

Request for Proposal



Weatherization Assistance Program Quality Control Inspector

Issue Date: April 13, 2023

Proposal Due Date: May 11, 2023

The Alabama Department of Economic and Community Affairs (ADECA) is issuing a Request for Proposals (RFP) from interested parties for a Home Energy Professional (HEP) Quality Control Inspector certified by the Building Performance Institute, Inc. (BPI). The selected Respondent will provide quality control and technical inspection services for the Weatherization Assistance Program (WAP).

The need for a Quality Control Inspector exists through 2027; however, the term of the selected Respondent's initial contract will not exceed 24 months from the execution of the contract, with the possibility of renewal or amendment upon written agreement by both parties, subject to the availability of funding.

Issuance of this RFP in no way constitutes a commitment by ADECA to award a contract. The final terms of engagement will be set out in a contract between the selected Respondent and ADECA. Provisions of this RFP and the accepted proposal may be incorporated into the terms of the contract should ADECA so choose. The selected Respondent must be registered to do business with the State of Alabama through the STAARS Vendor Self Service (VSS). For more information, visit VSS at <http://procurement.staars.alabama.gov>.

A. OVERVIEW

The Weatherization Assistance Program is designed to help low-income residents save fuel and money while increasing the comfort of their homes and ensuring their health and safety. Eligible households are those with incomes at or below 200% of the federal poverty level. The target groups for this program are households including persons who are elderly, persons with disabilities, and families with children.

Funding is provided by the U.S. Department of Energy (DOE) through an annual allocation as well as funding through the Bipartisan Infrastructure Law (BIL). In addition, weatherization funding is provided by the U.S. Department of Health and Human Services (HHS) through the Low-Income

Home Energy Assistance Program, hereinafter referred to as the Low-Income Weatherization Assistance Program (LIWAP).

ADECA delivers weatherization services to all sixty-seven (67) counties by partnering with thirteen (13) subrecipients. A map entitled “Weatherization Regions” detailing the service area of each subrecipient can be found on ADECA’s webpage at the following link: <https://adeca.alabama.gov/weatherization/>.

The Alabama WAP network conducts energy audits/assessments using the National Energy Audit Tool (NEAT) or Manufactured Home Energy Audit (MHEA) to determine cost-effective energy efficiency measures to be installed.

The State Health and Safety Plan determines the allowable health and safety measures that may be installed. The State Standard Work Specification-Aligned Field Guide (SWS Field Guide) provides the standard for the quality of work to be installed. These documents, as well as the WAP State Plan, the BIL State Plan, and the Weatherization Operations Manual can be found on ADECA’s webpage at the following link: <https://adeca.alabama.gov/weatherization/>.

In addition, DOE issues Program Notices and Memorandums which establish the framework for administering WAP funds. Active and archived Program Notices and Memorandums can be found on DOE’s website at the following link: <https://www.energy.gov/scep/wap/weatherization-program-notices-and-memorandums>.

B. ANTICIPATED SCOPE OF WORK

Due to staffing changes, ADECA is in need of a Home Energy Professional (HEP) Quality Control Inspector certified by the Building Performance Institute, Inc. (BPI). The HEP Quality Control Inspector is supported by DOE and its National Renewable Energy Laboratory. The certification from BPI allows an individual to verify the compliance of retrofit work performed based on work plans and standards, conduct energy audits and inspections using diagnostic equipment, and develop reports that specify corrective actions to achieve whole house performance.

ADECA is requesting proposals from qualified BPI certified firms and/or individuals to provide quality control and technical inspection services for the following:

- Approximately 159 DOE/LIWAP-funded dwelling units that have been completed. The table on the following page provides the units that must be monitored per subrecipient during the contract period; and
- Approximately 160 DOE/LIWAP-funded dwelling units to be completed during program years 2023-2026. Alabama’s Weatherization program year begins April 1 and ends March 30. Scope of work also includes inspecting dwelling units that are in progress during on-site monitoring visits; and
- Approximately 400 BIL/LIWAP-funded dwelling units to be completed by 2027 as well as dwelling units that are in progress during on-site monitoring visits. Production has not commenced, but is anticipated to begin during Program Year 2023-2024.

A map entitled “Weatherization Regions” detailing the service area of each subrecipient can be found on ADECA’s webpage at the following link: <https://adeca.alabama.gov/weatherization/>.

