

**D. Identify all other companies that will be involved in processing, handling or shipping the products/service to the end user.**

Third-Party Subprocessors, UKG Affiliate Subprocessors, and Hosting Providers may be involved with processing data for our UKG enterprise management cloud applications. Subprocessors, Affiliate Subprocessors, and Hosting Providers are listed at <https://www.ukg.com/ukg-subprocessors>

**E. Provide the number, size and location of Supplier's distribution facilities, warehouses and retail network as applicable.**

UKG clocks (such as the DX G2) are manufactured and shipped from our Jabil-run factory in Chihuahua, Mexico through El Paso, TX. The site has multiple suppliers and staffs more than 4,000 employees.

Jabil Circuit de Chihuahua, S. De R.L. de C.V.

Av. Alejandro Dumas 11341, Complejo Industrial Chihuahua

Chihuahua, Chihuahua; Mexico. CP. 31136

----SECTION 3.2 MARKETING AND SALES----

**A. Given the public nature of the solicitation and contract, OMNIA Partners makes solicitation and contract documentation, including pricing documents, available on its website so Participating Public Agencies may easily conduct their due diligence. Describe any portions of the response that should not be available on the website and why those portions should not be available.**

Information provided in this proposal and for ongoing contract management that should be excluded from the OMNIA Partners microsite include:

- UKG Financial information
- UKG Customer contact information included in the proposal
- UKG pricing other than the modules used by participating public agencies
- New Jersey Ownership Disclosure and Stockholder Disclosure forms
- Any other forms requested during the life of the contract, post award, that UKG determines to contain confidential information and agreed upon by OMNIA Partners

This information is available to participating public agencies upon request from participating public agencies through their vetting and due diligence process, once confidentiality and/or non-disclosure agreements have been accepted, and in accordance with local laws and policies.

UKG has also included a Trade Secret Affidavit, included as **Appendix 10**.

**B. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to immediately implement the Master Agreement as supplier's primary go to market strategy for Public Agencies to supplier's teams nationwide, to include, but not limited to:**

**B.(i) Executive leadership endorsement and sponsorship of the award as the public sector go-to-market strategy within first 10 days**

UKG has a well-established relationship with OMNIA Partners, which has been their most successful go-to-market strategy for the public sector for the past 10 years. This strategic partnership is fully endorsed by UKG's sales and corporate leadership and is the most utilized contract vehicle for their public sector engagements. This endorsement from UKG's leadership underscores the effectiveness and importance of this partnership in expanding our reach and ensuring consistent, high-quality service delivery to public sector clients.

**B.(ii) Training and education of Supplier's national sales force with participation from the Supplier's executive leadership, along with the OMNIA Partners team within first 90 days**

To ensure that all stakeholders are fully informed and prepared for the changes, UKG will conduct additional training sessions within 30 days of the award. These sessions are designed to explain any new elements or differences from the previous contract, thereby reassuring the sales force and equipping them with the necessary knowledge and tools to effectively implement the continued go-to-market strategy for the public sector.

**C. Provide a detailed ninety-day plan beginning from award date of the Master Agreement describing the strategy to market the Master Agreement to current Participating Public Agencies, existing Public Agency customers of Supplier, as well as to prospective Public Agencies nationwide immediately upon award, to include, but not limited to:**

**C.(i) Creation and distribution of a co-branded press release to trade publications**

UKG and OMNIA Partners marketing have a strong relationship and have worked collaboratively for many years to create cobranded press releases, social media posts, and website updates to highlight our relationship. Upon award, both organizations will collaborate for an initial press release and a secondary press release as the contract nears its initial term, on or around March 18, 2025.

**C.(ii) Announcement, Master Agreement details and contact information published on the Supplier's website within first 90 days**

Confirmed

**C.(iii) Design, publication and distribution of co-branded marketing materials within first 90 days**

Confirmed

**C.(iv) Commitment to attendance and participation with OMNIA Partners at national (i.e., NIGP Annual Forum, NPI Conference, etc.), regional (i.e., Regional NIGP Chapter Meetings, Regional Cooperative Summits, etc.) and supplier-specific trade shows, conferences and meetings throughout the term of the Master Agreement**

Confirmed

**C.(v) Commitment to attend, exhibit and participate at the NIGP Annual Forum in an area reserved by OMNIA Partners for partner suppliers. Booth space will be purchased and staffed by Supplier. In addition, Supplier commits to provide reasonable assistance to the overall promotion and marketing efforts for the NIGP Annual Forum, as directed by OMNIA Partners.**

Confirmed

**C.(vi) Design and publication of national and regional advertising in trade publications throughout the term of the Master Agreement**

Confirmed

**C.(vii) Ongoing marketing and promotion of the Master Agreement throughout its term (case studies, collateral pieces, presentations, promotions, etc.)**

Confirmed

**C.(viii) Dedicated OMNIA Partners internet web-based homepage on Supplier's website with:**

- OMNIA Partners standard logo;
- Copy of original Request for Proposal;
- Copy of Master Agreement and amendments between Principal Procurement Agency and Supplier;
- Summary of Products and pricing;
- Marketing Materials
- Electronic link to OMNIA Partners' website including the online registration page;
- A dedicated toll-free number and email address for OMNIA Partners

Confirmed

**D. Describe how Supplier will transition any existing Public Agency customers' accounts to the Master Agreement available nationally through OMNIA Partners. Include a list of current cooperative contracts (regional and national) Supplier holds and describe how the Master Agreement will be positioned among the other cooperative agreements.**

UKG has extensive experience in transitioning existing customers' account to the OMNIA Partners agreement. Its historical approach to contracting was a direct agreement with government customers using UKG license agreements and terms and conditions between UKG and the agency. With the rise in popularity of cooperative contracting, this approach has evolved.

