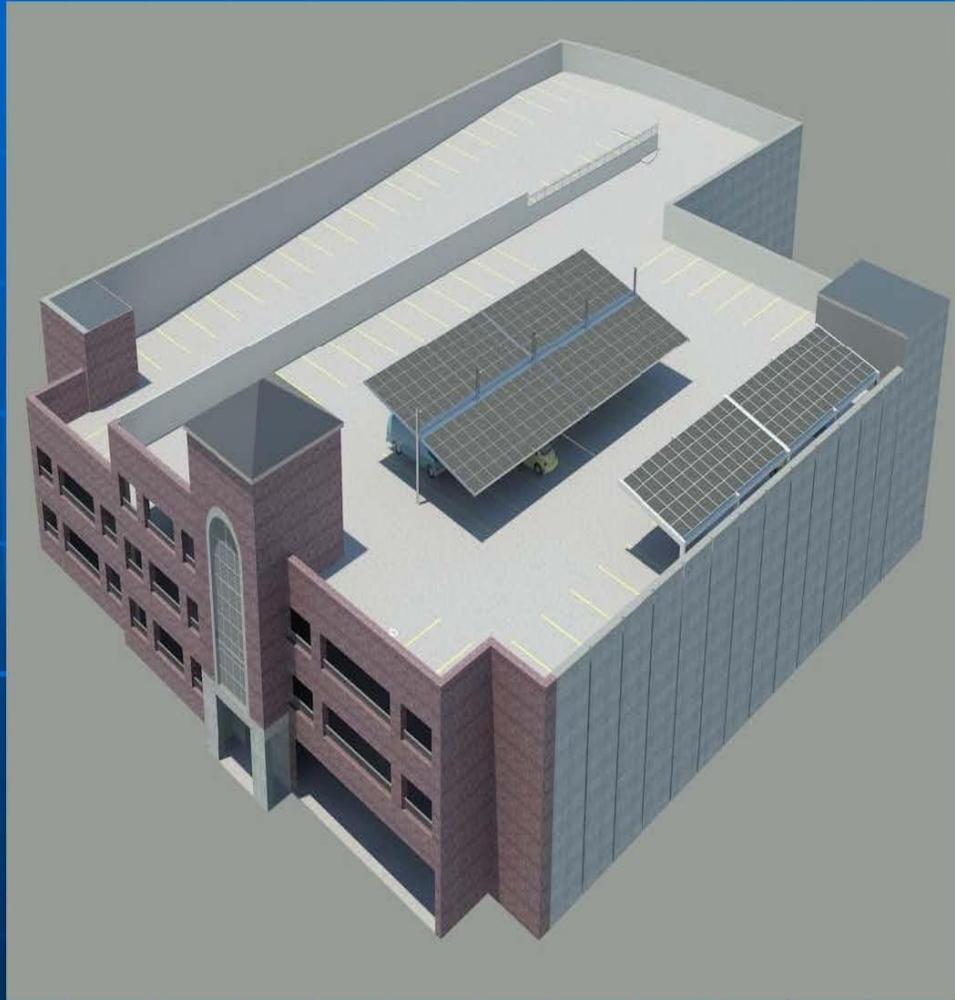


City of Concord – Solar Canopy Application



NC Main Street Energy Grant, Round II

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REQUEST FOR PROPOSALS (RFP) TO DESIGN AND CONSTRUCT A CANOPY WITH SOLAR PANELS ON THE TOP FLOOR OF THE MUNICIPAL PARKING DECK

1. INTRODUCTION

The City of Concord was awarded \$245,482 by the NC Department of Commerce, Energy Office to install solar PV panels mounted on canopies on the top floor of the Municipal Parking Deck located at 30 Cabarrus Avenue, West in Downtown Concord. The grant requires a 1 to 1 cash match. The City will lease the parking spaces at a very small fee (\$600 first year, \$300 every year thereafter) to a private investor who will own the system and provide the required match. The system owner will be responsible for all maintenance and insurance of the system. The system owner will allow cars to park under the canopy system.

The project is being funded in conjunction with the State Energy Program Main Street Energy Grant Fund, Round II by the American Recovery and Reinvestment Act (ARRA) of 2009 through the NC State Energy Office State Energy program. All provisions of this grant contract between the City of Concord and the State Energy Office flow down to the selected contractor for the RFP. The grant general terms and conditions (exhibit 7) and the DOE award agreement (exhibit 8) is attached to this document. The awarded proposer and all subcontractors must follow all of the requirements set forth by the grant.

The City of Concord is an electric provider. The City has a purchase power agreement with Duke Power. In this agreement Duke is covering Concord 100% of its renewable mandate outlined in Senate Bill 3. The City of Concord does not have an appetite for renewable energy credits because of this agreement, but will be purchasing power that is generated by the panels.

Time is of the essence. The selected company must be capable of completing the project within 120 days from the award. All work will be turn key from design to installation and connection to the City electric system.

2. PARKING DECK INFORMATION

The Municipal Parking Deck was completed in 2002 and contains 344 parking spaces, 3,251 sq. ft. of storage and 1,114 sq. ft of office space that is occupied by Concord Downtown Development Corporation. The canopies and PV panels will be mounted on the top floor of the parking deck. The architect for the parking

deck was Morris-Berg Architecture in Charlotte. The selected firm will be responsible for coordinating wind loads and methods of attaching the canopies to the deck with Morris-Berg.

3. INFORMATION TO BE SUBMITTED for RFP

- a. Experience of the Proposer that will lead the project. All team members should be identified as well as their credentials. Include the office location for all team members.
- b. The approximate size of PV panels that would be installed assuming a 1 for 1 match for a total project cost of not less than \$490,964. The size should be broken down into canopy square feet, solar panel square feet, number of panels and kW produced. The minimum output expected to be generated is 70,560 kilowatt hours annually.
- c. Information on the products that will be provided and where they are manufactured and/or assembled. Must also specify all warranties for materials and guarantees of workmanship.
- d. The estimated time frame after award to complete the project.
- e. A turn key budget is to be submitted detailing the cost associated with the installation of the proposed PV system.
- f. The strategy and experience of the company to attract an investor that will match the grant as well as own the system.
- g. Company experience complying with ARRA requirements and state and local codes.
- h. Drawings, renderings or engineered plans depicting the location and design of the canopy and solar panels. The awarded proposer will be expected to detail how the system will meet all applicable snow and wind loads.

Organization of Proposals

- Cover Letter – Each proposal shall be accompanied by a letter of interest printed on respondent's letterhead and signed by a principle of the responding company.
- Respond to questions a through h above. Responses should be no more than two pages long per question.

- Other Attachments
 1. Promotion materials or work product that would demonstrate experience and qualifications. (Maximum of five pages or three documents)
 2. Designs, renderings or plans for the panels to be installed on the deck.
 3. Three to five references.

4. RFP DELIVERY INSTRUCTIONS:

- All copies should be printed double sided when possible.
- Paper clips and staples are acceptable. Do not send proposals in plastic report covers, plastic dividers, vinyl sleeves or OBC binding.
- Materials should be submitted in a format which allows for easy removal and recycling of materials.
- Envelopes should be clearly marked “**RFP for Development of Solar Panels at City of Concord Municipal Parking Deck**”

PROPOSAL DEADLINE:

Due Date: **June 28, 2011**

Time: **2:00 p.m. EST**

In all cases and regardless of delivery method, delivery of proposals by the specified date and time are the sole responsibility of the submitter. Proposals not submitted prior to the expiration date and time, regardless of reason, will be rejected.

Mailing Instructions:

Mail two copies of the proposal in one envelope and addressed shown below:

Delivered in Person To
 City of Concord
 Atten: Steve Osborne
 Planning Department
 66 Union St, South (Second Floor)
 Concord, NC 28025

Delivered by US Postal Service
 City of Concord
 Atten: Steve Osborne
 Planning Department
 PO Box 308
 Concord, NC 28026

Questions may be directed to Steve Osborne, Deputy Planning Director, via email at osbornes@ci.concord.nc.us or 704-920-5132. No questions will be answered

after June 17, 2011 and the response to any question asked will be sent to all known proposers. Staff will be available to meet on site at the top floor of the parking deck on June 14, 2011 at 10:00 a.m. to answer questions.