Region No.	Subrecipient Name	Approximate Number of Completed Dwelling Units to be Monitored
1	Community Action Agency of Northwest Alabama, Inc.	4
2	Community Action Partnership Huntsville/Madison & Limestone Counties, Inc.	12
3	Community Action Agency of Northeast Alabama, Inc.	40
4	Community Action Partnership of North Alabama, Inc.	17
5	Community Service Programs of West Alabama, Inc.	12
6	Mobile Community Action, Inc.	15
7	Community Action Agency of Talladega, Clay, Randolph, Calhoun, & Cleburne Counties	9
8	Chambers-Tallapoosa-Coosa Community Action Committee, Inc.	4
9	Central Alabama Regional Planning and Development Commission	7
10	Montgomery County Commission c/o Central Alabama Regional Planning and Development Commission	5
11	Alabama Council on Human Relations, Inc.	6
12	Organized Community Action Program, Inc.	17
13	Community Action Agency of South Alabama	11
Total		159

The need for a Quality Control Inspector exists through 2027; however, the term of the selected Respondent’s initial contract will not exceed 24 months from the execution of the contract, with the possibility of renewal or amendment upon written agreement by both parties, subject to the availability of funding.

The selected Respondent shall have the following responsibilities:

1. Coordinate with ADECA to develop the schedule of all on-site subrecipient monitoring visits. It is anticipated that one or more ADECA staff members will accompany the selected Respondent on each monitoring visit.
2. Review electronic energy audit files of dwelling units inspected during monitoring visits. The Alabama WAP network conducts energy audits/assessments using the National Energy Audit Tool (NEAT) or Manufactured Home Energy Audit (MHEA) to determine cost-effective energy efficiency measures to be installed.

3. Perform comprehensive final inspections utilizing the Alabama Weatherization Operations Manual and Field Guide standards of auditing performance and review the quality of workmanship in the completed dwelling units.

Final inspections require appropriate test-out diagnostics, including but not limited to, combustion appliance zone, combustion appliance, ambient carbon monoxide, pressure pan, and fan flow testing.

Technical monitoring will be carried out using ADECA's Technical Monitoring Tool, entitled Quality Control Inspection Report, in compliance with the Alabama Weatherization Field Guide and DOE Standard Work Specifications. This tool can be found at the following link and is hereby incorporated by reference: <https://adeca.alabama.gov/weatherization/>.

4. Take digital pictures on dwelling units to document both good-quality and poor-quality work and provide pictures to ADECA.
5. Perform safety check inspections where projects are in progress. Safety inspections may include, but not be limited to, observing and interviewing workers and reporting on adherence to Occupational Safety and Health Administration (OSHA) regulations, DOE Lead Safe Weatherization requirements, worker personal protective equipment, etc., in accordance with the Retrofitting Alabama-Standard Work Specification-Aligned Field Guide.
6. Prepare written reports based on on-site inspections and observations and submit to ADECA.

C. DELIVERABLES

The deliverables for this contract include:

1. Provide written reports to ADECA within fifteen (15) days of on-site monitoring visits to each subrecipient to include a completed Quality Control Inspection Report of each dwelling unit, digital pictures of good-quality and poor-quality work, and results of any safety check inspections conducted during the visit.
2. Re-inspect previously-inspected dwelling units where appropriate, if determined necessary by ADECA, and provide a written report and digital pictures to ADECA within fifteen (15) days of re-inspection date.
3. Provide written feedback and recommendations to ADECA for program training related to field observations that may assist ADECA in identifying training and technical assistance needs and improve program services.
4. Provide written findings and concerns based on technical monitoring results and any trends identified during on-site monitoring visits.

D. MINIMUM REQUIREMENTS

The Respondent must meet the following minimum requirements to be deemed responsive to this RFP:

- Home Energy Professional (HEP) Quality Control Inspector certification from the Building Performance Institute, Inc. (BPI) required
- Experience with the Weatherization Assistance Program at local, State, or Federal level required
- Experience in the Energy or Building Performance field required
- Experience working with monitoring and/or compliance issues strongly preferred
- Knowledge of the DOE's program guidelines (Standard Work Specifications)
- Intermediate or expert knowledge of building materials, construction techniques, and home design
- Intermediate or expert knowledge of HVAC, plumbing, and electrical systems
- Basic knowledge of blueprints and diagrams
- Basic computer skills including Microsoft Word and e-mail
- Collaborative style and capable of working with a variety of individuals with diverse backgrounds, education, and economic levels

E. PROPOSAL COMPONENTS

Proposals must contain the following information:

1. **Proposal Cover Sheet:** A cover sheet to include the following:

Name of Individual, Firm or Business:

Address:

Phone Number:

Website (if applicable):

RFP Contact Person:

Title:

Email Address:

Phone:

Contract Signatory Authority:

Title:

2. **Relevant Experience:** A description of the Weatherization experience and qualifications of the Respondent. The Respondent should provide sufficient technical detail to permit a

meaningful evaluation of the proposal. Please ensure that all items identified in Section D, Minimum Requirements, are addressed.

