments shall provide for payment to the Contractor for services rendered prior to the effective date of termination of the Contract and for all noncancellable obligations incurred prior to receipt of a Notice of Termination.
5. If the Contractor owes payment to the Office for services under this Contract at the time of termination, then such sums shall remain as obligations due and owing by Contractor to the Office.

B. Contractor's Right to Terminate for Convenience

1. The Contractor may terminate this Contract for its convenience as to any executory portion. In such event the Contractor shall serve a written Notice of Termination on the Contractor by deposit in the United States mail, certified mail, return receipt requested, with proper postage affixed. Notice of Termination shall be deemed served upon its receipt.
2. If the Office owes payment for satisfactory contract performance at the time of Contractor's termination, and does not incur cost because of the termination, then it shall pay amounts owing to Contractor as provided by this Contract. If, however, in the Office's sole discretion, the termination causes the Office to incur costs it would not have except for Contractor's termination it may deduct such cost from payment made to the Contractor.
3. If the Contractor owes payment to the Office for services under this Contract at the time of termination, then such sums shall remain as obligations due and owing by Contractor to the Office.

V. TERMINATION FOR DEFAULT

- A. In addition to any termination of this Contract in accordance with Paragraph IV hereof, the Office may terminate this Contract in whole or in part because of the failure of the Contractor to fulfill its obligations. Upon receipt of such termination by the Office, the Contractor shall immediately discontinue all services affected. Oral notice of termination by the Office is effective when given, but in such a case, the Office shall confirm with written Notice of Termination by deposit in the United States mail, certified mail, return receipt requested.
- B. If a termination for default is effected, an equitable adjustment in the payments authorized in this Contract shall be made. Such adjustments shall provide for payment to the Contractor for services rendered prior to the effective date of termination of the Contract and for all noncancellable obligations incurred prior to receipt of a Notice of Termination.
- C. The rights and remedies of the Office provided in this Contract are in addition to any other rights and remedies provided by law or under this Contract.

VI. INDEMNIFICATION

The Contractor agrees to indemnify and hold harmless the Office and the State of Idaho, its officers, agents or employees from all liability and expense, including attorney fees, on account of claims, suits and costs growing out of or connected with negligent acts, errors, or omissions by the Contractor or its employees, if any, provided, however, that the Office shall not be relieved hereby from liability for its own negligence and that of its employees.

VII. NO PERSONAL LIABILITY

Contractor specifically understands and agrees that in no event shall any official, officer, employee or agent of the Office be personally liable for any representation, statement, covenant, warranty or obligation contained in, or made in connection with, this Contract, express or implied.

VIII. TAXES

The Contractor, with respect to its employees and those of its subcontractors, if any, shall pay, indemnify and hold the Office harmless from the payment of all taxes and contributions imposed by federal and state laws, including social security taxes, with respect to said employees and their remunerations, including all interest and penalties payable under said laws as the result of noncompliance therewith.

IX. WORKER'S COMPENSATION INSURANCE

Unless the Contractor is exempt under the provisions of I.C. § 72-212, the Contractor warrants that it has purchased worker's compensation insurance for Contractor and all employees engaged in the performance of this Contract and shall provide the Office with a Certificate of Insurance upon request by the Office. The Contractor shall notify the Office's Project Coordinator within five (5) days of any change in the status of its worker's compensation insurance.

X. LICENSES and OTHER LEGAL REQUIREMENTS

The Contractor shall obtain all licenses and fulfill all legal requirements of any and all agencies and units of government for all activities related to the contract.

XI. INSURANCE

The Contractor shall maintain insurance of the types and in the amounts typically maintained by others in the same occupation or profession as the Contractor, including, but not limited to, comprehensive general liability insurance in the minimum amount of \$1,000,000 per occurrence, and professional malpractice insurance, if applicable, all with insurance companies properly licensed to do business in Idaho.