Firms should have no contact related to this project with elected officials or City staff other than staff identified above with the City of Concord. Any such contact will subject the firm to immediate disqualification for consideration for this project.

If a Proposer discovers any significant ambiguity, error, conflict, discrepancy, omission or other deficiency in this RFP, the Proposer should immediately notify the City of Concord contact person of such error and request modification or clarification of the RFP. In the event it becomes necessary to provide additional data or information, or to revise any part of this RFP, the City will issue all revisions in a written supplement or addendum. Each proposer is responsible for ensuring that its proposal reflects any and all revisions that are issued.

5. EVALUATION OF PROPOSALS

All proposals shall be evaluated based on the evaluation criteria outlined below. A selection committee shall be established and will be responsible for overseeing the process and making a recommendation for approval. The selection committee shall determine a score that will be used as a guide to award the contract. The selection committee may consider unacceptable any proposal for which critical information is lacking or the submission represents a major deviation from the RFP.

6. EVALUATION FACTORS

The following evaluation factors shall be used in determining the competitive range, with a possible score of 100 points.

Experience and Qualifications 20
points

- Demonstrated the experience in management, design, construction and installation of solar PV systems.
- Degree of the team's familiarity with federal ARRA requirements as well as state and local codes/ordinances pertaining to the installation of a canopy with solar panels and their connection to the City's electric system.

Products to be Used 20
points

- Must demonstrate the efficiency, reliability and warranty of the proposed PV panels. The panels must meet all ARRA requirements.

Design 20
points

- Does the company adequately detail the proposed design of the solar canopy and panel's? Do the renderings and/or past examples illustrate the companies proposed product and the method of constructing?

Ability to Obtain Match 20
points

- Demonstrate the relationship/approach/plan for attracting the required match.

Approach / Innovativeness / Time 15
points

- The degree to which the proposer demonstrates that the team can solve problems.
- The degree of which the proposer demonstrates experience in providing minority or women owned business participation and efforts to hire from within the local community.
- The anticipated length of time to complete the project from award.

Presentation/Packaging 5 points

The RFP's will be reviewed by City of Concord Planning and Electric Departments staff and a recommendation of award will be made to City Council for approval. The award is expected to be made at the July 9 City Council meeting. Recommendations will be based on meeting the above stated evaluation criteria.

The City reserves the right to reject any and all proposals.

7. INSURANCE:

The Proposer shall be prepared to carry and maintain in full force and effect for the duration of the contract, and any supplements thereto, the insurance specified below. The Proposer will be expected to submit to the City a certificate of insurance at the time of contract signing. Should the Proposer not document insurance coverage, the City has and maintains the right to consider the firm non-responsive, and to terminate contract negotiations.

Insurance similar to that required by the Proposer shall be provided by or on behalf of all subcontractors to cover its operation(s) performed under any contract.

The insurance coverage under such policy or policies shall not be less than specified herein:

Worker’s Compensation - \$100,000 each accident, \$500,000 bodily injury by disease, \$500,000 bodily injury by disease policy limit.

General Liability - \$1,000,000 per occurrence / \$2,000,000 aggregate

Automobile Liability - \$500,000 per occurrence

Umbrella - \$1,000,000 per occurrence

All insurance is required to list the City as additionally insured.

8. Bonds

Performance Bond – A surety bond is required in the sum of one hundred percent (100%) of the amount on which the award of the Contract is to be based, and guaranteeing the faithful performance of the Contract. The surety company shall be acceptable to the City and licensed to do business in the State of North Carolina.

Payment Bond – A payment bond is required in the sum of one hundred percent (100%) of the amount on which the award of the Contract is to be based and guaranteeing the payment of all labor, material, and rental cost. The surety company shall be acceptable to the City and licensed to do business in the State of North Carolina.

9. Proposer Agrees That:

He/she will not discriminate against any person in the performance of work associated with this project because of race, religion, color, sex, national origin, ancestry, or physical handicap.

It shall be understood that any proposal and any/all referencing information submitted in response to this Request for Proposals shall become the property of the City of Concord and will not be returned.

The City will not be responsible for any expenses incurred by any vendor in the development of a response to the RFP.

FEDERAL CONTRACT PROVISIONS

By submission of a proposal, Proposer agrees to comply with the following provisions as/when they pertain to the project. Not all of these provisions apply in every case. However, failure to comply with any and all provisions herein when required may be cause for the City to issue a cancellation notice to the solar provider.

Reporting Requirements

The Proposer is notified that this project will be financed with American Recovery and Reinvestment Act of 2009 (hereafter, ‘ARRA’) Funds. The Proposer shall ensure that all subcontracts and other contracts for goods and services for ARRA-funded project have the mandated provisions of this directive in their contracts.

Pursuant to Title XV, Section 1512 of the ARRA, the state shall require that the Proposer provide reports and other employment information as evidence to document the number of jobs created or jobs retained by this contract from the Company’s own workforce and any sub-contractors. No direct payment will be made for providing said reports, as the cost for same shall be included in the various items in the contract.

For reporting purposes, all Contractors 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.”

Posting with the Local Employment Security Commission

In addition to any other job postings the Proposer normally utilizes, the Office of Economic Recovery & Investment (hereinafter, "OERI") requires that Contractors associated with the project shall post with the local Employment Security Commission Office all positions for which he intends to hire workers as a result of being awarded this contract. Labor and semiskilled positions must be posted for at least 48 hours before the hiring decision. All other positions must be posted a minimum posting of five days before the hiring decision. The Contractor and any Subcontractor shall report the new hires in the manner prescribed by the Employment Security Commission and the OERI in the format provided to the Contractor.

Required Contract Provision to Implement ARRA Section 902

Section 902 of the ARRA requires that each contract awarded using ARRA funds must include a provision that provides the U.S. Comptroller General and his representatives with the authority to:

- (1) Examine any records of the contractor or any of its subcontractors, or any State or local agency administering such contract, that directly pertain to, and involve transactions relating to, the contract or subcontract; and
- (2) Interview any officer or employee of the contractor or any of its subcontractors, or of any State or local government agency administering the contract, regarding such transactions.

Accordingly, the Comptroller General and his representatives shall have the authority and rights prescribed under Section 902 of the ARRA with respect to contracts funded with recovery funds made available under the ARRA. Section 902 further states that nothing in 902 shall be interpreted to limit or restrict in any way any existing authority of the Comptroller General.

Authority of the Inspector General Provision

Section 1515(a) of the ARRA provides authority for any representatives of the United States Inspector General to examine any records or interview any employee or officers working on this contract. The contractor is advised that representatives of the Inspector General have the authority to examine any record and interview any employee or officer of the contractor, its subcontractors or other firms working on this contract. Section 1515(b) further provides that

nothing in this section shall be interpreted to limit or restrict in any way any existing authority of an Inspector General.

Buy American Provision

Section 1605 of the ARRA requires that iron, steel and manufactured goods used in public buildings or public works projects be manufactured in the United States. Contractor agrees to abide by this provision and shall maintain records of such purchases for inspections by authorized agents of the State of North Carolina and federal agencies. The contractor must obtain written exception from this provision from the agency issuing the contract.

Wage Rate Provision

Section 1606 of the ARRA requires that all laborers and mechanics employed by contractors and subcontractors with funds from the ARRA shall be paid wages at rates not less than the prevailing wage rate under the Davis-Bacon Act. The Proposer agrees that by the submission of a proposal in response to a solicitation funded in whole or in part with recovery funds, continuous compliance will be maintained with the Davis-Bacon Act. The general wage decision for Cabarrus County and payroll form are attached hereto.