In line with its go-to-market strategy commitment, UKG will generally not consider other regional or national cooperative contracts. UKG does hold contracts with various State agencies but with the terms of the OMNIA Partners contract as its base and reported to OMNIA Partners. In the event a public agency cannot utilize the UKG contract, we propose an alternate OMNIA Partners contract held by our value-added resellers before recommending any other available options.

As part of any renewal, migration, or upgrade period the customer is presented with the Master Agreement and all other related materials for them to make the proper contracting choice for their agency. A legal reference tying the terms of the Order to the selected OMNIA Partners agreement is included in the Official Order and executed by the customer.



**E. Acknowledge Supplier agrees to provide its logo(s) to OMNIA Partners and agrees to provide permission for reproduction of such logo in marketing communications and promotions. Acknowledge that use of OMNIA Partners logo will require permission for reproduction, as well.**

Confirmed

**F. Confirm Supplier will be proactive in direct sales of Supplier's goods and services to Public Agencies nationwide and the timely follow up to leads established by OMNIA Partners. All sales materials are to use the OMNIA Partners logo. At a minimum, the Supplier's sales initiatives should communicate:**

- i. Master Agreement was competitively solicited and publicly awarded by a Principal Procurement Agency**
- ii. Best government pricing**
- iii. No cost to participate**
- iv. Non-exclusive**

Confirmed. Please see sample attachment: **UKG Attachment 2 - UKG Public Sector Cobranded Collateral FY24**

**G. Confirm Supplier will train its national sales force on the Master Agreement. At a minimum, sales training should include:**

- i. Key features of Master Agreement**
- ii. Working knowledge of the solicitation process**
- iii. Awareness of the range of Public Agencies that can utilize the Master Agreement through OMNIA Partners**
- iv. Knowledge of benefits of the use of cooperative contracts**

Confirmed

**H. Provide the name, title, email and phone number for the person(s), who will be responsible for:**

- i. Executive Support**
- ii. Marketing**
- iii. Sales**
- iv. Sales Support**
- v. Financial Reporting**
- vi. Accounts Payable**
- vii. Contracts**

- **Executive Support** - Pat Bennett. Vice President, Public Sector
- **Marketing** - Beatrice Mitchell. Director, Industry Marketing
- **Sales** - Brian Coopman. Director, Contracts & Procurement - Public Sector
- **Sales Support** - Abigail Ellis. Supervisor, Sales Operations

- **Financial Reporting** - Sean O'Donnell. Senior Sales Business Consultant
- **Accounts Payable** - UKG Staff; AP@ukg.com
- **Contracts** - Brian Coopman. Director, Contracts & Procurement - Public Sector

**I. Describe in detail how Supplier's national sales force is structured, including contact information for the highest-level executive in charge of the sales team.**

UKG's Public Sector Sales force is structured into regional sales teams specializing in Federal, Enterprise (state government and large cities & counties), Mid-Market New Logo and Mid-Market Customer Base, K-12 New Logo and K-12 Midmarket, Higher Education, and Special Districts. Each team is overseen by a Regional Vice President and the entire vertical overseen by Pat Bennet, Group Vice President - Public Sector pat.bennett@ukg.com.

**I. Explain in detail how the sales teams will work with the OMNIA Partners team to implement, grow and service the national program.**

Each sales team has a corresponding OMNIA Partners territory manager which they collaborate often with business strategy and planning to grow and service the program in their territory. The entire program is overseen by the Director, Contracts & Procurement - Public Sector (National Account Manager) who is responsible for the overall success of the program with his or her OMNIA Partners Supplier Manager and Vice President counterparts. The Director is also responsible for ongoing development and training of UKG's cross-functional units in marketing, operations, legal, renewals, etc.

**J. Explain in detail how Supplier will manage the overall national program throughout the term of the Master Agreement, including ongoing coordination of marketing and sales efforts, timely new Participating Public Agency account setup, timely contract administration, etc.**

UKG's current management of the national program earned a Bronze Partnership of Excellence by OMNIA Partners in 2024. We are a strategic account with OMNIA Partners as indicated by year-over-year growth of net new customers, existing customer migrations and upgrades, and overall revenue. This commitment will continue through the life of this award with the intent to elevate the Partnership of Excellence award to higher levels through continued growth and partnership.

**K. State the amount of Supplier's Public Agency sales for the previous fiscal year. Provide a list of Supplier's top 10 Public Agency customers, the total purchases for each for the previous fiscal year along with a key contact for each.**

UKG respects the confidentiality of its customers and cannot release contact information without explicit permission from the customer. Below are the requested top 10 Public Agency customers by estimated annualized contract value and an associated UKG Account Owner. Should the County or

OMNIA Partners wish to engage any of these customers, we will coordinate communications appropriately and thoroughly.