XII. RELATIONSHIP OF THE PARTIES

- A. The parties intend to create by the terms of this Contract an independent contractor relationship between the Office and the Contractor.
- B. The parties do not intend to create by the terms of this Contract the relationship of employer and employee. The Contractor shall be responsible to withhold all monies required by law for FICA and income tax purposes.

XIII. ASSIGNMENT OF BENEFITS AND DELEGATION OF DUTIES

- A. The Contractor shall not delegate any duties under this Contract or assign any benefits, including any moneys due or to become due hereunder, without the prior written consent of the Office.

- B. In the event a delegation of duties or an assignment of benefits is approved by the Office, the Contractor agrees to bind every such delegate or assignee to comply with the terms and conditions of this Contract.

XIV. **WAIVER, MODIFICATION OR AMENDMENT**

No waiver, modification, or amendment of this Contract or of any covenants, conditions or limitations herein contained shall be valid unless in writing duly executed by both parties and the parties further agree that the provisions of this section may not be waived, modified, or amended except as herein set forth.

XV. **COVENANT AGAINST CONTINGENT FEES**

The Contractor warrants that no person or agent has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the Office shall have the right to annul this Contract without liability or in its discretion to deduct from the price of consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

XVI. **PUBLIC RECORDS**

Pursuant to Idaho Code section 9-335 *et seq.*, information or documents received from Contractor may be open to public inspection and copying unless exempt from disclosure as a trade secret or proprietary. Contractor shall clearly designate individual documents as "trade secret" or "confidential" and Contractor agrees to indemnify and defend the State for honoring such a designation. The failure to designate any document that is released by the Office shall constitute a complete waiver of any and all claims for damages caused by any such release.

XVII. **RIGHTS IN DATA**

- A. The Contractor agrees that all data, plans, drawings, specifications, reports, operating manuals, notes and other written documents produced in the performance of this Contract or in contemplation thereof, are subject to the rights of the Office set forth in this paragraph.
- B. The Office shall have the right to reproduce, publish and use all such documents or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so.
- C. The Office agrees to identify the Contractor or designate appropriate authorship, on all materials reproduced and published that are a direct product of the work performed under this Contract.

XVIII. **RETENTION OF RECORDS AND ACCESS TO FACILITIES, PREMISES AND RECORDS**

- A. The Contractor shall establish and maintain project budget accounts and records for work and services required by this Contract in accordance with generally accepted accounting principles and practices. Records shall be retained by the Contractor throughout the term of this Contract and for a period of three (3) years following final settlement.
- B. At all reasonable times during the term of this Contract and for a period of three (3) years following final settlement, the Office, State of Idaho, and their authorized representatives shall have access at the Contractor's offices to its records related to the services performed under this Contract for the purposes of inspection, audit and copying by the Office, State of Idaho, and their authorized representatives.

XIX. **ATTORNEYS' FEES**

In the event of a legal proceeding of any kind instituted under this Contract or to obtain performance of any kind under this Contract, the prevailing party shall be awarded such additional sums as the court may adjudge for reasonable attorneys' fees and to pay all costs and disbursements incurred in such proceeding.

**XX. FORCE MAJEURE**

Neither party shall be liable for or deemed to be in default for any delay or failure to perform under this Contract if such delay or failure to perform results from an act of God, civil or military authority, act of war, riot, insurrection or other occurrence beyond that party's control. In such case, the intervening cause must not be caused by the party asserting it and the excused party is obligated to promptly perform in accordance with the terms of this Contract after the intervening cause ceases.

