

**SECTION 00 73 00 – CONSTRUCTION PURCHASE ORDER TERMS AND CONDITIONS**

PART 1 - GENERAL

1.1 RELATED DOCUMENTS (Not Applicable)

1.2 SUMMARY

- A. Section includes administrative and procedural requirements for managing the contractual requirements of this Project.

1.3 DEFINITIONS (Not Applicable)

1.4 CONSTRUCTION PURCHASE ORDER TERMS AND CONDITIONS

- A. A. The University of Colorado Denver | Anschutz Medical Campus Construction Purchase Order Terms and Conditions apply to Contractors Agreement (D/B/B) (SC-6.21) and General Conditions to the Contract (SC-6.23).
- B. A copy of the above noted document is attached to the end of this section.

1.5 PROCEDURE (Not applicable)

PART 2 - PRODUCTS (Not Applicable)

PART 3 - EXECUTION (Not Applicable)

**END OF SECTION 00 73 00**



## Facilities Management

### Construction Purchase Order Terms and Conditions

#### 1. Offer/Acceptance

If this purchase order ("PO") refers to vendor's bid or proposal, this PO is an ACCEPTANCE of vendor's OFFER TO SELL in accordance with the terms and conditions of the "solicitation" identified in vendor's bid or proposal. The solicitation includes an RFP, IFB, or any other form of order by the University. If a bid or proposal is not referenced, this PO is an OFFER TO BUY, subject to vendor's acceptance, demonstrated by vendor's performance or written acceptance of this PO. Any COUNTER-OFFER TO SELL automatically CANCELS this PO, unless a change order is issued by the University accepting a counter-offer. This PO shall supersede and control over any vendor form(s) or part(s) thereof included in or attached to any bid, proposal, offer, acknowledgment, or otherwise, in the event of inconsistencies or contradictions, regardless of any statement to the contrary in such form(s) or parts thereof.

#### 2. Safety Information

All chemicals, equipment and materials proposed and/or used in the performance of this PO shall conform to the requirements of the Occupational Safety and Health Act of 1970. Vendor shall furnish all Material Safety Data Sheets (MSDS) for any regulated chemicals, equipment or hazardous materials at the time of delivery.

#### 3. Changes

Vendor shall furnish products and/or services strictly in accordance with the specifications and price set forth for each item. This PO shall not be modified, superseded or otherwise altered, except in writing signed by purchasing agent and accepted by vendor. Each shipment received or service performed shall comply with the terms of this PO, notwithstanding invoice terms or acts of vendor to the contrary, unless this PO has been modified, superseded or otherwise altered in accordance with this section.

#### 4. Delivery

Unless otherwise specified in the solicitation or this PO, delivery shall be FOB destination. The University is relying on the promised delivery date, installation, and/or service performance set forth in vendor's bid or proposal as material and basic to the University's acceptance. If vendor fails to deliver or perform as and when promised, the University in its sole discretion, may cancel its order, or any part thereof, without prejudice to its other rights, return all or part of any shipment so made, and charge vendor with any loss or expense sustained as a result of such failure to deliver or perform as promised. Time is of the essence.

#### 5. Intellectual Property

Any software, research, reports, studies, data, photographs, negatives or other documents, drawings or materials (collectively "materials") delivered by vendor in performance of its obligations under this PO shall be the exclusive property of the University. Ownership rights shall include, but not be limited to, the right to copy, publish, display, transfer, prepare derivative works, or otherwise use the materials. Vendor shall comply with all applicable laws, regulations and University policies related to confidential information and all confidentiality and non-disclosure agreements, security controls, and reporting requirements.

## 6. Quality

The University shall be the sole judge in determining "equals" with regard to quality, price and performance. All products delivered shall be newly manufactured and the current model, unless otherwise specified.

## 7. Warranties

All provisions and remedies of the Colorado Uniform Commercial Code, CRS, Title 4 ("CUCC"), relating to implied and/or express warranties are incorporated herein, in addition to any warranties contained in this PO or the specifications.