Account Owner	Account Name	Estimated Annualized Contract Value
Bruce Jaeger	Metropolitan Transportation Authority	
Michelle Mackey	State of Colorado	
Andrew Derrig	State of Ohio DAS	
Ryan Hammond	Florida Department of Corrections	
Andrew Derrig	City of Detroit	
Bruce Jaeger	CDCR	
David Herndon	Arkansas Department of Transportation	
Jake Bauer	Cadence Education, LLC	
Michelle Mackey	City of Austin	
Ty Landry	Everglades College Inc	

**L. Describe Supplier's information systems capabilities and limitations regarding order management through receipt of payment, including description of multiple platforms that may be used for any of these functions.**

UKG uses a combination of integrated Salesforce, DocuSign, Oracle Accounting and A/R & A/P, and Microsoft systems.

**M. Provide the Contract Sales (as defined in Section 12 of the OMNIA Partners Administration Agreement) that Supplier will guarantee each year under the Master Agreement for the initial three years of the Master Agreement**

("Guaranteed Contract Sales").

\$\_\_\_\_\_.00 in year one

\$\_\_\_\_\_.00 in year two

\$\_\_\_\_\_.00 in year three

**To the extent Supplier guarantees minimum Contract Sales, the Administrative Fee shall be calculated based on the greater of the actual Contract Sales and the Guaranteed Contract Sales.**

- \$125 million year one
- \$150 million year two
- \$175 million year three

## APPENDIX 5 – RESPONSE FOR MASTER AGREEMENT

Please refer to the General Exceptions below, and redlined Master Agreement on the following pages.

### **UKG General Exceptions to Cobb County Human Resource Systems and Related Products and Services Sealed Proposal # 24-6833**

#### **General**

All references to “subcontractors” throughout the Contract will be deemed to be references to those third parties specifically and exclusively engaged for the provision of professional, implementation or training services pursuant to this Contract, and “subcontract” means a written agreement between UKG and such subcontractor to provide such services. For the avoidance of doubt, UKG’s use of third parties to supply software, infrastructure or other services to run its subscription services in general, and not solely for providing services under this Contract is not a subcontracting arrangement.

#### **Section VII. Patent Indemnity**

Please refer to UKG EULA provided as part of UKG’s response for patent and intellectual property infringement indemnification.

#### **Section IX. Insurance**

Please see redlines and comments to Cobb County’s Required Terms and Conditions provided as part of UKG’s response. Provisions to be conformed to UKG’s actual insurance coverage.

#### **Section XIII. Contract**

Please see redlines and comments to Cobb County’s Required Terms and Conditions provided as part of UKG’s response.

#### **Section XIV. Delivery Failures**

UKG takes exception to this requirement and expects that the protections afforded Cobb County and Participating Public Agencies in the Cobb County Required Terms and Conditions and UKG’s EULA will otherwise suffice.

#### **Section XVII. Default**

All remedies available to Cobb County and Participating Public Agencies are subject to the limitations of liability set forth in UKG’s EULA.

**Section XVIII. Disputes**

UKG must retain the right to appeal any decision by the Procurement Services Director.

**Sections XXVII. Indemnification and XXVIII. Indemnification/Hold Harmless**

UKG takes exception to these provisions to the extent they are more broad than the indemnification obligations found in UKG's EULA.

**Section XXIX. Confidentiality**

Please see UKG's affidavit declaring specific information to be exempt from disclosure under Georgia's Open Records Act.

**Section XXXIII. Termination for Convenience**

UKG requests 90 days prior written notice should the County wish to terminate the Contract for convenience.

### Master Agreement

Owner: Cobb County Board of Commissioners  
100 Cherokee Street  
Marietta, GA 30090

Contractor: <Legal Name of Contractor>  
<Contractor Address>  
<Contractor Address>

Description: This Master Agreement for **Name of Procurement** incorporates by reference the following:  
Exhibit "A" Owner's Request for Proposal #**Proposal Number**;  
Exhibit "B" Contractor's Bid/Proposal submitted on \_\_\_\_\_;  
**Exhibit "B-1" Modifications to Exhibit "B"** (if applicable)  
Exhibit "C" Cobb County Required Terms (required for any products or services used by Cobb County)  
The following provisions of Exhibit "A" Owner's Request for Proposal #**Proposal Number**, as modified by Exhibit "B" Contractor's Bid/Proposal and Exhibit "B-1" Modifications to Exhibit "B," shall be incorporated by reference herein and shall be deemed to have the same force and effect as if set forth in full herein: Section 3.0, Section 3.1, and Section 7.0 of the Solicitation; Sections IX, XIV, XVI, XVII, XXVIII, XXIX, XXXII, XXXIII, and XXXIX of Cobb County General Instructions for Proposers, Terms and Conditions.

Purchasing Cooperative: OMNIA PARTNERS PURCHASING COOPERATIVE: Contractor agrees to extend use of this Master Agreement to public agencies (state and local governmental entities, public and private primary, secondary and higher education entities, non-profit entities, and agencies for the public benefit) ("Public Agencies") registered with OMNIA Partner, LLC's Purchasing Cooperative ("Participating Public Agencies") under the terms of this Agreement ("Master Agreement") and the Master Intergovernmental Cooperative Purchasing Agreement found at Exhibit D of Exhibit "A" Owner's Request for Proposal #**Proposal Number**.