XXI. Subrecipient warrants that the Subaward is subject to Executive Order 2006-40 [[http://gov.idaho.gov/mediacenter/execorders/eo06/eo\\_2006-40.html](http://gov.idaho.gov/mediacenter/execorders/eo06/eo_2006-40.html)]; it does not knowingly hire or engage any illegal aliens or persons not authorized to work in the United States; it takes steps to verify that it does not hire or engage any illegal aliens or persons not authorized to work in the United States; and that any misrepresentation in this regard or any employment of persons not authorized to work in the United States constitutes a material breach and shall be cause for termination of its Contract . If the Contract is for the provision of services or for the sale or lease/licensing of computer software, Subrecipient further warrants that its Subaward is subject to Executive Order 2007-09 [[http://gov.idaho.gov/mediacenter/execorders/eo07/eo\\_2007\\_09.html](http://gov.idaho.gov/mediacenter/execorders/eo07/eo_2007_09.html)] and that it must notify the Office in advance in writing if, during the term of its Subaward, it seeks to shift services or work that it represented would be done inside the United States to outside the United States. Failure to obtain the prior, written consent of the Office for such shift constitutes a material breach.

**XXII. ENTIRE AGREEMENT**

This Contract sets forth all the covenants, provisions, agreements, conditions and understandings between the parties, and there are no covenants, provisions, agreements, conditions or understandings, oral or written, between them other than are herein set forth.

**XXIII. SEVERABILITY**

If any part of this Contract is declared invalid or becomes inoperative for any reason, such invalidity or failure shall not affect the validity and enforceability of any other provision.

**XXIV. NO WAIVER**

The waiver of any breach or default of this Contract shall not be construed as or deemed to be a waiver of any subsequent breach or default.

**XXV. EFFECT OF SECTION HEADINGS**

The section headings appearing in this Contract are not to be construed as interpretations of the text but are inserted for convenience and reference only.

**XXVI. GOVERNING LAW**

This Contract shall be governed as to validity, construction and performance by the laws of the State of Idaho. The venue of any action brought by any parties to this Contract shall be in a State of Idaho District Court or the United States District Court for the District of Idaho.

**XXVII. NOTICES**

All notices shall be sent certified mail, postage prepaid, return receipt requested to:  
Idaho Office of Energy Resources  
Attn: (Ms.) K.T. Hanna  
P O Box 83720  
Boise, ID 83720-0199

**IDAHO OFFICE OF ENERGY RESOURCES  
STANDARD FEDERAL PROVISIONS**

For Contracts and Agreements Funded by the  
AMERICAN RECOVERY AND REINVESTMENT ACT

This Attachment B includes two main sections of references to the laws of the United States of America. These are:

- National Policy Assurances; and
- Special Provisions required by the American Recovery and Reinvestment Act of 2009 (Recovery Act).

The Subrecipient understands and agrees that the moneys provided by the Idaho Office of Energy Resources (OER) pursuant to the agreement of which this Attachment B is a part are received from the federal government and that federal law restricts the use of said moneys.

The Contractor agrees to comply with all applicable federal and state laws including, but not limited to, those referenced in this Attachment B.

**SECTION ONE  
NATIONAL POLICY ASSURANCES**

These assurances are demanded of and made to the federal government. In any case where and to the extent that the Office of Energy Resources is the enforcer of any of the laws which the Subrecipient hereby assures compliance with, the assurance is made also to the Office of Energy Resources:

To the extent that a term does not apply to a particular type of activity or award, it is self-deleting.

**I. Nondiscrimination Policies**

You must comply with applicable provisions of the following national policies prohibiting discrimination:

1. On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), as implemented by U.S. Department of Energy (DOE) regulations at 10 CFR part 1040;
2. On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), as implemented by DOE regulations at 10 CFR parts 1041 and 1042;
3. On the basis of age, in the Age Discrimination Act of 1975 (42 U.S.C.6101 et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90 and DOE regulations at 10 CFR part 1040;

4. On the basis of disability, in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DOE regulations at 10 CFR part 1041;
5. On the basis of race, color, national origin, religion, disability, familial status, and sex under Title VIII of the Civil Rights Act (42 U.S.C. 3601 et seq.) as implemented by the Department of Housing and Urban Development at 24 CFR part 100; and
6. On the basis of disability in the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.) for the design, construction, and alteration of buildings and facilities financed with federal funds.