3. **Certification:** Proof of BPI Home Energy Professional (HEP) Quality Control Inspector certification.
4. **References:** Three references for other projects which are similar in scope and/or content to the one being proposed.
5. **Budget:** All costs (travel, time, supplies etc.) involved to perform the services as described in Section B, Anticipated Scope of Work, must be included and reflected in the Respondent's fee.

The need for a Quality Control Inspector exists through 2027; however, the term of the selected Respondent's initial contract will not exceed 24 months from the execution of the contract, with the possibility of renewal or amendment upon written agreement by both parties, subject to the availability of funding. Respondents are therefore encouraged to provide budgeted amounts per project year in the Budget portion of their proposal.

Although the Respondent should include costs associated with the proposed tasks through 2027, the term of the initial contract will not exceed 24 months from the execution of the contract, with the possibility of renewal or amendment for extension of time should funding be available and upon written agreement by both parties.

The total amount to be paid by ADECA for these services through 2027 shall not exceed \$2,000,000 for full and satisfactory performance. Cost will be a rating factor, so Respondents are encouraged to provide their best price.

The template below should be used for the fee schedule should include the following:

- The description of each service (energy audit review, home inspection, monitoring report preparation, etc.)
- The fee (per subrecipient, per energy audit reviewed, per home inspection, per day, etc.)
- Budgeted amount (total)

SERVICE (Name of service provided)	FEE (Per subrecipient, per home reviewed, etc.)	BUDGETED AMOUNT

Any component of the proposal that the Respondent expects to subcontract to another entity should be clearly delineated with the associated costs and subcontractor identity.

F. PROPOSAL SUBMITTAL INSTRUCTIONS

Proposals must be emailed to RFP@adeca.alabama.gov in a single PDF document by **5:00 PM CST on May 11, 2023**. All proposals must be submitted with the subject line “Response to Weatherization QCI RFP.” Any proposals received after the deadline will not be considered. All proposals must be complete; however, ADECA reserves the right to contact any Respondent for additional information and/or clarifications.

Respondents are strongly encouraged to submit proposals in advance of the deadline.

Questions pertaining to this RFP may be emailed to derek.wilson@adeca.alabama.gov by **5:00 PM CST on April 27, 2023** to allow sufficient time for a response.

Responses to questions will be posted to ADECA’s Funding Opportunities webpage no later than **5:00 PM CST on May 4, 2023**.

ADECA reserves the right to:

- Reject any and all proposals or withdraw the RFP entirely as provided in Ala. Administrative Code § 355-4-3-.08.
- Amend the RFP. All amendments will be distributed within a reasonable amount of time per Administrative Code 355-4-3-.02(7).
- Appoint an evaluation committee to review proposals.
- Reject one or more proposed subcontractors.
- Use any or all ideas and/or approaches presented in a proposal. Selection of the proposal does not affect this right.

ADECA may conduct discussions with offerors who submit proposals determined to be reasonably susceptible of being selected for award. If held, the purpose of these discussions will be to promote a better understanding of ADECA’s requirements and/or to facilitate arriving at a contract. However, a proposal may be selected without discussion. Discussion between a respondent and ADECA does not imply any increased likelihood of selection for award.

Public Access to Information

All offers received become records of ADECA and will be open to inspection by the public after award unless exempt from disclosure under Alabama law or regulation.

If the respondent chooses to include Confidential Information, as defined by State of Alabama Department of Finance Administrative Code Chapter 355-4-1-.03, the respondent may so designate information as such and request that the information be exempt from disclosure. The respondent must clearly designate the part of the response that contains confidential information in order to claim exemption from disclosure by submitting both an unredacted copy and a redacted copy of its proposal. Copies shall be clearly identified as either “ORIGINAL COPY” or “REDACTED COPY.” Regardless of any markings or requests by the respondent, ADECA may evaluate proposals to determine whether information should be considered as Confidential Information. The decision as to whether such confidentiality is appropriate rests solely with ADECA.

G. SELECTION CRITERIA

All proposals submitted in response to this RFP will be evaluated by ADECA. In addition to reviewing proposals to determine whether they meet the general and minimum requirements specified above, ADECA shall consider and evaluate each of the following factors:

Criteria	Maximum Points
<i>Quality/Completeness of Proposal</i>	<i>30</i>
<i>Qualifications/Experience</i>	<i>35</i>
<i>Cost</i>	<i>35</i>
Total Maximum Points	100

Proposals should be as thorough and detailed as possible so that the Respondent's capabilities to provide the required services can be properly evaluated.

