

APPENDIX 2: ARRA VENDOR REQUIREMENTS

Comply with the financial and administrative provisions set forth in the State Fiscal Stabilization Fund Government Services Fund (SFSF GSF) to include all applicable statutes, regulations, OMB circulars, guidelines, Title XIV of the American Recovery and Reinvestment Act of 2009, the General Education Provisions Act (GEPA), the Education Department General Administrative Regulations (EDGAR).

Allow without prior notice the U.S. Department of Education or any of its duly authorized representatives, the Office of the Governor and the Government of Guam Auditors to have access for the purpose of audit and examination any books, documents, papers and records of the funds.

Provide from time to time, information and data as may be requested by U.S. D.O.E. or its sub-contractors; or by the Office of the Governor.

Comply with the requirements set forth under the Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion.

Agrees to submit quarterly periodic certifications to the Office of the Governor that the employee hired or contracted under this project will work solely on that project for the period covered by the certification; and to maintain and submit personnel time distribution sheets to document hours worked for activities related to this award. The periodic certification must be submitted within 5 days after the individual is hired or contracted and every 5 days after the quarter ends on a calendar year basis.

Any information technology system funded or supported by USDOE funds will comply with 28 C.F.R. Part 23, Criminal Intelligence Systems Operating Policies, if USDOE determines this regulation to be applicable. Should USDOE determine 28 C.F.R. Part 23 to be applicable, USDOE may, at its discretion, perform audits of the system, as per 28 C.F.R. 23.20(g). Should any violation of 28 C.F.R. Part 23 occur, the recipient may be fined as per 42 U.S.C. 3789g(c)-(d). Recipient may not satisfy such a fine with federal funds.

RECOVERY ACT – Access to Records; Interview. The subrecipient understands and agrees that USDOE (including the Office of the Inspector General (IOG)), and its representatives, and the Government Accountability Office (GAO), shall have access to and the right to examine all records (including, but not limited to, books, papers, and documents) related to this Recovery Act award, including such records of any subrecipient, contractor, or subcontractor. The subrecipient also understands and agrees that USDOE and the GAO are authorized to interview any officer or employee of the recipient (or of any subrecipient, contractor or subcontractor) regarding transactions related to this Recovery Act award.

RECOVERY ACT – Infrastructure Investment (Recovery Act, sections 1511 and 1602). The subrecipient agrees that it may not use any funds made available under this Recovery Act for infrastructure investment absent submission of a satisfactory certification under section 1511 of the Recovery Act. Should the recipient decide to use funds for infrastructure investment subsequent to award, the recipient must submit appropriate certifications under section 1511 of

the Recovery Act and receive prior approval. In seeking such approval, the recipient shall give preference to activities that can be started and completed expeditiously, and shall use award funds in a manner that maximizes job creation and economic benefits. The text of the Recovery Act (including sections 1511 and 1602) is available at www.ojp.usdoj.gov/recovery.

RECOVERY ACT – Buy American Notification (Recovery Act, section 1605). The subrecipient understands that this award is subject to the provisions of section 1605 of the Recovery Act (“Buy American”). No award funds may be used for iron, steel, or manufactured goods for a project for the construction, alteration, maintenance, or repair of a public building or public work, unless the subrecipients provide advance written notification to the USDOE program office, and Grant Adjustment Notice is issued that modifies this special condition to add government-wide standard conditions (anticipated to be published in subpart B of 2 C.F.R. part 176) that further implement the specific requirements or exceptions of section 1605.

Section 1605 of the Recovery Act prohibits use of any Recovery Act funds for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured good used in the project are produced in the United States, subject to certain exceptions, including United States obligation under international agreements.

For purposes of this special condition, the following definitions apply:

“Public building” and “public work” means a public building of , and a public work of, a government 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, with 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.

“Manufactured goods” 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 had different properties than the properties of the individual raw materials.

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

For purposes of USDOE grants, projects involving construction, alteration, maintenance, or repair of jails, detention facilities, prisons, public crime victims’ shelters. Police facilities or other similar projects will likely trigger this provision.

NOTE: The subrecipient is encouraged to contact the Judiciary of Guam - in advance – with any questions concerning this condition, including its applicability to particular circumstances; and the Judiciary of Guam will contact the USDOE program manager.