## 8. Inspections and Acceptance

Final acceptance is contingent upon completion of all applicable inspection procedures. If products or services fail to meet any inspection requirements, the University may exercise all of its rights, including those provided in the CUCC. The University shall have the right to inspect services provided under this PO at all reasonable times and places. "Services" as used in this section includes services performed or tangible material produced or delivered in the performance of services. If any of the services do not conform to PO requirements, the University may require vendor to perform the services again in conformity with PO requirements, without additional payment. When defects in the quality or quantity of service cannot be corrected by re-performance, the University may (a) require vendor to take necessary action to ensure that future performance conforms to PO requirements and (b) equitably reduce the payment due vendor to reflect the reduced value of the services performed. These remedies do not limit the remedies otherwise available in this PO, at law, or in equity.

## 9. Cash Discount

The cash discount period will start from the later of the date of receipt of acceptable invoice, or from date of receipt of acceptable products/services at the specified destination by an authorized University representative.

## 10. Taxes

The University is exempt from all federal excise taxes under Chapter 32 of the Internal Revenue Code and from all State and local government sales and use taxes [CRS, Title 39, Article 26, Parts I and II].

## 11. Payment

The University shall pay vendor for all amounts due within 30 days after receipt of products or services and a correct notice of amount due. Interest on the unpaid balance shall begin to accrue on the 46th day at the applicable statutory rate. Interest shall not accrue if a good faith dispute exists as to the University's obligation to pay all or a portion of the amount due. Vendor shall invoice the University separately for interest on delinquent amounts due, referencing the delinquent payment, number of day's interest to be paid, and applicable interest rate.

## 12. Vendor Offset

[Not Applicable to Inter-governmental POs] The University may withhold payment as required under the State vendor offset intercept system for debts owed for: (a) unpaid child support debts or arrearages; (b) unpaid balances of tax, accrued interest, or other charges specified in CRS § 39-21-101, et seq.; (c) unpaid loans due to the Student Loan Division of the Department of Higher Education; (d) amounts required to be paid to the Unemployment Compensation Fund; and (e) other unpaid debts owing to the University.

### 13. Assignment and Successors

Vendor shall not assign rights or delegate duties under this PO, or subcontract any part of the performance required under this PO, without the express, written consent of the University. This PO shall inure to the benefit of and be binding upon vendor and the University and their respective successors and assigns. Assignment of accounts receivable may be made only upon written notice furnished to the University.

### 14. Indemnification

If any article sold or delivered under this PO is covered by a patent, copyright, trademark, or application therefore, vendor shall indemnify and hold harmless the University from any and all loss, liability, cost, expenses and legal fees incurred on account of any claims, legal actions or judgments arising out of manufacture, sale or use of such article in violation or infringement of rights under such patent, copyright, trademark or application. If this PO is for services, vendor shall indemnify, save, and hold harmless the University, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees and related expenses, incurred as a result of any act or omission by vendor, or its employees, agents, subcontractors or assignees, arising out of or in connection with performance of services under this PO.

### 15. Independent Contractor

Vendor shall perform its duties hereunder as an independent contractor and not as an employee. Neither vendor nor any agent or employee of vendor shall be deemed to be an agent or employee of the University. Vendor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the University and the University shall not pay for or otherwise provide such coverage for vendor or any of its agents or employees. Unemployment insurance benefits will be available to vendor and its employees and agents only if coverage is made available by vendor or a third party. Vendor shall pay when due all applicable employment, income, and local head taxes incurred pursuant to this PO. Vendor shall not have authorization, express or implied, to bind the University to any agreement, liability or understanding. Vendor shall (a) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (b) provide proof thereof when requested by the University, and (c) be solely responsible for its acts and those of its employees and agents.

### 16. Communication

All communication concerning administration of this PO, prepared by vendor for the University's use, shall be furnished solely to purchasing agent.

### 17. Compliance

Vendor shall strictly comply with all applicable federal and state laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

### 18. Insurance

Vendor shall obtain, and maintain, at all times during the term of this PO, insurance as specified in the solicitation, and provide proof of such coverage as requested by the University's purchasing agent.