ADECA may investigate the qualifications of any Respondent under consideration, require confirmation of information furnished by the Respondent, and require additional evidence of qualifications to perform the work described in this RFP.

Poor performance implementing prior ADECA grants may disqualify the Respondent from this solicitation.

H. CONTRACT TERMS

This solicitation is not a contract and does not create an obligation or a contractual relationship between ADECA and any respondent; such obligation shall commence only upon the execution of a contract by the parties and the approval of said contract by the Legislative Contract Review Oversight Committee and the Governor of the State of Alabama.

The following are terms expected to be included in any future contract between ADECA and the selected contractor. ADECA reserves the right to add terms and conditions to any final contract as necessary, within the scope of this solicitation.

Required Post-Selection Submissions

In order to execute a contract, the selected contractor will be required to submit the following items to ADECA:

- Immigration Status Form;
- State of Alabama Disclosure Statement;
- E-Verify Program for Employment Verification Memorandum of Understanding;
- Certificate of Compliance with the Beason-Hammon Alabama Taxpayer and Citizen Protection Act; and
- W-9 Request for Taxpayer Number and Certification.

Blank templates for required submittals listed above can be found at the following link:
<https://adeca.alabama.gov/weatherization-forms/>.

Term of Contract and Acknowledgement

The contract is expected to take effect in or around mid-Summer 2023 and is expected to expire on or around two years after the effective date; this timeline is subject to change. The selected Respondent acknowledges and understands that the contract is not effective until it has received all requisite state and government approvals, and the selected contractor shall not begin performing work under the contract until notified to do so by ADECA. The selected Respondent is entitled to no compensation for work performed prior to the effective date of the contract.

In addition to the terms provided herein, the selected Respondent shall comply with the Special Terms and Conditions imposed by DOE and the Bipartisan Infrastructure Law. These terms can be found at the following link and are hereby incorporated by reference:

<https://adeca.alabama.gov/weatherization/>.

The selected Respondent will also be required to comply with DOE monitoring requirements. Please refer to Weatherization Program Notice 22-4, Quality Work Plan Requirements, available at the following link and hereby incorporated by reference:

<https://www.energy.gov/sites/default/files/2021-12/wpn-22-4.pdf>.

All DOE Weatherization Program Notices and Memoranda are available at the following link:
<https://www.energy.gov/scep/wap/weatherization-program-notices-and-memorandums>.

Funding

The total amount ADECA will pay to the selected Respondent will be determined during the procurement process.

Method of Payment

The selected Respondent shall be paid upon submission of invoices that set out professional services rendered and related expenses. ADECA will provide additional information on invoice requirements after the selection process.

Availability of Funds

Any ADECA commitment of funds herein shall be contingent upon the receipt and availability by ADECA of funds under the program for which the contract is made.

OMB Uniform Guidance for Federal Awards

For any and all contracts or grants made by a non-Federal entity under a Federal award, the non-Federal entity must comply with 2 C.F.R. Part 200, the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which includes but is not limited to, subpart B, General Provisions; subpart C, Pre-Federal Awards Requirements and Contents of Federal Awards; subpart D, Post Federal Award Regulations; subpart E, Cost Principles; subpart F, Audit Requirements; and all accompanying appendices.

Required Terms Under 2 C.F.R. § 200.327

For any and all contracts made by a non-Federal entity under a Federal award, 2 C.F.R. § 200.327 requires provisions covering the following (as found in Appendix II to Part 200) be included and adhered to as applicable and unless specifically excluded by other Federal regulations:

Termination/Cancellation

A clause addressing a termination for cause and convenience must be included in all contracts in excess of \$10,000. The following provisions will apply to termination under the contract, whether termination by ADECA or by the selected Respondent. The performance of work under the contract may be terminated in whole or in part for the following circumstances:

Termination for Convenience. The contract may be terminated by either party with thirty (30) days written notice. Said notice shall specify the reasons for requesting such termination. If ADECA determines that continuation of the work will serve no useful public purpose, the contract may be terminated by ADECA and the selected Respondent shall be entitled to necessary expenses incurred through the date of termination or the date services are last provided, whichever occurs first.

Termination for Cause. If, through any cause, the selected Respondent shall fail to fulfill in a timely manner its obligations under the contract, or if the selected Respondent shall violate any of the covenants, agreements or stipulations of the contract, and such failure or violation is not corrected within fifteen (15) days after such notice is given by ADECA to the selected Respondent, ADECA shall thereupon have the right to immediately terminate or suspend the contract by giving written notice to the selected Respondent of such termination or suspension and specifying the effective date thereof.