Availability and Use of Funds

Proposer understands and acknowledges that any and all payment of funds or the continuation thereof is contingent upon funds provided solely by ARRA or required state matching funds. Pursuant to Section 1604 of the ARRA, contractors agree not to undertake or make progress toward any activity using recovery funds that will lead to the development of such activity as casinos or other gambling establishments, aquariums, Zoos, golf courses, swimming pools or any other activity specifically prohibited by the Recovery Act.

Whistleblower Provisions

Proposer, contractors and its subcontractors understand and acknowledge that Article 14 of Chapter 124, NCGS 126-84 through 126-88 (applies to the State and state employees), Article 21 of Chapter 95, NCGS 95-240 through 85-245 (applies to anyone, including state employees), and Section 1553 of the Recovery Act (applies to anyone receiving federal funds), provide protection to State, Federal and contract employees. Specifically, the Recovery Act provides that an employee of any non-Federal employer receiving Recovery Act funds, 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 management of an agency contract or grant relating to covered funds;
- a gross waste of covered fund
- 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
- as 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.

Any employer receiving Recovery Act funds 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.111-5, www.recovery.gov for specific requirements of this section and prescribed language for the notices.). A form of the notice that meets the requirements of this section is located at the following internet address:

<http://www.recovery.gov/Contact/ReportFraud/Documents/Whistleblower+Poster.pdf>

Outsourcing outside the USA without Specific Prior Approval Provision

Proposer agrees not to use any recovery funds from a contract or any other performance agreement awarded by the State of North Carolina, its agencies, or political subdivisions for outsourcing outside of the United States, without prior written approval from the agency issuing the contract.

Federal, State and Local Tax Obligations

By submission of a proposal, all companies, contractors and subcontractors assert and self-certify that all Federal, State and local tax obligations have been or will be satisfied prior to receiving recovery funds.

Anti-Discriminations and Equal Opportunity

Pursuant to Section 1.7 of the guidance memorandum issued by the United States Office of Management and Budget on April 3, 2009, recovery funds must be distributed in accordance with all anti-discrimination and equal opportunity statutes, regulations and Executive Orders pertaining to the expenditure of funds.

Office of State Budget and Management Access to Records

OERI requires that the contractor and subcontractor agree to allow the Office of State Budget and Management internal auditors and state agency internal auditors access to records and employees pertaining to the performance of any contract awarded by public agency.

Use of Recovery Funds for Travel

Proposer, contractors and its subcontractors are specifically prohibited from using Recovery Act funds for travel outside the service area or county in which the project is located. The exceptions are for travel specifically mandated by the Recovery Act or approved by the senior management of the State Energy Office.

National Historic Preservation Act (NHPA) – Section 106

The project has already undergone NHPA review and no special provisions were placed on this project.

Historically Underutilized Businesses (HUB):

The City of Concord encourages participation by all businesses that fall into any of the following categories: Minority Owned Business; Disabled Owned Business; Woman Owned Business; Disabled Business Enterprise; Non Profit Work Center.

Please indicate on your RFP if your company or a subcontractor is registered with a HUB office or if your company or subcontractor qualifies as a Historically Underutilized Business.

Exhibit 1- Municipal Parking Deck: Current Conditions







Exhibit 2- Municipal Parking Deck: City Staff Concept Renderings (For Illustration Only)







(structural, excluding metal buildings, metal roofs, metal sheeting, metal siding, and overhead doors).....\$ 15.00	4.09	
Laborers:		
Fence erector.....\$ 9.76	.82	
General.....\$ 8.64	1.10	
Landscape.....\$ 7.70	.48	
Mason tender (brick only)..\$ 9.52		
Painter		
_(does not include drywall finishing & steel painting).....\$ 11.08	.86	
Pipefitter		
_(fire sprinkler systems)...\$ 13.08	1.86	
(HVAC piping only).....\$ 14.12	2.59	
Plumber		
(does not include HVAC piping).....\$ 15.14	2.76	
Roofer		
_(does not include metal buildings & metal roofs)..\$ 9.76		
(metal roofs only).....\$ 12.85	1.49	
Sheet metal worker		
_(HVAC duct work, only)....\$ 13.80	2.41	
Soft floor layer.....\$ 13.86		
Tile setter.....\$ 15.71	1.31	
Truck drivers:		
Dump.....\$ 11.15	.95	
Semi.....\$ 14.25	1.79	
Drywall hanger.....\$ 13.41		
Waterproofer.....\$ 11.02		
Drywall Finisher/Taper.....\$ 13.71		
EXTERMINATOR.....\$ 12.00	2.51	
HVAC-Heating & A/C Mechanic (setting & wiring units only).....\$ 13.65		1.71
INSTALLER - OVERHEAD DOOR.....\$ 15.88	2.14	
Insulator		
_(foam only).....\$ 10.00	.60	
Metal Building Installer		
_(foundations & roofs only)..\$ 10.47	1.88	

Power equipment operators:

_ Backhoe.....	\$ 13.03	
_ Crane.....	\$ 14.77	.60
_ Dozer.....	\$ 12.53	1.78
_ Grader.....	\$ 13.18	
_ Loader.....	\$ 12.14	
_ Roller.....	\$ 10.00	.98
_ Scraper.....	\$ 12.00	2.89
_ Tractor.....	\$ 9.50	

Sheeting installer
(metal building sheets
only).....\$ 11.00

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.

Unlisted classifications needed for work not included within
the scope of the classifications listed may be added after
award only as provided in the labor standards contract clauses
(29CFR 5.5 (a) (1) (ii)).

In the listing above, the "SU" designation means that rates
listed under the identifier do not reflect collectively
bargained wage and fringe benefit rates. Other designations
indicate unions whose rates have been determined to be
prevailing.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can
be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on
a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests
for summaries of surveys, should be with the Wage and Hour
Regional Office for the area in which the survey was conducted
because those Regional Offices have responsibility for the
Davis-Bacon survey program. If the response from this initial
contact is not satisfactory, then the process described in 2.)
and 3.) should be followed.

With regard to any other matter not yet ripe for the formal
process described here, initial contact should be with the
Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division

U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

=====

END OF GENERAL DECISION

Exhibit 4

Know Your Rights Under the Recovery Act!

Did you know?

The American Recovery and Reinvestment Act of 2009¹ provides protections for certain employees of non-federal employers who make specified disclosures relating to possible fraud, waste and/or abuse of Recovery Act funds.

Who is protected?

Employees of non-federal employers receiving recovery funds. This includes State and local governments, contractors, subcontractors, grantees or professional membership organizations acting in the interest of recovery fund recipients.

How are Whistleblowers Protected?

You cannot be discharged, demoted or otherwise discriminated against as a reprisal for making a protected disclosure.

What types of disclosures are protected?

The disclosure must be made by the employee to the Recovery 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, a court or grand jury, or the head of a federal agency or his/her representatives.

The disclosure must involve information that the employee believes is evidence of:

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

Take Action!

Log on to Recovery.gov for more information about your rights and details on how to report at www.recovery.gov.

¹ Section 1553 of Division A, Title XV of the American Recovery and Reinvestment Act of 2009, P.L. 111-5

Exhibit 5 - Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions

1. By signing and submitting this document, **the prospective lower tier participant** is providing the certification set out below.
2. The certification in this clause is a material representation of the fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the State and/or federal government, the department or agency with which this transaction originates may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principal,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549, 45 CFR Part 76.

4. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter any lower tier covered transaction with a person who is debarred, suspended, determined ineligible or voluntarily excluded from participation in this covered transaction unless authorized by the department or agency with which this transaction originated.
5. The prospective lower tier participant further agrees by submitting this document that it shall include the clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
6. A participant in a covered transaction shall rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency of which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List.
7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for transactions authorized in paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the State and/or federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension, and/or debarment.

The government, the department or agency with which this transaction originated may pursue available remedies, including suspension, and/or debarment.