Governing Law: This Agreement shall be governed by the laws of the State of Georgia. As to any dispute hereunder, venue shall be in the Superior Court of Cobb County, Georgia.

Term: This Agreement shall begin on \_\_\_\_\_ (Effective Date), for an Initial Term of **four (4)** years. Owner shall have the option to renew this Agreement for **three (3) additional twelve (12)** month periods (Renewal Terms) upon

Commented [JC1]: See General Exceptions provided by UKG in its response.

mutual written consent of the Parties. This Agreement shall terminate absolutely on [REDACTED], unless earlier terminated as provided herein. Pursuant to O.C.G.A. § 36-60-13, this Agreement shall terminate absolutely and without further obligation on the part of the Owner at the close of the calendar year in which it was executed and at the close of each succeeding calendar year for which the Agreement is in effect. Unless Owner provides at least 30 days' written notice of an intention not to renew, the Agreement shall automatically be renewed for consecutive one-year terms until the conclusion of the Initial Term or any Renewal Term in effect. The Parties reserve the right to renew, amend or extend the Agreement for additional terms. Owner may terminate this agreement at any time for nonappropriation of funding.

Price: Prices for services and equipment, if applicable, shall be as stated in Exhibit "B" Contractor's Bid/Proposal.

Billing: For purchases made by Owner pursuant to this Agreement, all original invoices shall be submitted directly to the Cobb County Finance Department. Invoices shall bill only for items received during the period covered by the invoice and shall clearly identify such items in accordance with invoicing guidelines in Exhibit "B" Contractor's Bid/Proposal. For purchases made by Participating Public Agencies, the Contractor shall comply with each Participating Public Agencies' invoicing and billing requirements outlined on the applicable order.

[Signatures on Next Page]

IN WITNESS, WHEREOF, this Agreement has been executed by Owner and accepted by Contractor to be effective as of the date first above written.

OWNER	CONTRACTOR
Cobb County Board of Commissioners	<Legal Name of Contractor>
100 Cherokee Street	<Contractor Address>
Marietta, Georgia 30090	<Contractor Address>
Lisa N. Cupid, Chairwoman	<Authorized Signatory, Title>
Cobb County Board of Commissioners	<Legal Name of Contractor>
Date	Date
Approved as to form:	Attest:
County Attorney's Office	Corporate Secretary
	Corporate Seal
Date	
	Federal Tax ID Number



Exhibit "A"