#### 19. Termination Prior to Shipment

If vendor has not accepted this PO in writing, the University may cancel this PO by written or oral notice to vendor prior to shipment of goods or commencement of services.

#### 20. Termination for Cause

(a) If vendor refuses or fails to timely and properly perform any of its obligations under this PO with such diligence as will ensure its completion within the time specified herein, the University may notify vendor in writing of non-performance and, if not corrected by vendor within the time specified in the notice, terminate vendor's right to proceed with the PO or such part thereof as to which there has been delay or a failure. Vendor shall continue performance of this PO to the extent not terminated and be liable for excess costs incurred by the University in procuring similar goods or services elsewhere. Payment for completed services performed and accepted shall be at the price set forth in this PO. (b) The University may withhold amounts due to vendor as the University deems necessary to reimburse the University for excess costs incurred in curing, completing or procuring similar goods and services. (c) If after rejection, revocation, or other termination of vendor's right to proceed under the CUCC or this clause, the University determines for any reason that vendor was not in default or the delay was excusable, the rights and obligations of the University and vendor shall be the same as if the notice of termination had been issued pursuant to termination under § 21.

#### 21. Termination in Public Interest

The University is entering into this PO for the purpose of carrying out the public policy of the State and University, as determined by the Governor, General Assembly and Courts of the State of Colorado and the University of Colorado Board of Regents. If this PO ceases to further the public policy of the State or University, the University, in its sole discretion, may terminate this PO in whole or in part and such termination shall not be deemed to be a breach of the University's obligations hereunder. This section shall not apply to a termination for vendor's breach, which shall be governed by Item 20 (Termination for Cause). The University shall give written notice of termination to vendor specifying the part of the PO terminated and when termination becomes effective. Upon receipt of notice of termination, vendor shall not incur further obligations except as necessary to mitigate costs of performance. For services or specially manufactured goods, the University shall pay (a) reasonable settlement expenses, (b) the PO price or rate for supplies and services delivered and accepted, (c) reasonable costs of performance on unaccepted supplies and services, and (d) a reasonable profit for the unaccepted work. For existing goods, the University shall pay (e) reasonable settlement expenses, (f) the PO price for goods delivered and accepted, (g) reasonable costs incurred in preparation for delivery of the undelivered goods, and (h) a reasonable profit for the preparatory work. The University's termination liability under this section shall not exceed the total PO price plus a reasonable cost for settlement expenses. Vendor shall submit a termination proposal and reasonable supporting documentation, and cost and pricing data as required by CRS § 24-106-101, upon request of the University.

#### 22. PO Approval

This PO shall not be valid unless it is executed by purchasing agent. The University shall not be responsible or liable for products or services delivered or performed prior to proper execution hereof.

#### 23. Fund Availability

Financial obligations of the University payable after the current fiscal year are contingent upon funds for that purpose being budgeted and otherwise made available. If this PO is funded in whole or in part with federal funds, this PO is subject to and contingent upon the continuing availability of federal funds for the purposes hereof. The University represents that it has set aside sufficient funds to make payment for goods delivered in a single installment, in accordance with the terms of this PO.

#### 24. Choice of Law

Colorado laws, rules and regulations shall be applied in the interpretation, execution, and enforcement of this PO. The CUCC shall govern this PO in the case of goods unless otherwise agreed in this PO. Any provision included or incorporated herein by reference which conflicts with such laws, rules, and regulations is null and void. Any provision incorporated herein by reference which purports to negate this or any other provision in this PO in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Unless otherwise specified in the solicitation or this PO, venue for any judicial or administrative action arising out of or in connection with this PO shall be in Denver, Colorado. Vendor shall exhaust administrative remedies in CRS § 24-109-106, prior to commencing any judicial action against the University.

#### 25. Sensitive Data

To the extent vendors comes in contact with individual personal data owned or otherwise held by the University **including employee, student, or medical information or records** as a result of performing under this PO ("Data"), vendor agrees to use such Data, if at all, only to the extent required to perform its obligations under this PO, and to abide by the requirements of any federal, state and local laws that address the protection and/or use of such Data.