(see <http://www.pandc.nc.gov/actions.asp> for the N.C. list and <https://www.epls.gov/> for the federal list)

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions - Continued

1. The prospective lower tier participant certifies, by submission of this document, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, nor voluntarily excluded from participation in this transaction by any State and/or federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Signature Title

Building Address

Exhibit 6

State Grant Certification – No Overdue Tax Debts

Instructions: Grantee should complete this certification for all state funds received. Entity should enter appropriate data in the yellow highlighted areas. The completed and signed form should be provided to the state agency funding the grant to be attached to the contract for the grant funds. A copy of this form, along with the completed contract, should be kept by the funding agency and available for review by the Office of State Budget and Management. If you have questions, contact: Grants Reporting, Office of State Budget and Management, 919-807-4795.

Entity’s Letterhead

[Date of Certification (mmdyyyy)]

To: State Agency Head and Chief Fiscal Officer

Certification:

We certify that the [insert building owner name, address] does not have any overdue tax debts, as defined by N.C.G.S. 105-243.1, at the federal, State, or local level. We further understand that any person who makes a false statement in violation of N.C.G.S. 143C-6-23(c) is guilty of a criminal offense punishable as provided by N.C.G.S. 143-34(b).

Sworn Statement:

[Name of Building Owner or Business Owner] and [Name of Second Authorizing (Building Owner, Business Owner, or other entity) being duly sworn, say that we are the [Building Owner or Building Owner] and [Title of the Second Authorizing Official], respectively, of [insert address of building] of [City] in the State of [Name of State]; and that the foregoing certification is true, accurate and complete to the best of our knowledge and was made and subscribed by us. We also acknowledge and understand that any misuse of State funds will be reported to the appropriate authorities for further action.

Building Owner/Business Owner

[Title of Second Authorizing Official]

Sworn to and subscribed before me on the day of the date of said certification.

(Notary Signature and Seal)

My Commission Expires: _____

If there are any questions, please contact the North Carolina Office of State Budget and Management:

NCGrants@osbm.nc.gov - (919) 807-4795

Exhibit 7 – General Terms and Conditions

- 1. Source and Availability of Funds.** Funding for the Award is provided through the American Recovery and Reinvestment Act of 2009, Public Law 111-5 (Feb. 13, 2009) (“ARRA”) through grants by the United States Department of Energy (“DOE”) to the North Carolina Department of Commerce (“Agency”), State Energy Office (the “SEO). Any and all payment of Award funds or the continuation thereof is contingent upon funds for this purpose being provided solely by ARRA. The Parties agree and understand that the payment of any Award is dependent and contingent upon and subject to the appropriation, allocation, and availability of funds for this purpose to the Agency.
- 2. Conflicting Provisions.** To the extent that any provision of the Grant Agreement is determined to be in contradiction of, or in conflict with any Federal or State law or regulation, the Federal or State law or regulation, shall control. All applicable Federal and State laws and regulations are incorporated herein by reference.
- 3. Duties of the Grantee.** The Grantee shall perform all work described in Grantee’s Proposal, as the same may be amended by mutual written agreement of the Parties, by December 31, 2011. Grantee shall perform additional duties of the Grant Agreement, including the reporting and auditing requirements of the Grant Agreement, on the schedule and in the manner provided in the specific provisions of the Grant Agreement.
- 4. Payment Provisions.** No later than the fifth calendar day of each month during the effective period of the Grant Agreement (even if no reimbursement is requested for a given month), the Grantee shall submit to the Agency a reimbursement request in the form and manner prescribed by the Agency for approval by the Agency. The Agency shall pay to the Grantee within 30 days from the receipt of any invoice an amount equal to all costs eligible for payment under this Grant Agreement and applicable laws and regulations. However, the Agency will not make any payment to the Grantee if the Grantee has not fulfilled all reporting obligations owed to the Agency at any time payment to the Grantee is due. If the Grant Agreement is terminated, the Grantee shall complete a final accounting report and return any unearned funds to the Agency within 60 days of the termination date. The Agency shall have no obligation for payments based on expenditure reports submitted later than 60 days after termination or expiration of the Grant Agreement period.
- 5. Reporting Requirements.** Any Grantee who is not a public agency is subject to the reporting requirements described in Appendix F – State Grant Compliance Reporting Requirements. Additionally, Grantee is subject to federal and additional state reporting requirements related to ARRA, State Energy Program regulations, and OERI directives and must submit a report on the fifth calendar day of each month a report in the form and manner specified by the Agency to satisfy applicable reporting requirements. Grantees shall submit back up materials and supporting documentation requested by the Agency. For all work that is subject to the Davis Bacon Act and Contract Work Hours and Safety Standards Act, Grantee must submit Form WH-347 and original certified payrolls to the Agency no later than the seventh calendar day following each weekly payroll date.
- 6. Termination of Grant Agreement; Survival.** This Grant Agreement shall terminate when all obligations, including reporting obligations, of the Grantee have been fulfilled. All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive termination unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation. If, through any cause, the Grantee fails to fulfill its obligations under the Grant Agreement in a timely and proper manner, or any representation or warranty made by the Grantee is shown to be false or misleading, then the Agency shall have the right to terminate the Grant Agreement by giving written notice to the Grantee and specifying the effective date thereof. The filing of a petition for bankruptcy by the Grantee shall be an act of default under the Grant Agreement. Upon termination, the Agency’s obligation to disburse any Grant funds shall cease. In addition, the Parties may terminate the Grant Agreement by mutual consent with 60 days notice to the other Party, or as otherwise provided by law, subject to the second sentence of this paragraph 6. I
- 7. Recovery of Grant Funds.** The Grantee acknowledges and accepts the State’s absolute right in its sole discretion to withhold, discontinue, or recover in part or in full any monies awarded and/or distributed pursuant to the Grant Agreement if it is determined that the Grantee has engaged in

unlawful conduct or conduct which violates the spirit and intent of the Program, or if the Grantee fails to comply with the terms of the Grant Agreement. If an audit determines that the Grantee expended the Award improperly or that the Grantee has failed to comply with certifications, representations, warranties and covenants made for the Award, or that the Grantee has failed to keep records and provide access to such records as required by the Grant Agreement, the Grantee shall, at a minimum, be required to reimburse the Agency, and the State may pursue such other action as it deems appropriate. The federal government may also recover Award funds disbursed hereunder for failure to comply with applicable laws, regulations, the DOE Award Agreement, or directives of the Office of Economic Recovery and Investment ("OERI"), and may pursue such other action as it deems appropriate.

8. **Procurement.** Grantee acknowledges and agrees that the ARRA requires the use of competition in the implementation of procurement practices to the maximum extent possible. Grantees who are institutions of higher education, hospitals, and non-profit organizations, as those terms are defined in 10 CFR Part 600, must comply with the procurement regulations in 10 CFR 600.140 through 100.149. Grantees who are units of state or local government as those terms are defined in 10 CFR Part 600, must comply with the procurement regulations in 10 CFR 600.236. Grantees who are for-profit organizations, as those terms are defined in 10 CFR 600, must comply with the procurement regulations in 10 CFR 600.330 and 600.331. Grantees who are public agencies shall comply with all applicable North Carolina law governing the procurement of goods and services and shall further comply with additional OERI requirements regarding procurement as provided in OERI directives 3, 3a, and 3b located <http://www.ncrecover.gov/Compliance/OERIDirectives.aspx> regarding. All Grantee should see also the OERI terms and conditions in Appendix D – North Carolina Office of Economic Recovery and Investment Directives Regarding the American Recovery and Reinvestment Act of 2009 for additional procurement requirements. Grantee further acknowledges and agrees that any property purchased with funds from the Award are governed by 10 CFR 600.130 through 600.137 (institutions of higher education, hospitals, and non-profit organizations), 10 CFR 600.231 through 600.233 (state or local government), and 10 CFR 10 CFR 600.320 through 600.325 (for-profit organizations).
9. **Compliance with the Copeland "Anti-Kickback" Act (18 U.S.C 874).** Grantee and its contractors and subcontractors shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in the Grant Agreement.
10. **Compliance with Clean Water Act, Clean Air Act, Executive Order (E.O.) 11738 and EPA Regulations.** To the extent that any activity performed by the Grantee using funds awarded under this Grant Agreement is subject to the requirements of the Clean Air Act, as amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time, the Grantee and any of its contractors and subcontractors for work funded under the Grant Agreement which is in excess of \$100,000, agree to the following requirements:

- a. A stipulation by the Grantee, its contractors or subcontractors that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the List of Violating Facilities issued by the Environmental Protection Agency (EPA) pursuant to 40 CFR 15.20;
- b. Agreement by the Grantee, its contractors or subcontractors to comply with all the requirements of Section 114 of the Clean Air Act, as amended (42 USC 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended, (33 USC 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder;
- c. A stipulation that as a condition for the Award that prompt notice will be given of any notification received from the Director, Office of Federal Activities, EPA, indicating that a facility utilized or to be utilized for the Grant Agreement is under consideration to be listed on the EPA list of Violating Facilities; and
- d. Agreement by the Grantee to include or cause to be included the criteria and requirements in paragraph (a) through (d) of this section in every nonexempt sub-contract

means of enforcing such provisions.

In no event shall any amount of the assistance provided under the Grant Agreement be utilized with respect to a facility which has given rise to a conviction under Section 113(c) (1) of the Clean Air Act or Section 309(c) of the Federal Water Pollution Control Act.

- 11. No Overdue Tax Debts.** No Award will be disbursed if the Grantee has an overdue tax debt owing to the State, until the debt has been satisfied, or if any Federal, State, or local obligation has not been satisfied by the Grantee. If an overdue tax debt goes unsatisfied by the Grantee for more than six (6) months, the Grant Agreement may be declared in default and terminated at the direction of the Agency.
- 12. Record Retention.** The Grantee shall maintain records and accounts that properly document and account for the application of the Award and fulfillment of the Grant Agreement for a minimum of five (5) years after the date of the award, or until all audit exceptions have been resolved, or until resolution of any litigation, claim, negotiation, audit, disallowance action or other action involving the Grant Agreement that has been started before expiration of the five-year period, whichever is longer. Federal policy and applicable regulations regarding record retention in 10 CFR Part 600 may require that records be retained for longer than five (5) years. The Grantee shall comply with the audit policies of the State and Federal government with respect to disposition of the Award and shall comply with the certifications made as a condition of the Award. The Grantee shall provide the Agency with timely copies of reports on any audits that review the use of the Award funds.
- 13. Access to Persons and Records.** The Office of State Budget and Management, the State Auditor, and other State auditors, the Agency shall have access to persons and records of the Grantee, and the right to inspect, copy, audit, and examine all of the relevant books, records, and other documents relating to the Grant and fulfillment of the Grant Agreement for the time period specified for retention in paragraph 10 above. The Grantee shall make such records available upon demand of a duly authorized representative of the State Auditor, or the Agency. In addition, any representative of the United States Inspector General or of the Comptroller General may examine any of the Grantee's or Sub-grantees or contractor's records or records of other firms working on the project for which the Award was made. The foregoing may also interview any of the Grantee's (and Sub-grantee's and contractor's or other firm's) employee or officers working on the project for which this Award was made. Under the ARRA, the United States Inspector General and the Comptroller General have broad authority to examine records and interview employees, in order to assure that the requirements of the ARRA are met. Nothing in this section or ARRA shall be interpreted to limit or restrict in any way any existing authority of an Inspector General or the Comptroller General.
- 14. Grantee's Representations, Warranties, and Covenants.** The Grantee makes the following representations, warranties, and covenants, and acknowledges and agrees that such representations, warranties and covenants have been material to the Agency's determination that the Grantee is eligible for an Award. The Grantee further agrees that each representation and warranty shall be true, accurate and complete as of the date of the Grantee's execution and delivery to the Agency of the Grant Agreement, as of the date of submission of a request for Award disbursement, and as of the date of any disbursement of any Grant funds.
 - a. The Grantee has reviewed and understands the Grant Agreement, the Solicitation and Guidelines, and all related Program documents, and meets all of the applicable eligibility requirements for receipt of the Award.
 - b. The Grantee is as described in its Application, duly organized, validly existing and in good standing under the laws of the state of its registration, with power adequate for performing the activity for which the Award was made, and it is duly authorized to transact business in North Carolina.
 - c. The execution, delivery, and performance of the Grant Agreement are within the Grantee's power and authority, and the Grantee has duly authorized, executed and delivered the Grant Agreement, and has taken or will take, within the time frames established by the Grant Agreement, all actions reasonably necessary to carry out and give effect to the transactions contemplated by the Grant Agreement.

the Grantee in accordance with its terms, except as may be limited by bankruptcy, insolvency, or similar laws affecting creditors' rights.

- e. All statements, representations, and warranties made by or on behalf of the Grantee, and any materials furnished by or on behalf of the Grantee, the Agency or any State actor, are true, accurate and complete in all material respects, and do not contain any material misstatement of fact or omit to state a material fact or any fact necessary to make the statements contained herein or therein not materially misleading, to the best knowledge and belief of the Grantee. No change has occurred in the Grantee's condition or prospects, financial or otherwise, and no legal action is pending or, to the best of the Grantee's knowledge, threatened, that relates to the activity contemplated by the Grant Agreement or that could materially affect the Grantee's performance under the Grant Agreement.
- f. The Grantee has not received any other grant under the Program during the period covered by the Solicitation.
- g. The Grantee understands that provision of the Award does not override or excuse the Grantee's compliance with any obligations that existing laws and regulations place on the Grantee.
- h. The Grantee shall perform and abide by all commitments identified in its Application.
- i. The Grantee shall comply with all Federal, state, and local laws, ordinances, codes, rules, regulations, and licensing requirements, and DOE policy and guidance that are applicable to the conduct of its business.
- j. The Grantee is in compliance with the Grant Agreement.

28. Insurance: During the term of the Grant Agreement, the Grantee shall ensure that its contractors provide commercial insurance of such type and with such terms and limits as is reasonable and customary for businesses undertaking the type of activity to be undertaken by the Grantee. At a minimum, contractors insurance coverage shall include:

- (a) **Worker's Compensation** - The Grantee shall provide and maintain Worker's Compensation Insurance as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of \$500,000.00, covering all of Grantee's employees. The Grantee shall require any Subgrantee to provide the same coverage for any of its employees engaged in any work related to the Center.
- (b) **Commercial General Liability** - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of \$1,000,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)
- (c) **Automobile** - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles used in performance of the Contract. The minimum combined single limit shall be \$500,000.00 bodily injury and property damage; \$500,000.00 uninsured/under insured motorist; and \$25,000.00 medical payment.

The Grantee's contractors may meet its requirements of maintaining specified coverage and limits by demonstrating to the Agency that there is in force insurance with equivalent coverage and limits. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. Contractors shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or the Grant Agreement. The limits of coverage under each insurance policy maintained by the Grantee's contractors shall not be interpreted as limiting the Grantee's liability and obligations under the Grant Agreement.

15. Incorporation of Application Representations and Commitments. The Grantee's representations and commitments made in the Application or as part of the Application process are incorporated herein by reference, as if set out in full, and are deemed to be material to the Grant Agreement.

16. Waiver of Default. Failure of the Agency at any time to require performance of any term or provision of the Grant Agreement shall in no manner affect the rights of the Agency at a later date to enforce the same or to enforce any future compliance with or performance of any of the terms or provisions

hereof. No waiver of the Agency of any condition or the breach of any term, provision or representation contained in the Grant Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or of the breach of that or any other term, provision or representation.