Owner's Request for Proposal #Proposal Number

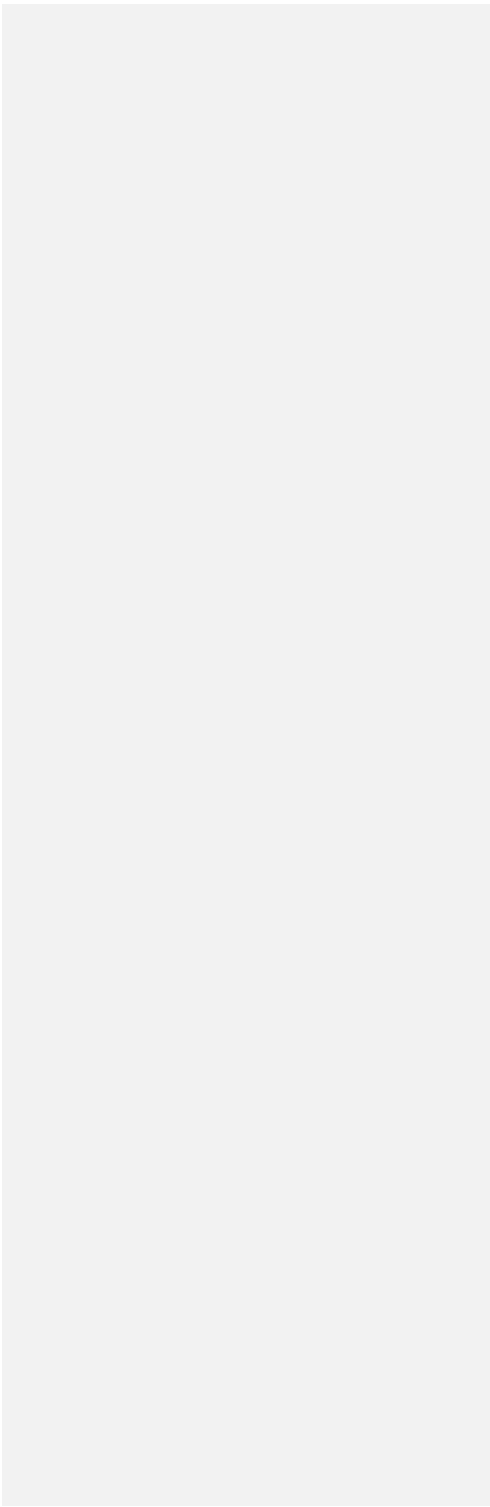


Exhibit "B"  
Contractor's Bid/Proposal

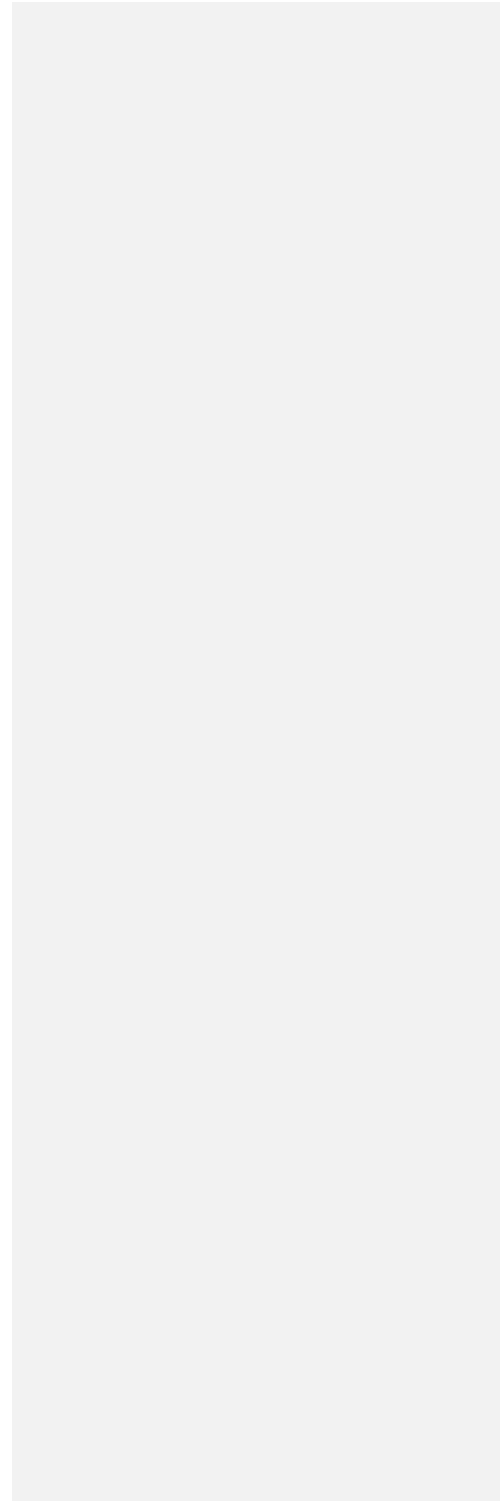


Exhibit “B-1”  
Modifications to Exhibit “B”  
(if applicable)

Exhibit “B” Contractor’s Bid/Proposal contained certain exceptions to the requirements of Exhibit “A” Owner’s Request for Proposal #Proposal Number. Some of the exceptions are accepted and others are not. Language that is struck through is not accepted. The remainder is accepted with the additional language that is underlined:

**Exhibit “C”**  
**COBB COUNTY**

**REQUIRED TERMS AND CONDITIONS**

These Required Terms and Conditions are hereby agreed to, made and entered into by and between Cobb County, a political subdivision of the State of Georgia, (hereinafter “Cobb County” or “County”), and **Vendor Name**, a **[state]** **[Choose an item.]**, located at **Vendor address** (hereinafter “Vendor” or “Contractor” or “Company”). These Required Terms and Conditions shall be made an exhibit to the Master Agreement between Cobb County and **Vendor Name**. (“Contract” or “Agreement”) and shall have the same force and effect as the terms and provisions in the Contract. County and Vendor may be referred to individually as “Party,” or collectively, as “Parties.” The Effective Date of this Contract shall be the date that the last party hereto executes the same (the “Effective Date”).

**[It is understood by the Parties that Vendor has engaged the following subcontractor(s) to perform Work under this agreement for County:**

**It is understood by the Parties that no subcontractors are engaged to perform Work under this agreement.]**

**I. Agreement**

A. **Entire Agreement.** This Agreement, together with all addenda, attachments, and exhibits listed below and incorporated herein by reference, represents the sole and entire agreement between the parties named herein and supersedes all previous or prior agreements, understandings, representations or commitments between the parties and their respective officials, officers, directors, contractors, employees and/or representatives. No oral promises, conditions, representations, understandings, interpretations, or terms of any kind are in effect between the parties or have been offered as an inducement for either party to execute this document.

1. Required Terms and Conditions dated **mm/dd/yyyy**
2. Master Agreement between County and Vendor dated **mm/dd/yyyy**
3. **Exhibit “1” Invitation to Bid or Request for Proposal (ITB/RFP) #**
4. **Exhibit “2” Vendor’s Bid or Proposal** dated **mm/dd/yyyy**
5. **Exhibit “3” Vendor’s Price Quote #xxx** dated **mm/dd/yyyy**
6. **Exhibit “4” Vendor’s Statement of Work (SOW)#** dated **mm/dd/yyyy**
7. **Exhibit “4-A” Project Schedule**
8. **Exhibit “5” Vendor’s End User License Agreement (EULA), License, Software** dated **mm/dd/yyyy**
9. **Exhibit “6” Vendor’s Maintenance or Support Agreement** dated **mm/dd/yyyy**
10. **Exhibit “7” Vendor’s Service Level Agreement (SLA)**
11. **Exhibit “8” Third Party Terms and Conditions**
12. **Exhibit “9” Information Security**

13. **Exhibit “10-A” Change Control Definitions and Process**

14. **Exhibit “10-B” Change Order Form**

15. **Exhibit “11-A” Contractor Affidavit and Agreement**

16. **Exhibit “11-B” Subcontractor Affidavit and Agreement**

17. **Exhibit “11-C” Immigration Compliance Certification**

18. **Exhibit “12” Conflict of Interest Affidavit**

B. These Required Terms and Conditions shall apply to and supersede any additional terms and conditions contained in any purchase order, task order, invoice, delivery receipt, or other document issued by Vendor either party in conjunction with the services or products provided pursuant to this Agreement.