## **II. Environmental Policies**

You must:

1. Comply with applicable provisions of the Clean Air Act (42 U.S.C.7401, et. seq.) and Clean Water Act (33 U.S.C. 1251 et. seq.), as implemented by Executive Order 11738 [3 CFR, 1971-1975 Comp., p. 799] and Environmental Protection Agency rules at 40 CFR part 32, Subpart J.
2. Immediately identify to OER, as the awarding agency, any potential impact that you find this award may have on:
  - a. The quality of the human environment, including wetlands, and provide any help OER may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321 et. seq.) and assist OER to prepare Environmental Impact Statements or other environmental documentation. In such cases, you may take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) or limit the choice of reasonable alternatives until OER provides written notification of Federal compliance with NEPA, as implemented by DOE at 10 CFR part 1021.
  - b. Flood-prone areas, and provide any help OER may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et. seq.), which require flood insurance, when available, for federally assisted construction or acquisition in flood-prone areas, as implemented by DOE at 10 CFR part 1022.
  - c. Use of land and water resources of coastal zones, and provide any help OER may need to comply with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et. seq.).
  - d. Coastal barriers along the Atlantic and Gulf coasts and Great Lakes' shores, and provide help OER may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501 et. seq.), concerning preservation of barrier resources.
  - e. Any existing or proposed component of the National Wild and Scenic Rivers system, and provide any help OER may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.).
  - f. Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide any help OER may need to comply with the Safe Drinking Water Act (42 U.S.C. 300h-3).

3. Comply with applicable provisions of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), as implemented by the Department of Housing and Urban Development at 24 CFR part 35. The requirements concern lead-based paint in housing owned by the federal government or receiving federal assistance.

4. Comply with Section 6002 of the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6962), and implementing regulations of the Environmental Protection Agency, 40 CFR Part 247, which require the purchase of recycled products by states or political subdivision of states.

### **III. Live Organisms**

1. **Human research subjects.** You must protect the rights and welfare of individuals that participate as human subjects in research under this award in accordance with the Common Federal Policy for the Protection of Human Subjects (45 CFR part 46), as implemented by DOE at 10 CFR part 745.

#### **2. Animals and plants.**

a. You must comply with applicable provisions of Department of Agriculture rules at 9 CFR parts 1-4 that implement the Laboratory Animal Welfare Act of 1966 (7 U.S.C. 2131-2156) and provide for humane transportation, handling, care, and treatment of animals used in research, experimentation, or testing under this award.

b. You must follow the guidelines in the National Academy of Sciences (NAS) Publication "Guide for the Care and Use of Laboratory Animals", (1996), which may be found currently at <http://www.nap.edu/readingroom/books/labrats/> and comply with the Public Health Service Policy and Government Principles Regarding the Care and Use of Animals (included as Appendix D to the NAS Guide).

c. You must immediately identify to OER, as the awarding agency, any potential impact that you find this award may have on endangered species, as defined by the Endangered Species Act of 1973, as amended ("the Act," 16 U.S.C. 1531-1543), and implementing regulations of the Departments of the Interior (50 CFR parts 10-24) and Commerce (50 CFR parts 217-227). You also must provide any help we may need to comply with 16 U.S.C. 1536(a)(2). This is not in lieu of responsibilities you have to comply with provisions of the Act that apply directly to you as a U.S. entity, independent of receiving this award.

### **IV. Other National Policies**

1. **Debarment and suspension.** You must comply with requirements regarding debarment and suspension in Subpart C of 2 CFR parts 180 and 901.

2. **Drug-free workplace.** You must comply with drug-free workplace requirements in Subpart B of 10 CFR part 607, which implements Sec. 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).