RECOVERY ACT - Wage Rate Requirements under Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

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

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

RECOVERY ACT – NEPA and Related Laws. The subrecipient understands that all U.S. D.O.E. awards are subject to the National Environmental Policy Act (NEPA, 42 U.S.C. section 4321 et seq.) and other related Federal laws (including the National Historic Preservation Act), if applicable. The subrecipient agrees to assist in carrying out its responsibilities under NEPA and related laws, if the subrecipient plans to use Recovery Act funds (directly or through subaward or contract) to undertake any activity that triggers these requirements, such as renovation or construction (See 28 C.F.R. Part 61, App. D.). The subrecipient also agrees to comply with all Federal, State, and local environmental laws and regulations applicable to the development and implementation of the activities to be funded under the award.

All procurement transactions, whether negotiated or competitively bid and without regard to dollar value, shall be conducted in a manner so as to provide maximum open and free, and fair competition. Three price quotations must be obtained for all supplies, equipment, and capital outlays procured and/or obtain three quotes for the same services and/or items from the Federal GSA contracts under the Recovery Act.

Obtain prior approval from the DOE for all sole source procurement of equipment or services of \$100,000 or greater prior to awarding a contract by submitting a sole source justification to the DOE. Sole source justifications are required for all negotiated contracts; when only one sealed bid is received; when a "brand name" is specified; or as identified in OMB Circular A-102, Attachment O.

Not use funds: to purchase equipment or hardware that are not part of the Program or that are not identified in the Program Brief; to hire personnel except as identified in the Program Brief; for unrelated training or conferences; for administrative costs; or for construction.

Give credit to the US Department Education Grant when a press release is issued or interview is given for any activity(s) funded in part or in total under the program brief and identify the amount of funding.

Comply with the requirement under the FY1999 Appropriation Act, to ensure that to the greatest extent practicable, all equipment and products purchased with funds should be American-made.

Purchase equipment that shall be Year 2000 compliant.

Encourage adoption and enforcement of on-the-job seat belt policies and programs for its employees, contractors, and subrecipients when operating company-owned, rented, or personally owned vehicles pursuant to 23 U.S.C. 402 and 402, and 29 U.S.C. 668.

Comply with 28 CFR Part 23 if federal funds are used to support Criminal Intelligence Systems.

Support public safety and justice information sharing using the Global Justice Data Model specifications and guidelines for this particular grant. Subrecipients shall publish and make available without restriction all schemas (extensions, constraint, proxy) generated as a result of this grant to the component registry as specified in the guidelines. This information is available at www.it.ojp.gov/gjxdm.

To support public safety and justice information sharing, USDOE requires the grantee to use the National Information Exchange Model (NIEM) specifications and guidelines for this particular grant. Grantee shall publish and make available without restriction all schemas generated as a result of this grant to the component registry as specified in the guidelines.

The service provider warrants that no person in its employment who has been convicted of a sex offense under the provisions of Chapter 25 of Title 9 of the Guam Code Annotated, or of an offense defined in Article 2 of Chapter 28 of Title 9 of Guam Code Annotated, or who has been convicted of an offense with the same elements as heretofore defined in any other jurisdiction , or who is listed on the Sex Offender Registry shall provide services on behalf of the service provider while on government of Guam property, with the exception of public highways. If any employee of the service provider is providing services on government property and is convicted subsequent to an award of a contract, then the service provider warrants that it will notify the government of the conviction within twenty-four hours of the conviction, and will remove immediately such convicted person from providing services on government property. If the service providers found to be in violation of any of the provisions of this paragraph, then the Government will give notice to the service provider to take corrective action. The service provider shall take corrective action within twenty-four hours notice from the Government, and the service provider shall notify the Government when action has been taken. If the service provider fails to take corrective steps within twenty-four hours of notice from the Government, then the Government in its sole discretion may suspend temporarily any contract for services until corrective action is taken.

ARRA SEC. 1554. SPECIAL CONTRACTING PROVISIONS.

To the maximum extent possible, contracts funded under this Act shall be awarded as fixed-price contracts through the use of competitive procedures. A summary of any contract awarded with such funds that is not fixed-price and not awarded using competitive procedures shall be posted in a special section of the website established in section 1526.

Contracting Officers must include FAR Clause 52.204-11 in all solicitations and contracts, funded whole or in part by the Recovery Act, including orders and modifications to existing contracts or orders. As communicated August 25, 2009, in the *Federal Register* (74 FR 42877), this interim FAR rule will remain in effect. This clause requires federal contractors to report cumulatively each calendar quarter on their use of Recovery Act funds using an online tool at FederalReporting.gov.