C. Order of Precedence. In the case of any inconsistency, conflict, ambiguity among the contract documents, the documents shall govern in the following order: (1) Required Terms and Conditions, (2) **Exhibit “3” Vendor’s Price Quote**; and (3) any other applicable documents.

D. **Invalid Terms**.

1. Notwithstanding anything else in this Agreement, including any exhibits, attachments or links provided therein, no term shall be valid that:

a) Requires the County to:

i. Defend, indemnify, or hold harmless another person or entity; or

ii. Be bound by terms and conditions that are unknown at the time of signing such contract or that may be unilaterally changed by the other party; or

~~iii. Waive damages; or~~

~~iv. Release Vendor or third parties from liability; or~~

~~v. Assume all risk.~~

~~vi. Pay late payment fees, penalties, interest, attorneys’ fees, liquidated damages, or any other fee that would constitute an illegal gratuity under Georgia law; or~~

b) Provides for:

i. A venue for any action or dispute other than a court of competent jurisdiction in Cobb County, Georgia; or

ii. The contract to be construed in accordance with the laws of a state other than the State of Georgia; or

iii. Binding arbitration or binding mediation; or

iv. Renewal beyond the Term; or

v. An automatic renewal such that County funds are or would be obligated in subsequent fiscal years; or

c) Is inconsistent with the provisions of O.C.G.A. § 50-18-70 et seq., relating to open records.

**Commented [JC2]:** Unclear how conflicts within Required Terms and Conditions and its amendments would be resolved

**Commented [JC3]:** How will we manage new offerings that get added to the agreement and require additional terms and conditions?

2. If Agreement, including any exhibits, attachments or links provided therein, contains a term prohibited under this section, such term shall be void, and the Agreement shall be otherwise enforceable as if it did not contain such term.
3. Neither the County nor any agency or department thereof shall be bound by any other new terms and conditions included in any exhibits, orders, invoices, attachments, links, or other document, physical or electronic, which attempt to impose any condition in variance of or in addition to the terms and conditions contain in this Agreement.

## II. Scope of Work

Subject to the terms and conditions herein, the term "Services" or "Project" or "Work" means all of the work, product, services, goods, software, licenses, material, equipment, and labor to be provided and performed and completed by Vendor under and as reflected in the Contract, including any and all addendums, exhibits, attachments, appendices, and schedules thereto, and all work reasonably inferable from the specific descriptions. These Required Terms and Conditions shall be an addendum and/or exhibit to the Contract and shall have the same force and effect as the terms and provisions in the Contract.

## III. Compensation/Consideration

- A. The total amount payable by Cobb County shall not exceed the maximum amount of \$\_\_\_\_\_ ("Price").

[Or for multi-year:]

Year 1	FY 20yy	(mm/dd/yyyy – mm/dd/yyyy)	Price:	\$xxx.xx
Year 2	FY 20yy	(mm/dd/yyyy – mm/dd/yyyy)	Price:	\$xxx.xx
Year 3	FY 20yy	(mm/dd/yyyy – mm/dd/yyyy)	Price:	\$xxx.xx
Year 4	FY 20yy	(mm/dd/yyyy – mm/dd/yyyy)	Price:	\$xxx.xx
Year 5	FY 20yy	(mm/dd/yyyy – mm/dd/yyyy)	Price:	\$xxx.xx

- B. As a political subdivision of the State of Georgia, County is exempt from paying most types of taxes and will only pay those taxes it is required to pay under the laws of the State of Georgia or federal law.
- C. County shall timely process payment to Vendor. Vendor shall not charge interest or assess payment penalties against County.
- D. In the event of a dispute about payment/invoicing, County shall deliver a written statement to Vendor no later than \_\_\_ days prior to the date payment is due on the disputed invoice listing all disputed items and providing a reasonably detailed description of each disputed item. The parties shall seek to resolve all such disputes expeditiously and in good faith. ~~Vendor shall continue performing its obligations under the Agreement notwithstanding any such dispute.~~

## IV. Term of Agreement

- A. **Term.** The Initial Term of this Agreement shall begin on the Effective Date and continue for **twelve (12)** months ("Initial Term"). This Agreement may be renewed as herein provided for

**Commented [JC4]:** Future products being added to the Agreement may be subject to new or additional terms and conditions.

**Commented [JC5]:** UKG will need a right to suspend if undisputed payments have not been made

up to a total of ( ) months ("Full Term").