#### **3. Lobbying.**

a. You must comply with the restrictions on lobbying in 31 U.S.C.1352, as implemented by DOE at 10 CFR part 601, and submit all disclosures required by that statute and regulation.

b. If you are a nonprofit organization described in Section 501(c)(4) of Title 26, United States Code (the Internal Revenue Code of 1968), you may not engage in lobbying activities as defined in the Lobbying Disclosure Act of 1995 (2 U.S.C., Chapter 26). If OER determines that you have engaged in lobbying activities, OER will cease all payments to you under this and other awards and terminate the awards unilaterally for material failure to comply with the award terms and conditions. By submitting an application and accepting funds under this agreement, you assure that you are not an organization described in Section 501(c)(4) that has engaged in any lobbying activities described in the Lobbying Disclosure Act of 1995 (2 U.S.C. 1611).

c. You must comply with the prohibition in 18 U.S.C. 1913 on the use of federal funds, absent express Congressional authorization, to pay directly or indirectly for any service, advertisement or other written matter, telephone communication, or other device intended to influence at any time a member of Congress or official of any government concerning any legislation, law, policy, appropriation, or ratification.

4. **Officials not to benefit.** You must comply with the requirement that no member of Congress shall be admitted to any share or part of this agreement, or to any benefit arising from it, in accordance with 41 U.S.C. 22.

5. **Hatch Act.** If applicable, you must comply with the provisions of the Hatch Act (5 U.S.C. 1501-1508 and 7324-7326), as implemented by the Office of Personnel Management at 5 CFR part 151, which limits political activity of employees or officers of state or local governments whose employment is connected to an activity financed in whole or part with federal funds.

6. **Native American graves protection and repatriation.** If you control or possess Native American remains and associated funerary objects, you must comply with the requirements of 43 CFR part 10, the Department of the Interior implementation of the Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C., chapter 32).

7. **Fly America Act.** You must comply with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118), commonly referred to as the "Fly America Act," and implementing regulations at 41 CFR 301-10.131 through 301-10.143. The law and regulations require air transport of people or property to, from, between or within a country other than the United States, the cost of which is supported under this award, to be performed by or under a cost-sharing arrangement with a U.S. flag carrier, if service is available.

8. **Use of United States-flag vessels.**

a. Pursuant to Pub. L. 664 (43 U.S.C. 1241(b)), at least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds under this award, and which may be transported by ocean vessel, must be transported on privately owned United States-flag commercial vessels, if available.

b. Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph 8.a of this section shall be furnished to both our award administrator (through you in the case of your contractor's bill-of-lading) and to

the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

9. **Research misconduct.** You must comply with the government-wide policy on research misconduct issued by the Office of Science and Technology Policy (available in the Federal Register at 65 FR 76260, December 6, 2000, or on the Internet at [www.ostp.gov](http://www.ostp.gov)), as implemented by DOE at 10 CFR part 733 and 10 CFR 600.31.

10. **Requirements for an institution of higher education concerning military recruiters and Reserve Officers Training Corps (ROTC).**

a. As a condition for receiving funds under an award by the National Nuclear Security Administration of the Department of Energy, you agree that you are not an institution of higher education that has a policy or practice placing any of the restrictions specified in 10 U.S.C. 983, as implemented by 32 CFR part 216, on:

- i. Maintenance, establishment, or operation of senior ROTC units, or student participation in those units; or
- ii. Military recruiters' access to campuses, students on campuses, or information about students.

b. If you are determined, using the procedures in 32 CFR part 216, to be such an institution of higher education during the period of performance of this award, OER:

- i. Will cease all payments to you of funds under this award and all other awards subject to the requirements in 32 CFR part 216; and
- ii. May suspend or terminate those awards unilaterally for material failure to comply with the award terms and conditions.