17. **Assignment.** Grantee shall not assign any of its rights or obligations under the Grant Agreement.
18. **Choice of Law, Jurisdiction, Venue.** The validity of the Grant Agreement and all of its terms and provisions, as well as the rights and duties of the Parties, are governed by the laws of the State of North Carolina. The Grantee agrees and submits, solely for matters concerning the Grant Agreement, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Wake County, North Carolina. The place of the Grant Agreement and all transactions and agreements relating to it, and their situs and forum, shall be Wake County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.
19. **Time is of the Essence:** Time is of the essence in the performance of this Grant Agreement.
20. **Amendment:** This Grant Agreement may not be amended orally or by performance. Any amendment must be made in written form and executed by duly authorized representatives of the Agency and the Grantee, except that, from time to time, DOE issues (i) amendments and clarifications to the DOE award agreement that is the source of funding for this Grant Agreement, (ii) implementing regulations for the Program, and (iii) implementing guidance for the Program, all of which shall be binding on the Grantee without additional written amendment to this Grant Agreement. Grantee shall periodically consult the Agency and its website and the DOE Program website and the SEO website to obtain the modifications.
21. **Beneficiaries.** This Grant Agreement shall inure to the benefit of and be binding upon the Parties and their respective successors. Enforcement of the terms and conditions of the Grant Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Agency, the State Auditor and other State entities, and the Grantee, and their respective successors and assigns. Nothing contained in the Grant Agreement shall give or allow any claim or right of action whatsoever by any third person (other than the Agency, as specifically provided herein). It is the express intention of the Agency and Grantee that any person or entity, other than the Agency or the Grantee, receiving services or benefits under the Grant Agreement shall be deemed an incidental beneficiary only.
22. **No Agency Relationship.** The Grantee and its employees, officers and executives are not employees or agents of the State or any agency thereof; nor are the State, its employees, officers and executives, agents or employees of the Grantee. This Grant Agreement shall not operate as a joint venture, partnership, trust, agency, or any other business relationship.
23. **Entire Agreement.** This Grant Agreement constitutes the entire agreement between the Parties as to the matters set forth herein, and supersedes all prior agreements and understandings, both written and oral, between the Parties with respect to the subject matter hereof.
24. **Interpretation of Agreement.** Each Party acknowledges that, in executing the Grant Agreement, such Party has had the opportunity to seek the advice of independent legal counsel, and has read and understood all of the terms and provisions of the Grant Agreement. This Grant Agreement shall not be construed against any Party by reason of the drafting or preparation thereof.
25. **Severability.** If any provision or part of the Grant Agreement is held to be invalid, illegal or unenforceable, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable, and the validity, legality or enforceability of the remainder of the Grant Agreement will not in any way be affected or impaired, but shall remain in full force and effect, unless the invalidity, illegality or unenforceability completely nullifies the Grant Agreement.
26. **Limitation on State's Liability.** Neither the Agency or any State entity, department, board, or subdivision, shall be liable in any manner whatsoever to any person, other than the Grantee with respect to explicit commitments under the Grant Agreement. The Grantee's rights, if any, with respect to Award funds arise solely out of the Grant Agreement, and it has no independent right or claim to receive Award funds apart from any right or claim which may arise under the Grant Agreement.
27. **Indemnification.** The Grantee agrees to indemnify and hold harmless the SEO, the Agency, the State, and all State officers, agents and employees, from any claims of third parties arising out of any act or omission of the Grantee in connection with the performance of the Grant Agreement.

- 28. Force Majeure.** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations by any act of war, hostile foreign action, nuclear explosion, riot, strikes, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.
- 29. Contractors and sub-contractors.** Any contractor or subcontractor of the Grantee shall be subject to all applicable conditions of the Grant Agreement, including but not limited to audit requirements. The Grantee shall be responsible for the performance of all of its contractors and subcontractors and shall not be relieved of any of the duties and responsibilities of the Grant Agreement. The Grantee is responsible for ensuring that all contractors or subcontractors provide all information to the Grantee and the Agency necessary to permit the Grantee to comply with this Contract.
- 30. Headings.** The section and paragraph headings in the Grant Agreement are not material parts of the agreement and should not be used to construe the meaning thereof.
- 31. Ongoing Compliance.** The Federal Government has not fully developed ARRA implementing instructions, particularly concerning specific procedural requirements for reporting. In addition to the requirements of the ARRA, the Grantee is subject to any Federal requirements that become effective in the future, that are applicable to this Award.

Exhibit 8 – DOE Award Agreement DE-EE0000157

The Award to the Grantee is funded through DOE Award Agreement DE-EE0000157 and contains certain terms and conditions that are binding on the Grantee and are incorporated into the Grant Agreement, including the following:

- a. Special terms and conditions of DEO Award Agreement DE-EE0000157.
- b. Attachments:

Attachment No.	Title
1	Intellectual Property Provisions
2	Federal Assistance Reporting Checklist
3	Budget Page(s)
4	SEP Narrative Information Worksheets
5	Wage Determinations

- c. Applicable program regulations, 10 CFR Part 420 at <http://ecfr.gpoaccess.gov>.
- d. DOE Assistance Regulations, 10 CFR Part 600 at <http://ecfr.gpoaccess.gov>
- e. Application/proposal as approved by DOE.
- f. National Policy Assurances to Be Incorporated as Award Terms in effect on date of award at http://management.energy.gov/business_doe/1374.htm.

The Special Terms and Conditions applicable to the Grantee are provided as follows:
Note that the term “Recipient in the Special Terms and Conditions” below refers to the SEO and subrecipient or subgrantee or subawardee referee to the Grantee as that term is used in the Grant Agreement. The term “you” refers to the SEO and the Grantee. However, beginning with the section titled SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009, the DOE Award Agreement modified the definition of the term “Recipient” to include the Grantee who is a sub-recipient of funds from the SEO.

Resolution of Conflicting Conditions

Any apparent inconsistency between federal statutes and regulations and the terms and conditions contained in this award must be referred to the DOE Award Administrator for guidance.

Use of Program Income – Addition

If the Recipient earns program income during the project period as a result of this award, the Recipient may add the program income to the funds committed to the award and use it to further eligible project objectives. The right to program income, as defined by 10 CFR 600 that is generated by the Project shall vest in the SEO as the Recipient of the prime award from DOE. Grantees who wish to expand the scope of their Projects shall consult the SEO and seek a modification to the Award through a modification of the Grant Agreement. Otherwise, program income generated by the Project shall be deducted from the total Amount of the Grantee’s Award.

Statement of Federal Stewardship

DOE will exercise normal federal stewardship in overseeing the project activities performed under this award. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the award objectives have been accomplished.

Site Visits

DOE-authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required.

Grantee must provide reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

Reporting Requirements

a. Requirements. The reporting requirements for this award are identified on the Federal Assistance Reporting Checklist, DOE F 4600.2. Failure to comply with these reporting requirements is considered a material noncompliance with the terms of the award. Noncompliance may result in withholding of future payments, suspension, or termination of the current award, and withholding of future awards. A willful failure to perform, a history of failure to perform, or unsatisfactory performance of this and/or other financial assistance awards, may also result in a debarment action to preclude future awards by federal agencies.

b. Dissemination of scientific/technical reports. Scientific/technical reports submitted under this award will be disseminated on the Internet via the DOE Information Bridge (www.osti.gov/bridge), unless the report contains patentable material, protected data, or SBIR/STTR data. Citations for journal articles produced under the award will appear on the DOE Energy Citations Database (www.osti.gov/energycitations).

c. Restrictions. Reports submitted to the DOE Information Bridge must not contain any Protected Personal Identifiable Information (PII), limited rights data (proprietary data), classified information, information subject to export control classification, or other information not subject to release.

Publications

a. You are encouraged to publish or otherwise make publicly available the results of the work conducted under the award.

b. An acknowledgment of federal support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

Acknowledgment: "This material is based upon work supported by the Department of Energy under Award Number(s) *DE-EE0000157*."