In the event of termination, for either convenience or cause, all property, finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs, computer tapes, computer programs, and reports prepared by the selected Respondent under the contract shall, at the option of ADECA, and if in accordance with applicable State and Federal regulations, become the property of ADECA. The selected Respondent shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other materials.

Notwithstanding the above, the selected Respondent shall not be relieved of liability to ADECA for damages sustained by ADECA by virtue of any breach of the contract by the selected Respondent and ADECA may withhold any payments to the selected Respondent for the purpose of setoff until such time as the exact amount of damages due ADECA from the selected Respondent is determined.

Hearing on Appeal

The selected Respondent shall have the right to appeal any determination to terminate made by ADECA; however, if the selected Respondent has failed to submit its appeal, in writing, within ten (10) calendar days from written notice of the termination and/or has failed to request and receive approval from ADECA for extension of such, then the selected Respondent shall have no further right of appeal.

A hearing shall be conducted at ADECA's offices in Montgomery, Alabama, or any other appropriate location at ADECA's discretion, with a written notification of the time, place, and subject matter by ADECA to the selected Respondent.

Equal Employment Opportunity

In accordance with 41 C.F.R. § 60-1.4(b) and Executive Order 11246 (as amended by Executive Order 11375), for any Federally assisted construction contract as defined by 41 C.F.R. § 60-1.3, the Contractor, during the performance of this agreement, hereby agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or Federally-assisted construction contracts in accordance with procedures authorized in Executive Order 11246 and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (78) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 so that such provisions will be binding upon each subcontractor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in Federally assisted construction work: Provided, that if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and Federally assisted construction contracts pursuant to the Executive order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, subpart D of the Executive order.

In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part this Agreement; refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

Davis-Bacon Act and Copeland “Anti-Kickback” Act

In the event this Agreement or grant award is for an amount which exceeds \$2,000 and is a prime construction contract, the Contractor or Subrecipient shall comply with the Davis-Bacon Act, 40 U.S.C. § 3141–48, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5, which includes provisions providing for the payment of mechanics and laborers at a rate not less than the prevailing wages specified in a wage determination issued by the United States Secretary of Labor, and provides for the payment of wages to mechanics and laborers not less than once a week. Additionally, for all prime construction contracts in excess of \$2,000, the Contractor or Subrecipient shall comply with the Copeland “Anti-Kickback” Act, 40 U.S.C. § 3145, as supplemented by Department of Labor regulations (29 C.F.R. Part 3), which prohibits a Contractor or Subrecipient from inducing any person employed in the construction, completion, or repair of a public work from giving up any compensation to which he or she is entitled to receive. In the event of a suspected or reported violation of either the Davis-Bacon Act or the Copeland “Anti-Kickback” Act, the Department shall report such violation to the Federal awarding agency.

Contract Work Hours and Safety Standards Act

In the event the contract or grant award is for an amount in excess of \$100,000 and involves the employment of mechanics and laborers, the selected Respondent shall comply with the Contract Work Hours and Safety Standards Act, 40 U.S.C. § 3701–08, specifically §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. Part 5). Said Act includes provisions which provide that a contractor must compute the wages of mechanics and laborers on the basis of a standard 40-hour work week. If an employee works in excess of 40 hours during a work week, the employee must be compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours. Further, neither a laborer nor a mechanic can be required to work in unsanitary, hazardous or dangerous conditions.

Rights to Inventions Made Under a Contract or Agreement

If the Federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the Recipient or Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment of performance of experimental, developmental, or research work under that “funding agreement,” the recipient or Subrecipient must comply with the requirements of 37 C.F.R. Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Clean Air Act and Federal Water Pollution Control Act

In the event the contract or grant award is for an amount in excess of \$150,000, the selected Respondent shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, 42 U.S.C. § 7401–7671q, and the Federal Water Pollution Control Act, 33 U.S.C.

§ 1251–1387. The Department shall report any suspected or reported violation to the Federal awarding agency and to the Environmental Protection Agency.

Energy Conservation

The selected Respondent shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. § 6201 *et seq.*

Debarment and Suspension

The selected Respondent will be prohibited from using any contractor or subcontractor that has been debarred, suspended, or otherwise excluded from participation in Federal Assistance programs (Executive Orders 12549 and 12689).

The selected Respondent shall require participants in lower tier covered transactions to include the certification on Government-wide Debarment and Suspension (Non-Procurement) for it and its principals in any proposal submitted in connection with such lower tier covered transactions (See 2 C.F.R. § 180.300). The Excluded Parties List System is available for access from the System of Award Management website at <https://www.sam.gov>.