- B. Renewal. This Agreement shall automatically renew annually after Initial Term for twelve (12) months on the Effective Date for each subsequent year for a maximum of ( ) renewal years unless County provides at least thirty (30) days written notice of an intention not to renew before the expiration of the then-current annual period. This Agreement shall terminate absolutely after ( ) months. The Parties reserve the right to renew, extend, or amend this Agreement.
- C. Termination. This Agreement may be terminated in the methods listed below. If this contract is terminated, County shall be liable only for goods or services delivered ~~or accepted~~.
1. For Convenience. County may terminate this Agreement at any time for any reason upon ~~thirty (30)~~ninety (90) days prior written notice to Vendor. The effective date of termination shall be set forth in the notice. As the sole remedy for County's termination for convenience, Vendor shall be paid for any validated services performed under this Agreement up to the time of termination. Vendor shall not incur new obligations upon receipt of such notice and shall cancel as many outstanding obligations as possible.
  2. For Cause. Either Party may terminate this Agreement for cause should the other Party default in the performance of any of the terms, covenants, obligations, or conditions of this Agreement upon thirty (30) days written notice to the defaulting party to cure the default.
    - a) Cause for termination by the County shall include, but not be limited to, Vendor's breach of a material provision of the Agreement, failure to complete a deliverable or milestone in a timely manner as set forth in a mutually agreed upon written project plan, and/or failure to dedicate adequate and qualified staff to complete the Work. ~~Failure of Vendor to cure such breach or failure within thirty (30) days shall entitle County to a refund of all compensation paid to Vendor.~~
    - b) Should the Vendor terminate this Agreement for default in performance that is not cured in a timely manner, the County shall be liable for no more than the amount of goods or services delivered ~~to or accepted by~~ County up to the date of termination.
  3. By Statute. In compliance with O.C.G.A. § 36-60-13, this Agreement shall be deemed to terminate absolutely and without further obligation on the part of County at the close (December 31) of the calendar year of its execution ("Initial Expiration Date") and at the close (December 31) of each succeeding year for which it may be renewed, unless otherwise expired, earlier terminated, or renewed all as provided in this Agreement. Notwithstanding this provision, as permitted by statute, this Agreement may automatically be renewed and extended for consecutive up to one-year periods beyond the Initial Expiration Date until the expiration of the Full Term, unless County notifies Vendor in writing of its intent not to extend this Agreement at least thirty (30) days prior to the date of termination set forth in such notice, or, for any one-year renewal term subsequent to the Initial Expiration Date, at least thirty (30) days prior to the expiration of the then-current annual period.
  4. Non-appropriation. In compliance with the terms of O.C.G.A. § 36-60-13, this Agreement shall terminate immediately and absolutely at such time as appropriated or otherwise unobligated funds are no longer available to satisfy the obligation of County. This Agreement does not create a debt of County for the payment of any sum beyond the

calendar year of execution or in the event of renewal, beyond the calendar year of such renewal.

- D. Survival. Notwithstanding the stated term, those provisions that expressly state that they survive, or that would by necessity survive, the expiration or earlier termination of this agreement shall so survive. Furthermore, the provisions pertaining to Confidentiality, Open Records, Record Retention, Indemnification, Limitation of Liability, Preservation of Immunities, No Personal Liabilities, Governing Law, Venue, and Invalid Terms shall survive termination or expiration of this Agreement.

#### V. System Access, Licenses, and Warranties

- A. This Contract is a Subscription-Based Information Technology Arrangement (SBITA). It is a contract that conveys control of the right to access and use IT software for authorized purposes alone or in combination with tangible capital assets (underlying IT assets) for a period of time in an exchange or exchange-like transaction.
- B. License Grant. Vendor hereby grants to Cobb County a worldwide nonexclusive, nontransferable revocable license to access, use and publicly display the online portion of the Project, as defined in Section 1.1.3.1 below, and a nonexclusive, nontransferable revocable license to distribute to the users the Project (the "License") during the term of this Agreement.

Vendor also grants to Cobb County a nonexclusive right to advertise, market and promote the Project to its clients and the Users during the term of this Agreement. The License expressly excludes all other rights, including, without limitation, the right to modify or create derivative works of the Project or the right to grant any other sublicensing rights to third parties. The License is revocable under the circumstances and on the terms set forth in this Agreement.

- C. Vendor agrees to provide a list and description of all software and licenses required or necessary for the use of such software, to include any continued use or maintenance contemplated by the Contract.
- D. Warranties

1. General. Vendor hereby expressly warrants that the Work to be performed hereunder shall be performed in a workmanlike manner, that all Work assigned shall be performed in a manner consistent with that level of care and skill ordinarily exercised by other providers of similar services under similar circumstances at the time Work is provided and as required under the terms of the Contract. Vendor warrants to County that all Services or Goods furnished in connection with Services shall: (a) be new and free from any defects in workmanship, material, and design; (b) conform to applicable specifications; (c) be fit for their intended purpose and operate as intended; and (d) be free and clear of all liens, security interests or other encumbrances.
2. Performance. For the greater of 12 months or the period during which County purchases support services, the software shall materially conform to the requirements of this Agreement, including any statements of work, and, to the extent not inconsistent with the foregoing, the documentation. Further the software shall remain free from material programming errors and defects in workmanship and materials. If material programming

**Commented [JC6]:** Note that UKG expects a mutually agreed upon Limitation of Liability will be agreed upon in this contract and each contract with a Participating Agency. See UKG's EULA provided as part of UKG's response for proposed provision.

**Commented [JC7]:** Replace all of Section V.B. with UKG license grant from UKG's EULA provided as part of UKG's response.

**Commented [JC8]:** Customers get this through technical papers in the Community

**Commented [JC9]:** Replace all warranties in this Section V.D. with those set forth in the UKG EULA provided as part of UKG's response. Note additional comments with respect to specific warranties.



errors are discovered, Vendor shall promptly remedy such errors at no additional expense to County.