11. **Historic preservation.**

You must identify to us any:

a. Any property listed or eligible for listing on the National Register of Historic Places that will be affected by this award, and provide any help we may need, with respect to this award, to comply with Section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f), as implemented by the Advisory Council on Historic Preservation regulations at 36 CFR part 800 and Executive Order 11593, "Identification and Protection of Historic Properties," (3 CFR, 1971-1975 Comp., p. 559).

b. Potential under this award for irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data, and provide any help OER may need, with respect to this award, to comply with the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

12. **Relocation and real property acquisition.** You must comply with applicable provisions of 49 CFR part 24, which implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.) and provides for fair and equitable treatment of persons displaced by federally assisted programs or persons whose property is acquired as a result of such programs.

13. **Confidentiality of patient records.** You must keep confidential any records that you maintain of the identity, diagnosis, prognosis, or treatment of any patient in connection with any program or activity relating to substance abuse education, prevention, training, treatment, or rehabilitation that is assisted directly or indirectly under this award, in accordance with 42 U.S.C. 290.

14. **Constitution Day.** You must comply with Public Law 108-447, Div. J, Title I, Sec. 111 (36 U.S.C. 106 note), which requires each educational institution receiving federal funds in a federal fiscal year to hold an educational program on the United States Constitution on September 17<sup>th</sup> during that year for the students served by the educational institution.

15. **Trafficking in Persons**

a. Provisions applicable to a recipient that is a private entity.

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—

- i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
- ii. Procure a commercial sex act during the period of time that the award is in effect;

or

iii. Use forced labor in the performance of the award or subawards under the award.

2. The Office as the federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity –

- i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
- ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—

A. Associated with performance under this award; or

B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by the Office at 2 CFR part 901.

b. Provisions applicable to a recipient other than a private entity. The Office as the federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—

i. Associated with performance under this award; or

ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by the Office at 2 CFR part 901.

c. Provisions applicable to any recipient.

1. You must inform the Office immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.

2. The right of the Office to terminate unilaterally any provision that is described in paragraph a. or b. of this section:
  - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
  - ii. Is in addition to all other remedies for noncompliance that are available to the Office under this award.
3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. Definitions. For purposes of this award term:

1. "Employee" means either:
  - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
  - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
3. "Private entity":
  - i. Means any entity other than a state, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
  - ii. Includes:
    - A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
    - B. A for-profit organization.
4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

SECTION TWO  
SPECIAL PROVISIONS

A. Special Provisions

These provisions are required by the U.S. Department of Energy to be included in all subrecipient contracts funded by the American Recovery and Reinvestment Act of 2009.

B. Segregation of Costs

Recipients must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects.

C. Prohibition on Use of Funds

None of the funds provided under this agreement derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be used by any or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

D. Access to Records

With respect to each financial assistance agreement awarded utilizing at least some of the funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized

- (1) to examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any state or local agency administering such contracts that pertain to, and involve transactions in relation to the subcontract, subgrant, grant, or subgrant; and
- (2) to interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.

E. Publication

An application may contain technical data and other data, including trade secrets and or privileged or confidential information, which the applicant does not want disclosed to the public or used by the Government for any purpose other than the application. To protect such data, the applicant should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application, with the following Notice as well as referring to the Notice on each page to which the Notice applies:

Notice of Restriction on Disclosure and Use of Data

The data contained in pages \_\_\_ of this application have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, DOE shall have the right to use or disclose the data here to the extent provided in the award. This restriction does not limit the government's right to use or disclose data obtained without restriction from any source, including the applicant. Information about this agreement will be published on the Internet and linked to the website [www.recovery.gov](http://www.recovery.gov) maintained by the Accountability and Transparency Board. The Board may exclude posting

contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under Sections 552 and 552a of Title 5, United States Code.