Disclaimer: "This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof.

Federal, State and Municipal Requirements

You must obtain any required permits and comply with applicable federal, State and municipal laws, codes, and regulations for work performed under this award.

Intellectual Property Provisions and Contact Information

a. Nonprofit organizations are subject to the intellectual property requirements at 10 CFR 600.136(a), (c) and (d). All other organizations are subject to the intellectual property requirements at 10

CFR 600.136(a) and (c). A list of all intellectual property provisions may be found at http://www.gc.doe.gov/financial_assistance_awards.htm.

b. Questions regarding intellectual property matters should be referred to the DOE Award Administrator and the Patent Counsel designated as the service provider for the DOE office that issued the award. The IP Service Providers List is found at [http://www.gc.doe.gov/documents/Intellectual_Property_\(IP\)_Service_Providers_for_Acquisition.pdf](http://www.gc.doe.gov/documents/Intellectual_Property_(IP)_Service_Providers_for_Acquisition.pdf).

Lobbying Restrictions

By accepting funds under this award, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

Notice Regarding the Purchase of American-made Equipment and Products – Sense of Congress

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.

Preservation of Open Competition and Government Neutrality Toward Contractors' Labor Relations on Federally Funded Construction Projects

a. Unless in conflict with State or local laws, you must ensure that bid specifications, project agreement, or other controlling documents in construction contracts awarded pursuant to this agreement, or pursuant to a subaward to this agreement, do not:

1. Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or other related construction project(s); or

2. Otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction project(s).

b. The term "construction contract" as used in this provision means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.

c. Nothing in this provision prohibits bidders, offerors, contractors, or subcontractors from voluntarily entering into agreements with labor organizations.

Decontamination and/or Decommissioning (D&D) Costs

Notwithstanding any other provisions of this Agreement, the Government shall not be responsible for or have any obligation to the Recipient or subrecipients for (i) Decontamination and/or Decommissioning (D&D) of any of the recipient's facilities, or (ii) any costs which may be incurred by the recipient in connection with the D&D of any of its facilities due to the performance of the work under this Agreement, whether said work was performed prior to or subsequent to the effective date of this Agreement

Special Provisions Relating to Work Funded Under American Recovery and Reinvestment Act of 2009

Preamble

The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act) was enacted to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, stabilize state and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases. Grantee shall use grant funds in a manner that maximizes job creation and economic benefit.

Grantee shall comply with all terms and conditions in the Recovery Act relating generally to governance, accountability, transparency, data collection and resources as specified in Act itself and as discussed below.

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related guidance. For projects funded by sources other than the Recovery Act, Grantee, contractors, and subcontractors must keep separate records for Recovery Act funds and to ensure those records comply with the requirements of the Act.

The federal government has not fully developed the implementing instructions of the Recovery Act, particularly concerning specific procedural requirements for the new reporting requirements. Grantee will be provided these details as they become available. Grantee must comply with all requirements of the Act.

Definitions

For purposes of these special provisions, Covered Funds means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5. Covered Funds will have special accounting codes and will be identified as Recovery Act funds in the grant, cooperative agreement or TIA and/or modification using Recovery Act funds. Covered Funds must be reimbursed by April 30, 2012.

Non-federal employer means any employer with respect to covered funds – the contractor, subcontractor, grantee, or recipient, as the case may be, if the contractor, subcontractor, grantee, or recipient is an employer; and any professional membership organization, certification of other professional body, any agent or licensee of the federal government, or any person acting directly or indirectly in the interest of an employer receiving covered funds; or with respect to covered funds received by a state or local government, the state or local government receiving the funds and any contractor or subcontractor receiving the funds and any contractor or subcontractor of the state or local government; and does not mean any department, agency or other entity of the federal government.

Recipient means any entity that receives Recovery Act funds directly from the federal government (including Recovery Act funds received through grant, loan, or contract) other than an individual and includes a state that receives Recovery Act Funds, including the Grantee.

Special Provisions

A. Flow Down Requirement

Recipients must include these special terms and conditions in any subaward as that term is defined in 10 CFR Part 600 (i.e., sub-grant). Recipients must include only applicable special terms and conditions in

any contract as that term is defined in 10 CFR Part 600 made with funds from the award (i.e. vendor agreement).

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 state 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 contract that pertain to, and involve transactions relation to, the subcontract, subcontract, 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 Web site www.recovery.gov, maintained by the Accountability and Transparency Board. The Board may exclude posting contractual or other information on the Web site 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
- as 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. 111-5, www.Recovery.gov, for specific requirements of this section and prescribed language for the notices.). A form of the notice that meets the requirements of this section is located at the following internet address:

<http://www.recovery.gov/Contact/ReportFraud/Documents/Whistleblower+Poster.pdf>

G. Request for Reimbursement

RESERVED

H. False Claims Act

Recipient and subrecipients 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 supporting 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 state 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, certified 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 (Recovery Act) 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. Unless the SEO notifies the Grantee in writing that the SEO delegates the reporting responsibility to the Grantee, the SEO will assume responsibility for submitting these reports on behalf of Grantee; thus, Grantee shall submit its reports to the SEO no later than five calendar days after each calendar **month** in which Grantee receives the assistance award in the form designated by the SEO.

(c) Recipients and their first-tier recipients 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.

Required Use of American Iron, Steel, and Manufactured Goods (Covered Under International Agreements)—Section 1605 of the American Recovery and Reinvestment Act of 2009

The following provisions apply only to public building(s) and public work(s) as defined below:

(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 consist 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) (Recovery Act), 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 of measure	Quantity	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.]*

Recovery Act Transactions Listed in Schedule of Expenditures of Federal Awards and Recipient Responsibilities for Informing Subrecipients

(a) To maximize the transparency and accountability of funds authorized under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (Recovery Act) as required by Congress and in accordance with 2 CFR 215.21 “Uniform Administrative Requirements for Grants and Agreements” and OMB Circular A–102 Common Rules provisions, recipients agree to maintain records that identify adequately the source and application of Recovery Act funds. OMB Circular A–102 is available at <http://www.whitehouse.gov/omb/circulars/a102/a102.html>.

(b) For recipients covered by the Single Audit Act Amendments of 1996 and OMB Circular A–133, “Audits of States, Local Governments, and Non-Profit Organizations,” recipients agree to separately identify the expenditures for federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF–SAC) required by OMB Circular A–133. OMB Circular A–133 is available at <http://www.whitehouse.gov/omb/circulars/a133/a133.html>. This shall be accomplished by identifying expenditures for federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF–SAC by CFDA number, and inclusion of the prefix “ARRA-” in identifying the name of the federal program on the SEFA and as the first characters in Item 9d of Part III on the SF–SAC.

(c) Recipients agree to separately identify to each subrecipient and document at the time of subaward and at the time of disbursement of funds, the federal award number, CFDA number, and amount of Recovery Act funds. When a recipient awards Recovery Act funds for an existing program, the information furnished to subrecipients shall distinguish the subawards of incremental Recovery Act funds from regular subawards under the existing program.

(d) Recipients agree to require their subrecipients to include on their SEFA information to specifically identify Recovery Act funding similar to the requirements for the recipient SEFA described above. This information is needed to allow the recipient to properly monitor subrecipient expenditure of ARRA funds as well as oversight by the federal awarding agencies, Offices of Inspector General and the Government Accountability Office.

National Environmental Policy Act (NEPA) Requirements

You are restricted from taking any action using federal funds for projects under this award that would have an adverse effect on the environment or limit the choice of reasonable alternatives prior to DOE providing a final NEPA determination regarding these projects.

Prohibited project activities include but are not limited to:

- all boiler activities
- steam systems and waste process systems

The project activities listed above will require an individual NEPA review and determination as well as any other project that has not been determined by DOE to be categorically excluded from NEPA. You must submit an environmental questionnaire (ES-1) to the DOE Project Officer for each project activity identified above to allow DOE to conduct an individual NEPA review and determination.