The selected Respondent will certify, by entering into the contract, that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed from debarment, declared ineligible, or voluntarily excluded from entering into the contract by any Federal agency or by any department, agency, or political subdivision of the State. The term “principal” for purposes of the contract means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the selected Respondent.

The selected Respondent will certify that it has verified the suspension and debarment status for all subcontractors receiving funds under the contract and shall be solely responsible for any recoupments or penalties that might arise from non-compliance. The selected Respondent shall immediately notify ADECA if any subcontractor becomes debarred or suspended, and shall, at ADECA’s request, take all steps required by ADECA to terminate its contractual relationship with the subcontractor for work to be performed under the contract.

Byrd Anti-Lobbying Act

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

Procurement of Recovered Materials

2 C.F.R. § 200.323 provides that a non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (“EPA”) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of completion, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

In addition to the above clauses, the selected Respondent will agree with and adhere to the following:

Tobacco Smoke

Public Law 103-227, Title X, Part C, also known as the Pro-Children Act of 1994 (20 U.S.C. § 6083) prohibits smoking in any portion of any indoor facility owned or leased or contracted for by an entity used routinely or regularly for the provision of health, daycare, education, or library services to children under the age of 18 if the services are funded by Federal programs either directly or through state or local governments by Federal grant, contract, loan or loan guarantee.

Drug-Free Workplace Requirements

In accordance with provisions of Title V, Subtitle D of Public Law 100-690 or Public Law 111-350 (41 U.S.C. § 8101 et seq.), the Drug-Free Workplace Act of 1988, all grantees must maintain a drug-free workplace and must publish a statement informing employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and establishing the actions that will be taken against employees violating these prohibitions. Failure to comply with these requirements may be cause for debarment.

Transparency Act

Awards under Federal programs are included under the provisions of Public Law 109-282, the Federal Funds Accountability and Transparency Act of 2006. Under this statute, the State is required to report information regarding executive compensation and all subawards, contracts and subcontracts in excess of \$25,000 through the Federal Subaward Reporting System (<https://www.fsr.gov>) and in accordance with the terms found in Federal regulations at 2 C.F.R. Part 170, including Appendix A. Therefore, the selected Respondent, if it meets this threshold, will be required to furnish this information to the division within ADECA which is funding the agreement. Specific reporting processes will be provided by the applicable ADECA division to the selected Respondent.

Political Activity

The selected Respondent shall comply with the Hatch Act, 5 U.S.C. § 1501 et seq., regarding political activity by public employees or those paid with Federal funds. None of the funds, materials, property, or services contributed by the selected Respondent or ADECA under the

contract shall be used for any partisan political activity or to further the election or defeat of any candidate in public office.

Human Trafficking Provisions

The contract will be subject to the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, codified in 22 U.S.C. § 7104.

Purchases of American-Made Equipment and Products

As stated in Section 507 of Public Law 103-333, it is the sense of Congress that, to the extent practicable, all equipment and product purchases with funds from the contract should be American-made.

Mandatory Disclosures

Pursuant to 2 C.F.R. § 200.113, the selected Respondent will disclose, in a timely manner, in writing to ADECA all violations of Federal criminal law involving fraud, bribery, or gratuity violations.

Not to Constitute a Debt of the State

It will be agreed that the terms and commitments contained within the contract shall not be constituted as a debt of the State of Alabama in violation of Article 11, Section 213 of the Constitution of Alabama, 1901, as amended by Amendment No. 26.

Conflicting Provision

If any provision of the contract shall contravene any statute or Constitutional provision or amendment, either now in effect or which may, during the course of the contract, be enacted, then that conflicting provision in the Agreement shall be deemed null and void.

Immunity and Dispute Resolution

The parties to the contract will recognize and acknowledge that ADECA is an instrumentality of the State of Alabama, and as such, is immune from suit pursuant to Article I, Section 14, Constitution of Alabama 1901. It will further be acknowledged and agreed that none of the provisions and conditions of the contract shall be deemed to be or construed to be a waiver by ADECA of such Constitutional Immunity.

In the event of any dispute between the parties, senior officials of both parties shall meet and engage in a good faith attempt to resolve the dispute. Should that effort fail, and the dispute involves the payment of money, a party's sole remedy is the filing of a claim with the Board of Adjustment of the State of Alabama.

For any and all other disputes arising under the terms of the contract which are not resolved by negotiation, the parties will agree to utilize appropriate forms of non-binding alternative dispute resolution including, but not limited to, mediation. Such dispute resolution shall occur in Montgomery, Alabama, utilizing where appropriate, mediators selected from the roster of mediators maintained by the Center for Dispute Resolution of the Alabama State Bar.