#### F. Protecting State and Local Government and Contractor Whistleblowers.

The requirements of Section 1553 of the Act are summarized below. They include, but are not limited to: Prohibition on Reprisals: An employee of any non-federal employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a state or federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a federal agency, or their representatives information that the employee believes is evidence of:

- gross mismanagement of an agency contract or grant relating to covered funds;
- a gross waste of covered funds;
- a substantial and specific danger to public health or safety related to the implementation or use of covered funds;
- an abuse of authority related to the implementation or use of covered funds; or
- a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

Agency Action: Not later than 30 days after receiving an inspector general report of an alleged reprisal, the head of the agency shall determine whether there is sufficient basis to conclude that the non-federal employer has subjected the employee to a prohibited reprisal. The agency shall either issue an order denying relief in whole or in part or shall take one or more of the following actions:

- Order the employer to take affirmative action to abate the reprisal;
- Order the employer to reinstate the person to the position that the person held before the reprisal, together with compensation including back pay, compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken;
- Order the employer to pay the employee an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the employee for or in connection with, bringing the complaint regarding the reprisal, as determined by the head of a court of competent jurisdiction.

Nonenforceability of Certain Provisions Waiving Rights and Remedies or Requiring Arbitration: Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

Requirement to Post Notice of Rights and Remedies: Any employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall post notice of the rights and remedies as required therein. (Refer to Section 1553 of the American Recovery and Reinvestment Act of 2009, Pub. L. 11-5, [www.Recovery.gov](http://www.Recovery.gov), for specific requirements of this section and prescribed language for the notices.)

### G. Request for Reimbursement

#### H. False Claims Act

Recipient and sub-recipients shall promptly refer to the DOE or other appropriate inspector general any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving those funds.

#### I. Information in Support of Recovery Act Reporting

Recipient may be required to submit backup documentation for expenditures of funds under the Recovery Act including such items as timecards and invoices. Recipient shall provide copies of backup documentation at the request of the contracting officer or designee.

#### J. Availability of Funds

Funds appropriated under the Recovery Act and obligated to this award are available for reimbursement of costs until September 30, 2015.

#### K. Additional Funding Distribution and Assurance of Appropriate Use of Funds

Certification by Governor -- Not later than April 3, 2009, for funds provided to any state or agency thereof by the American Reinvestment and Recovery Act of 2009, Pub. L. 111-5 the governor of the state shall certify that: 1) the state will request and use funds provided by the Act; and 2) the funds will be used to create jobs and promote economic growth.

Acceptance by state legislature -- If funds provided to any state in any division of the Act are not accepted for use by the governor, then acceptance by the legislature, by means of the adoption of a concurrent resolution, shall be sufficient to provide funding to such state.

Distribution - After adoption of a state legislature's concurrent resolution, funding to the state will be for distribution to local governments, councils of government, public entities, and public-private entities within the state either by formula or at the state's discretion.

#### L. Certifications

With respect to funds made available to state or local governments for infrastructure investments under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, the Governor, mayor, or other chief executive, as appropriate, certifies by acceptance of this award that the infrastructure investment has received the full review and vetting required by law and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of taxpayer dollars. Recipient shall provide an additional certification that includes a description of the investment, the estimated total cost, and the amount of covered funds to be used, for posting on the Internet. A state or local agency may not receive infrastructure investment funding from funds made available by the Act unless this certification is made and posted.

REPORTING AND REGISTRATION REQUIREMENTS UNDER SECTION 1512 OF THE RECOVERY ACT

(a) This award requires the recipient to complete projects or activities which are funded under the American Recovery and Reinvestment Act of 2009 and to report on use of Recovery Act funds provided through this award. Information from these reports will be made available to the public.

(b) The reports are due no later than ten calendar days after each calendar quarter in which the recipient receives the assistance award funded in whole or in part by the Recovery Act.

(c) Recipients and their first-tier recipients [subrecipients] must maintain current registrations in the Central Contractor Registration (<http://www.ccr.gov>) at all times during which they have active federal awards funded with Recovery Act funds. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (<http://www.dnb.com>) is one of the requirements for registration in the Central Contractor Registration.