#### 26. Background Checks

Contractor acknowledges that Contractor's activities may involve heightened risks as a result of access or exposure by Contractor's employees or agents to one or more Sensitive Environments. Contractor expressly acknowledges that Contractor shall take all commercially reasonable measures to mitigate any such risks, which measures may include but are not limited to conducting criminal history checks, financial background checks, or reference checks on employees or agents who will have access to one or more Sensitive Environments. For purposes of this provision, Sensitive Environment means any situation where Contractor's employees or agents: (a) are engaged in supervision of or exposure to minors or other vulnerable populations; (b) have access to confidential information, which includes any information protected or restricted by law or University policy or that is expressly identified by the University as confidential information; (c) have access to the University's information technology systems; (d) are engaged in activities that involve unique or specialized risks.

#### 27. Public Contracts for Service

[Not Applicable to offer, issuance, or sale of securities, investment advisory services, fund management services, sponsored projects, intergovernmental POs, or information technology services or products and services] Vendor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this PO and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this PO, through participation in the E-Verify Program or the Department program established pursuant to CRS § 8-17.5-102(5)(c), Vendor shall not knowingly employ or contract with an illegal alien to perform work under this PO or enter into a contract or PO with a subcontractor that fails to certify to vendor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this PO. Vendor shall (a) not use E-Verify Program or Department program procedures to undertake pre-employment screening of job applicants during performance of this PO, (b) notify subcontractor and the University within three days if vendor has actual knowledge that subcontractor is employing or contracting with an illegal alien for work under this PO, (c) terminate the subcontract if subcontractor does not stop employing or contracting with the illegal alien within three days of receiving notice, and (d) comply with reasonable requests made in the course of an investigation, undertaken pursuant to CRS § 8-17.5-102(5), by the Colorado Department of Labor and Employment. If vendor participates in the Department program, vendor shall deliver to the University a written, notarized affirmation that vendor has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If vendor fails to comply with any requirement of this provision or CRS § 8-17.5-101

et seq., the University may terminate this PO for breach and, if so terminated, vendor shall be liable for damages.

#### 28. Public Contracts with Natural Persons

Vendor, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that he or she (a) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (b) shall comply with the provisions of CRS § 24-76.5-101 et seq., and (c) has produced a form of identification required by CRS § 24-76.5-103 prior to the date vendor delivers goods or begins performing services under terms of the PO.

#### 29. Governmental Immunity.

No term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS §24-10-101 et seq., or the Federal Tort Claims Act, 28 U.S.C. §§1346(b) and 2671 et seq., as applicable now or hereafter amended.

#### 30. Employee Financial Interest/Conflict Of Interest. CRS §§24-18-201 and 24-50-507.

The signatories aver that to their knowledge, no employee of the University has any personal or beneficial interest whatsoever in the service or property described in this contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests

#### 31. Federal Flowdown Provisions for Federally Funded Contracts

The University of Colorado has entered into an Agreement with either the U.S. Government, or another entity who has itself entered into an Agreement with the U.S. Government. That Agreement requires that certain federal contract provisions be made a part of any subsequent Purchase Order issued by the University of Colorado related to furthering the performance or deliverables required under that Agreement.

Where necessary to make the context of these provisions applicable to this order, the term "contractor" shall mean "seller," the term "contract" shall mean "this order," and the terms "Government," "contracting officer," and equivalent phrases shall mean "the University." Seller hereby agrees to flowdown the applicable clauses to its lower-tier subcontractors, and agrees that the clauses are in effect between it and the University, as applicable.