If you move forward with activities that are not authorized for federal funding by the DOE Contracting Officer in advance of the final NEPA determination, you are doing so at risk of not receiving federal funding and such costs may not be recognized as allowable cost share.

If DOE determines that NEPA requires the preparation of an environmental assessment (EA) or environmental impact statement (EIS) for a project you propose, you will be responsible for paying the cost of preparing an EA or EIS. Preparation of these types of NEPA documents can require 6-24 months. Accordingly you should carefully consider whether such projects are consistent with the objectives of the ARRA and will allow the expenditure of funds within the time periods allowed for by that statute.

This restriction does not preclude you from: *performing information gathering, analysis, documentation, dissemination and training and providing technical advice and planning assistance for the activities listed above.*

Nor does this restriction preclude you from conducting the following project activities:

- Energy Audits, feasibility studies, training programs, education/outreach
- Solar Electricity /Photovoltaic – appropriately sized system or unit on existing rooftops and parking shade structures; or a 60 kW system or smaller unit installed on the ground within the boundaries of an existing facility.
- Wind turbine – 20 kW or smaller
- Solar thermal – system must be 20 kW or smaller
- Ground source heat pump – 5.5 tons of capacity or smaller, horizontal/vertical, ground, closed-loop system
- Installation of energy efficient lighting in existing buildings
- Installation of devices and systems in existing buildings to promote “Smart” energy consumption patterns.

Historic Preservation

Prior to the expenditure of federal funds to alter any structure or site, the Recipient is required to comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA), consistent with DOE's 2009 letter of delegation of authority regarding the NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. In order to fulfill the requirements of Section 106, the recipient must contact the State Historic Preservation Officer (known in North Carolina as the “North Carolina Department of Cultural Resources”) (SHPO), and, if applicable, the Tribal Historic Preservation Officer (THPO), to coordinate the Section 106 review outlined in 36 CFR Part 800. SHPO contact information is available at the following link:

<http://www.ncshpo.org/find/index.htm>. THPO contact information is available at the following link:
<http://www.nathpo.org/map.html>.

Section 110(k) of the NHPA applies to DOE funded activities. Recipients shall avoid taking any action that results in an adverse effect to historic properties pending compliance with Section 106.

Recipients should be aware that the DOE Contracting Officer will consider the recipient in compliance with Section 106 of the NHPA only after the Recipient has submitted adequate background documentation to the SHPO/THPO for its review, and the SHPO/THPO has provided written concurrence to the Recipient that it does not object to its Section 106 finding or determination. Recipient shall provide a copy of this concurrence to the Contracting Officer.

Grantee acknowledges that the SEO has entered into a Memorandum of Agreement (MOA) with the SHPO and the DOE dated May 18, 2010, governing the rights and obligations of the parties regarding Section 106 compliance. The SEO hereby assigns and the Grantee assumes the rights and obligations of the SEO under the MOA, as the same may be modified from time to time.

Davis-Bacon Act and Contract Work Hours and Safety Standards Act

Definitions: For purposes of this article, Davis-Bacon Act and Contract Work Hours and Safety Standards Act, the following definitions are applicable:

(1) "Award" means any grant, cooperative agreement or technology investment agreement made with Recovery Act funds by the Department of Energy (DOE) to a Recipient. Such Award must require compliance with the labor standards clauses and wage rate requirements of the Davis-Bacon Act (DBA) for work performed by all laborers and mechanics employed by Recipients (other than a unit of state or local government whose own employees perform the construction) Subrecipients, Contractors and subcontractors.

(2) "Contractor" means an entity that enters into a Contract. For purposes of these clauses, Contractor shall include (as applicable) prime contractors, Recipients, Subrecipients, and Recipients' or Subrecipients' contractors, subcontractors, and lower-tier subcontractors. "Contractor" does not mean a unit of state or local government where construction is performed by its own employees."

(3) "Contract" means a contract executed by a Recipient, Subrecipient, prime contractor or any tier subcontractor for construction, alteration, or repair. It may also mean (as applicable) (i) financial assistance instruments such as grants, cooperative agreements, technology investment agreements, and loans; and, (ii) Sub awards, contracts and subcontracts issued under financial assistance agreements. "Contract" does not mean a financial assistance instrument with a unit of state or local government where construction is performed by its own employees.

(4) "Contracting Officer" means the DOE official authorized to execute an Award on behalf of DOE and who is responsible for the business management and non-program aspects of the financial assistance process.

(5) "Recipient" means any entity other than an individual that receives an Award of federal funds in the form of a grant, cooperative agreement or technology investment agreement directly from the federal government and is financially accountable for the use of any DOE funds or property, and is legally responsible for carrying out the terms and conditions of the program and Award.

(6) "Subaward" means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a Recipient to an eligible Subrecipient or by a Subrecipient to a lower-tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include the Recipient's procurement of goods and services to carry out the program nor does it include any form of assistance which is excluded from the definition of "Award" above.

(7) "Subrecipient" means a non-federal entity that expends federal funds received from a Recipient to carry out a federal program, but does not include an individual that is a beneficiary of such a program.

(a) Davis-Bacon Act

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The Contracting Officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the

Contracting Officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The Department of Energy or the Recipient or Subrecipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other federal contract with the same prime contractor, or any other federally assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the Contract, the Department of Energy, Recipient, or Subrecipient, may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the Department of Energy if the agency is a party to the Contract, but if the agency is not

such a party, the Contractor will submit the payrolls to the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner, as the case may be, for transmission to the Department of Energy. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Department of Energy if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit them to the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner, as the case may be, for transmission to the Department of Energy, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 3729 of title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Department of Energy or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.

(6) Contracts and Subcontracts. The Recipient, Subrecipient, the Recipient's and Subrecipient's contractors and subcontractor shall insert in any Contracts the clauses contained herein in(a)(1) through (10) and such other clauses as the Department of Energy may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Recipient shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of the paragraphs in this clause.

(7) Contract termination: debarment. A breach of the Contract clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Recipient, Subrecipient, the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) Contract Work Hours and Safety Standards Act. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

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

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

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

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

(5) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this paragraph shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Energy and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

Recipient Functions

(1) This delegation of DOE functions to the Recipient applies only to DBA effort performed by Subrecipients and Contractors under this award. Those functions are not delegated to the Recipient for any DBA effort performed by employees of the Recipient under this award. On behalf of the DOE, Recipient shall perform the following functions:

- (a) Obtain, maintain, and monitor all DBA certified payroll records submitted by the Subrecipients and Contractors at any tier under this Award;
- (b) Review all DBA certified payroll records for compliance with DBA requirements, including applicable DOL wage determinations;
- (c) Notify DOE of any non-compliance with DBA requirements by Subrecipients or Contractors at any tier, including any non-compliances identified as the result of reviews performed pursuant to paragraph (b) above;
- (d) Address any Subrecipient and any Contractor DBA non-compliance issues; if DBA non-compliance issues cannot be resolved in a timely manner, forward complaints, summary of investigations and all relevant information to DOE;
- (e) Provide DOE with detailed information regarding the resolution of any DBA non-compliance issues;
- (f) Perform services in support of DOE investigations of complaints filed regarding noncompliance by Subrecipients and Contractors with DBA requirements;
- (g) Perform audit services as necessary to ensure compliance by Subrecipients and Contractors with DBA requirements and as requested by the Contracting Officer; and
- (h) Provide copies of all records upon request by DOE or DOL in a timely manner.

(2) All records maintained on behalf of the DOE in accordance with paragraph (1) above are federal government (DOE) owned records. DOE or an authorized representative shall be granted access to the records at all times.

(3) In the event of, and in response to any Freedom of Information Act, 5 U.S.C. 552, requests submitted to DOE, Recipient shall provide such records to DOE within 5 business days of receipt of a request from DOE