Disclaimer

ADECA specifically denies liability for any claim arising out of any act or omission by any person or agency receiving funds from ADECA whether by contract, grant, loan, or by any other means.

No Subrecipient, Contractor, or agency performing services under any agreement, contract, grant or any other understanding, oral or written, other than an actual employee of ADECA, shall be considered an agent or employee of the State of Alabama or ADECA or any division thereof. The State of Alabama, ADECA, and their agents and employees assume no liability to any Subrecipient, contractor or agency, or any third party, for any damages to property, both real and personal, or personal injuries, including death, arising out of or in any way connected with the acts or omissions of any Subrecipient, contractor or agency, or any other person.

Access to Records

The Director of ADECA, the Comptroller General of the United States (if Federal funds), the Chief Examiner of Public Accounts, or any of their duly authorized representatives shall have the right of access to any pertinent books, documents, papers, and records of the selected Respondent for the purpose of making audits, financial reviews, examinations, excerpts and transcripts. This right also includes timely and reasonable access to selected Respondent personnel for the purpose of interview and discussion related to such agreement. This right of access is not limited to the required retention period but shall last as long as the records are retained.

Assignability

The selected Respondent shall not assign any interest in the contract and shall not transfer any interest in the same (whether by assignment or novation) without the prior written consent of ADECA thereto. Provided, however, that claims for money due, or to become due to the selected Respondent from ADECA under the contract may be assigned to a bank, a trust company, or other financial institution through a valid court order and without such approval. Notice of such assignment or transfer shall be furnished promptly to ADECA.

Contingency Clause

It will be expressly understood and mutually agreed that any ADECA commitment of funds herein shall be contingent upon receipt and availability by ADECA of funds under the program for which this Grant Agreement is made. If the contract involves Federal funds, the amount of this Grant Agreement will be adjusted by the amount of any Federal recessions and/or deferrals.

Payments made by ADECA under the terms of the contract shall not constitute final approval of documents submitted by the selected Respondent or of procedures used in formulating requests for payment to the selected Respondent.

Conflict of Interest

A conflict of interest, real or apparent, will arise when any of the following has a financial or other interest in the firm or organization selected for award: (1) the individual, (2) any member of the individual's immediate family, (3) the individual's partner, or (4) an organization which employs or is about to employ any of the above. The selected Respondent will certify by signing the contract that no person under its employ or control who presently performs functions, duties, or responsibilities in connection with ADECA of grant-funded projects or programs has any personal

and/or financial interest, direct or indirect, in the contract nor will the selected Respondent hire any person having such conflicting interest. The selected Respondent will further certify that it will maintain a written code of standards governing the performance of persons engaged in the award and administration of contracts and subawards.

Audit Requirements

All subrecipients of Federal funds must follow the Audit Requirements in the Office of Management and Budget Uniform Administrative Requirements (2 C.F.R. Part 200, subpart F). Subrecipients that expend \$750,000 or more during their fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 C.F.R. Part 200. All entities that have a single audit must submit the reporting package and data collection form to the Federal Audit Clearinghouse in accordance with 2 C.F.R. § 200.512. Additionally, if any subrecipient receives more than \$500,000, collectively, in State General Fund appropriations in its fiscal year, from ADECA, it must have an audit in accordance with Government Auditing Standards (the Yellow Book) and Generally Accepted Auditing Standards established by the American Institute of Certified Public Accountants.

Nothing contained in the contract shall be construed to mean that ADECA cannot utilize its auditors regarding limited scope audits of various ADECA funds. Audits of this nature shall be planned and carried out in such a way as to avoid duplication or not to exceed the audit coverage limits as stated in the said Uniform Administrative Requirements.

Copies of all required audits must be submitted to ADECA and the Alabama Department of Examiners of Public Accounts. Copies may be transmitted by email or traditional mail, at the following addresses:

audit@adeca.alabama.gov

Alabama Department of Economic and Community Affairs
ATTENTION: Chief Auditor
401 Adams Avenue
P.O. Box 5690
Montgomery, AL 36103-5690

central.records@examiners.alabama.gov

Alabama Department of Examiners of Public Accounts
ATTENTION: Audit Report Repository
P.O. Box 302251
Montgomery, AL 36130-2251

Audit Exceptions/Unresolved Questioned Costs/Outstanding Debts

The selected Respondent will certify by signing the contract that it does not have any unresolved audit exceptions, unresolved questioned costs or finding of fiscal inadequacy as a result of project monitoring. It further certifies that no money is owed to any division of ADECA or to the Federal government under any program where it has not arranged a repayment plan.