The following provisions are from the Federal Acquisition Regulations (FAR), which are [available online](#). (NOTE: These FAR clauses may have applicability only when the Purchase Order is at or in excess of a certain dollar threshold, shown in parentheses, or under certain circumstances.)

| FAR Citation | Title   |
|--------------|---|
| 52.203-6     | Restrictions on Subcontractor Sales to the Government (\$100,000)                     |
| 52.203-7     | Anti-Kickback Procedures except Subparagraph (c)(1) (\$100,000)                       |
| 52.203-12    | Limitation on Payments to Influence Certain Federal Transactions (\$100,000)          |
| 52.204-2     | Security Requirements (applicable if access to classified material is involved) (\$0) |
| 52.215-2     | Audit and Records -- Negotiation (\$100,000)  |

| <b>FAR Citation</b> | <b>Title</b>  |
|---------------------|---|
| 52.215-10           | Price Reduction for Defective Cost or Pricing Data (\$550,000)  |
| 52.215-12           | Subcontractor Cost or Pricing Data (\$550,000)  |
| 52.215-13           | Subcontractor Cost or Pricing Data -- Modifications (\$550,000)   |
| 52.215-14           | Integrity of Unit Prices (\$100,000)  |
| 52.219-8            | Utilization of Small Business Concerns (\$100,000)  |
| 52.219-9            | Small Business and Small Disadvantaged Business Subcontracting Plans (Large Businesses) (\$650,000)                                 |
| 52.219-16           | Liquidated Damages -- Subcontracting Plan (\$650,000)   |
| 52.222-4            | Contract Work Hours and Safety Standards Act -- Overtime Compensation (\$100,000)   |
| 52.222-21           | Prohibition of Segregated Facilities (\$10,000)   |
| 52.222-26           | Equal Opportunity (\$10,000)  |
| 52.222-35           | Affirmative Action for Disabled Veterans and Veterans of the Vietnam Era (\$25,000)   |
| 52.222-36           | Affirmative Action for Workers with Disabilities (\$10,000)   |
| 52.222-37           | Employment Reports on Disabled Veterans and Veterans of the Vietnam Era (\$25,000)  |
| 52.223-2            | Clean Air and Water (applicable on orders issued under contracts solicited and issued prior to February 25, 2000)                   |
| 52.223-6            | Drug-Free Workplace (for individuals, \$0; for non-individuals, \$100,000)  |
| 52.223-7            | Notice of Radioactive Materials (applicable if radioactive materials are involved) (\$0)  |
| 52.223-14           | Toxic Chemical Release Reporting (\$100,000; N/A for acquisition of commercial items)   |
| 52.224-2            | Privacy Act (applicable if vendor is supplying design, development, or operation of a system of records on individuals) (\$0)       |
| 52.225-3            | Buy American Act - Free Trade Agreements - Israeli Trade Act (\$0)  |
| 52.225-13           | Restrictions on Certain Foreign Purchases (\$2,500)   |
| 52.226-1            | Utilization of Indian Organizations and Indian-Owned Economic Enterprises (\$0)   |
| 52.227-1            | Authorization and Consent (applicable if in excess of the simplified acquisition threshold)   |
| 52.227-2            | Notice and Assistance Regarding Patent and Copyright Infringement (applicable if in excess of the simplified acquisition threshold) |
| 52.227-10           | Filing of Patent Applications -- Classified Subject Matter (\$0)  |
| 52.227-11           | Patent Rights -- Retention by the Contractor (Short Form) (\$0)   |
| 52.227-14           | Rights in Data - General (\$0)  |
| 52.230-5            | Cost Accounting Standards -- Educational Institutions (\$500,000)   |



| FAR Citation | Title  |
|--------------|--|
| 52.230-6     | Administration of Cost Accounting Standards (\$500,000)  |
| 52.244-6     | Subcontract for Commercial Items and Commercial Components (\$0; non-commercial supplies or services)  |
| 52.245-5     | Government Property (Cost Reimbursement, Time-and-Materials, or Labor-Hour Contracts) (paragraph "g" Limited risk of loss is not applicable) (\$0) |
| 52.247-63    | Preference for U.S.-Flag Air Carriers (\$100,000)  |
| 52.247-64    | Preference for Privately Owned U.S.-Flag Commercial Vessels (\$0)  |

In addition, if federal funds through a contract from an agency of the Department of Defense are involved, the following Department of Defense Federal Acquisition Regulations (DFAR) clauses apply. DFAR clauses are [available online](#).