(d) The recipient shall report the information described in Section 1512(c) of the Recovery Act using the reporting instructions and data elements that will be provided online at <http://www.FederalReporting.gov> and ensure that any information that is prefilled is corrected or updated as needed.

REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS (COVERED UNDER INTERNATIONAL AGREEMENTS)-SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

(a) *Definitions.* As used in this award term and condition

*Designated country -*

(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom);

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore); or

(3) A United States-European Communities Exchange of Letters (May 15, 1995) country: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom.

*Designated country iron, steel, and/or manufactured goods*

(1) Is wholly the growth, product, or manufacture of a designated country; or

(2) In the case of a manufactured good that consists in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different manufactured good distinct from the materials from which it was transformed.

*Domestic iron, steel, and/or manufactured good*

(1) Is wholly the growth, product, or manufacture of the United States; or

(2) In the case of a manufactured good that consists in whole or in part of materials from another country, has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed. There is no requirement with regard to the origin of components or subcomponents in manufactured goods or products, as long as the manufacture of the goods occurs in the United States.

*Foreign iron, steel, and/or manufactured good* means iron, steel and/or manufactured good that is not domestic or designated country iron, steel, and/or manufactured good.

*Manufactured good* means a good brought to the construction site for incorporation into the building or work that has been—

(1) Processed into a specific form and shape; or

(2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

*Public building* and *public work* means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; state and local governments; and multi-state, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

*Steel* means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) *Iron, steel, and manufactured goods.* (1) The award term and condition described in this section implements—

(i) Section 1605(a) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States; and

(ii) Section 1605(d), which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of Section 1605 of the Recovery Act do not apply to designated country iron, steel, and/or manufactured goods. The Buy American requirement in Section 1605 shall not be applied where the iron, steel or manufactured goods used in the project are from a Party to an international agreement that obligates

the recipient to treat the goods and services of that Party the same as domestic goods and services. This obligation shall only apply to projects with an estimated value of \$7,443,000 or more.

(2) The recipient shall use only domestic or designated country iron, steel, and manufactured goods in performing the work funded in whole or part with this award, except as provided in paragraphs (b)(3) and (b)(4) of this section.

(3) The requirement in paragraph (b)(2) of this section does not apply to the iron, steel, and manufactured goods listed by the federal government as follows:

None.

(4) The award official may add other iron, steel, and manufactured goods to the list in paragraph (b)(3) of this section if the federal government determines that—

(i) The cost of domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, and/or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the overall cost of the project by more than 25 percent;

(ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or

(iii) The application of the restriction of Section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) *Request for determination of inapplicability of Section 1605 of the Recovery Act or the Buy American Act.* (1)(i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(4) of this section shall include adequate information for federal government evaluation of the request, including—

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost;

(E) Time of delivery or availability;

(F) Location of the project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(4) of this section.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(iii) The cost of iron, steel, or manufactured goods shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the federal government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to Section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other appropriate actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods.. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds, as appropriate, by at least the differential established in 2 CFR 176.110(a).

(3) Unless the federal government determines that an exception to Section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods other than designated country iron, steel, and/or manufactured goods is noncompliant with the applicable Act.

(d) *Data.* To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the applicant shall include the following information and any applicable supporting data based on the survey of suppliers:

### Foreign and Domestic Items Cost Comparison

Description	Unit Measure	of	Cost (Dollars)*
<i>Item 1</i>			
Foreign steel, iron or manufactured good			
Domestic steel, iron, or manufactured good			
<i>Item 2</i>			
Foreign steel, iron, or manufactured good			
Domestic steel, iron, or manufactured good			

*[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]*

*[Include other applicable supporting information.]*

*[\*Include all delivery costs to the construction site.]*

## WAGE RATE REQUIREMENTS UNDER SECTION 1606 OF THE RECOVERY ACT

(a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the federal government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of Chapter 31 of Title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

(b) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