Suspension of Payments

Payments under the contract may be suspended in the event that there is an outstanding audit exception under any program administered by any division of ADECA, or in the event there is an amount owing to any division of ADECA, or an amount owing to the Federal government under

any program administered by any division of ADECA that is not received in a reasonable and timely manner.

Should the selected Respondent incur an unresolved audit exception or have unresolved questioned costs or finding of fiscal inadequacy as a result of any project monitoring by any division of ADECA, then ADECA shall not enter into any other contract, agreement, grant, etc., with said selected Respondent until the audit exception or questioned cost or finding of fiscal inadequacy has been resolved.

ADECA shall not enter into another contract, agreement, grant, etc., with any individual, agency, company, or government under any program administered by any division of ADECA that has not arranged a repayment schedule.

Disclosure Statement

Unless otherwise exempt under Ala. Code § 41-16-82, a disclosure statement must be submitted to ADECA for any and all proposals, bids, contracts or grant proposals in excess of \$5,000.

Compliance with Federal, State, and Local Laws

In addition to the provisions provided herein, the selected Respondent shall be responsible for complying with any and all other applicable laws, ordinances, codes and regulations of the Federal, State and local governments, including, but not limited to, the Alabama Competitive Bid Law (Ala. Code § 41-16-1 et seq.), the Alabama Public Works Law (Ala. Code § 39-1-1 et seq.), any State permitting requirements, the Alabama Open Meetings Act (Ala. Code § 36-25A-1 et seq.), and the Beason-Hammon Alabama Taxpayer and Citizen Protection Act (Ala. Code § 31-13-1 et seq.).

For all contracts governed by the Alabama Public Works Law or the Alabama Competitive Bid Law, the following shall apply: In compliance with Alabama Act 2016-312, the contractor hereby certifies that it is not currently engaged in, and will not engage in, the boycott of a person or an entity based in or doing business with a jurisdiction with which this state can enjoy open trade.

By signing the contract, the parties will affirm, for the duration of the contract, that they will not violate Federal immigration law or knowingly employ, hire for employment, or continue to employ an unauthorized alien within the State of Alabama. Furthermore, a contracting party found to be in violation of this provision shall be deemed in breach of the agreement and shall be responsible for all damages resulting therefrom.

Nondiscrimination

The selected Respondent shall be prohibited from discriminating based on race, color, religion, sex, age, handicap, or national origin.

Amendments

The selected Respondent may request amendments and/or major modifications be made to various portions of the agreement. Amendments and/or modifications to the Scope of Work and Project Budget line items may also be requested. All requests for amendments and/or modifications must be submitted in writing to the Energy Division program supervisor and must be approved by ADECA prior to implementation. Some modifications may require an amendment to the

agreement. Any changes to the project award amount or nonfederal contribution will require an amendment to the agreement.

Recognition of Funding

The selected contractor shall include the following on all publications and releases, including all written, audio, and/or visual media: “This material is based upon work supported by the U.S. Department of Energy and the Alabama Department of Economic and Community Affairs Energy Division under Award Number DE-EE0009970.”

The selected Respondent shall also include the following on all publications and releases, including all written, audio, and/or visual media: “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, not any of their contractors, subcontractors or their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility of the accuracy, completeness, or any third party’s use or the results of such use of any information, apparatus, product, or process disclosed, or represents that its use would not infringe upon 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 or its contractors or subcontractors. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof.”

Records Management

The selected Respondent shall maintain such data and information and submit such reports in such form, at such times, and containing such information as the State and/or Federal grantor may require. ADECA, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examinations to any books, documents, papers, and records of the selected contractor and relevant books and records of subcontractors, as provided in Section 521 of Pub. Law 94-503. Records of the selected contractor and subcontractors includes books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, canceled checks, and related documents. Records must be maintained for a period of three (3) years from the date of submission of the Final Financial Report.

Confidentiality

Materials and records furnished to the selected contractor will be considered the property of ADECA and shall be treated as confidential by the selected contractor. This clause shall not apply to such information and materials as may already be public knowledge or established in the public domain.

Acknowledgment

The selected Respondent will acknowledge and understand that the agreement will not be effective until it has received all requisite State and Federal approvals, and the selected contractor shall not begin performing work under the agreement until notified to do so by ADECA. The selected

contractor will be entitled to no compensation for work performed prior to the effective date of the contract.

Merit System Exclusion

The selected Respondent will not be considered a State of Alabama merit system employee and will not be entitled to any benefits of the State Merit System.

Attachments

The parties will agree that attachments to the agreement shall be considered as binding as any other provisions of the agreement.