(NOTE: These DFAR clauses may have applicability only when the Purchase Order is at or in excess of a certain dollar threshold, shown in parentheses, or under certain circumstances.)

| DFAR Citation | Title  |
|---------------|--|
| 252.203-7001  | Prohibition on Persons Convicted of fraud or Other Defense-Contract Related Felonies (not applicable for commercial items) (applicable if at or in excess of the simplified acquisition threshold)                                   |
| 252.209-7000  | Acquisition from Subcontractors Subject to On-Site Inspection Under the Intermediate Range Nuclear Forces (INF) Treaty (applicable if at or in excess of The simplified acquisition threshold) (not applicable for commercial items) |
| 252.227-7013  | Rights in Technical Data -- Noncommercial Items (\$0)  |
| 252.227-7014  | Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation  |
| 252.227-7034  | Patents - Subcontracts (\$0, for experimental, developmental, or research work to be performed by other than a small business firm or non-profit organization)   |
| 252.231-7000  | Supplemental Cost Principles (\$0)   |

In addition, if federal funds through a contract from the National Aeronautic and Space Administration (NASA) are involved, the following NASA Supplemental Federal Acquisition Regulations (FAR) clauses apply. [NASA clauses are available online](#).

(NOTE: These NASA clauses may have applicability only when the Purchase Order is at or in excess of a certain dollar threshold, shown in parentheses, or under certain circumstances.)

| NASA Citation | Title   |
|---------------|---|
| 1852.208-81   | Restrictions on Printing and Duplicating, Oct 2001 (\$0)  |
| 1852.219-74   | Use of Rural Area Small Businesses, Sept 1990 (\$0)   |
| 1852.219-75   | Small Business Subcontracting Reporting, May 1999 (\$500,000)   |
| 1852.223-70   | Safety and Health, April 2002 ((1) Amount to \$1,000,000 or more (unless Contracting Officer makes a written determination, after consultation with installation safety and health representatives, that this is not required); (2) |

| NASA Citation | Title   |
|---------------|---|
|               | Require construction, repair, or alteration in excess of \$25,000; or (3) Regardless of dollar amount, involve the use of hazardous materials or operations.) |
| 1852.227-70   | New Technology, May 2002 (\$0, for the performance of experimental, developmental, or research work)  |
| 1852.227-71   | Designation of New Technology Representative and Patent Representative, July 1997 (\$0)   |
| 1852.244-70   | Geographic Participation in the Aerospace Program, Apr 1985 (\$100,000)   |

### 30. Federal Flowdown Provisions for Federally Funded Grants

The University of Colorado has entered into an Agreement with either the U.S. Government, or another entity who has itself entered into an Agreement with the U.S. Government. That Agreement requires that certain federal grant provisions be made a part of any subsequent Purchase Order issued by the University of Colorado related to furthering the performance or deliverables required under that Agreement.

Where necessary to make the context of these provisions applicable to this order, the term "contractor" shall mean "seller," the term "contract" shall mean "this order," and the terms "Government," "contracting officer," and equivalent phrases shall mean "the University." Seller hereby agrees to flowdown the applicable clauses to its lower-tier subcontractors, and agrees that the clauses are in effect between it and the University, as applicable.

Performance by the seller under this Purchase Order constitutes certification that the seller is presently in compliance with, and will continue to comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) and Executive Orders Numbers 12549 and 12689, all as described below.

#### Equal Employment Opportunity

All contracts shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

#### Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c)

All contracts and subgrants in excess of \$2000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

#### Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7)

When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction").

Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

#### **Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333)**

Where applicable, all contracts awarded by recipients in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 1/2 times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

#### **Rights to Inventions Made Under a Contract or Agreement**

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

#### **Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended**

Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

#### **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)**

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

#### **Debarment and Suspension (E.O.s 12549 and 12689)**

No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and

12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contracts declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

#### **Access to Records (OMB Circular A-110, .48(d))**

All negotiated contracts (except those for less than the small purchase threshold) awarded by recipients shall include a provision to the effect that the recipient, the Federal awarding agency, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the contractor which are directly pertinent to a specific program for the purpose of making audits, examination, excerpts and transcriptions.

#### **31. Security Badging**

All costs and time associated with obtaining a University security badge for Contractor employees working on campus shall be borne by the Contractor.