3. Infringement. To the best of Vendor's knowledge, as of the Effective Date, Customer's licensed use of the software will not infringe upon or misappropriate the intellectual property rights of any third party.
4. Service. The services shall be performed in (a) material accordance with this Agreement, (b) a timely and workmanlike manner, and (c) accordance with industry best practices for services of this kind.
5. Legal Compliance. Vendor shall comply and ensure that its software and services comply with all applicable laws and regulations. Vendor shall, at no additional charge, promptly furnish all updates to the software necessary for compliance with any change in laws or regulation during the term of this Agreement.
6. Privacy. Vendor represents and warrants that, at all times during and after the term of this Agreement, it will comply, at its sole expense, with all applicable local, state, federal, and international privacy, confidentiality, consumer protection, advertising, electronic mail, data security, data destruction, and other similar laws, rules and regulations, whether in effect now or in the future, including, but not limited to the Goldenhar Gramm-Leach Bliley Act and its implementing regulations (all of the foregoing to be collectively referred to as the "Privacy and Security Requirements"). Vendor acknowledges that it alone is responsible for identifying, understanding, and complying with its obligations under the pPrivacy and Security Requirements as they apply to its performance of this Agreement and possession of personal information.
7. Anti-Virus. Vendor has taken every commercially reasonable precaution to ensure and to the best of Vendor's knowledge, the software does not contain any virus or similar code that may destroy, modify, alter, or cause the destruction, modification or alteration, in whole or in part, of any of County's data, equipment, devices, networks, or software. Further, Vendor warrants: (a) that its software and/or systems are not dependent on obsolete software, including anything with a known vulnerability; (b) that all critical updates to the software and/or systems have or shall be applied as identified or as needed; and (c) that Vendor's software and/or system have the means to receive such critical updates.
8. Intentionally left blankOffshoring of Data. All services shall be performed and rendered within the continental United States. Vendor shall not transmit or make available any customer Confidential Information, including personal data, to any entity or individual outside of the continental United States.
9. Open Source and Third Party Software. Vendor represents and warrants that it<sup>s</sup> shall not deliver to County any third party software, including open source software, that would require County to accept and be bound by any third party terms and conditions unless such terms and conditions are expressly identified in and attached to this Agreement as Exhibit "8" Third Party Terms and Conditions and to the extent that such terms and conditions are consistent with the Invalid Terms provisions of this Agreement. Except as provided in Exhibit "8" Third Party Terms and Conditions as amended by the Invalid Terms

**Commented [JC10]:** Addressed by the IPR Infringement Indemnification offered in UKG's EULA provided as part of UKG's response.

**Commented [JC11]:** UKG commits to comply with laws and regulations applicable to UKG and its operations as a provider of technology and related services. Customer remains obligated to use UKG solutions in compliance with laws and regulations applicable to Customer.

**Commented [JC12]:** As above, UKG commits to comply with laws and regulations applicable to UKG and its operations as a provider of technology and related services. "Applicable" needs to be modified to capture this concept.

**Commented [JC13]:** While Customer Data can be stored solely in the continental United States, UKG renders services to its customers on a global basis.

provision of this Agreement, County hereby rejects all such third party terms and conditions.

10. ~~Intentionally Left Blank~~~~Pass Through Warranties. Vendor shall assign and pass through to County all representations, warranties, and indemnities to Vendor in its contracts with their party licensors and suppliers relating to the software.~~

11. ~~Known Performance Issues. There is no existing pattern or repetition of customer complaints regarding the software, including functionality or performance issues. Further, Vendor's engineers have not currently identified any repeating adverse impact on the software, including functionality or performance, for which the root cause is believed to be a flaw or defect in the software.~~

~~12~~11. Authority.

- a) Vendor has full power, capacity, and authority to enter into and perform this Agreement and to make the grant of rights contained herein, including without limitation, the right to license any ancillary or third party programs licensed to County under this Agreement.
- b) Vendor has all licenses and intellectual property rights necessary to install and produce customizations, enhancements, updates, and/or corrections to the software used in performance of and as required under this Agreement in accordance with industry standards and in a professional and workmanlike fashion.
- c) Vendor's performance of this Agreement does not violate or conflict with any agreement to which Vendor is a party.
- d) Vendor represents that there is no pending or threatened litigation that would have a material adverse impact on its performance under this Agreement.

E. Changes in Functionality. Vendor shall not modify or change the software to reflect a material diminution in the form, features or functionality of the software from that existing as of the Effective Date. Accordingly, Vendor shall not change the form, features, or functionality of the software in any material adverse manner from that originally licensed under this Agreement.

F. Documentation. The documentation provided by Vendor shall be complete and accurate so as to enable a reasonably skilled user to effectively use all of the software's features and functions without assistance from the Vendor. Further, on each date that the Vendor delivers documentation to County, such documentation shall be Vendor's most current version thereof.

G. These warranties survive any delivery, inspection, acceptance, payment, or termination of the Contract. ~~These warranties are cumulative and in addition to any other warranty provided by law or equity.~~ Any applicable statute of limitations runs from the date of County's discovery of the noncompliance. If County gives Vendor notice of noncompliance, Vendor shall, at its own cost and expense, promptly replace or repair nonconforming Goods or Services. This paragraph shall be construed as being in addition to any warranty provision in the Contract.

**XI. Ownership of Work**

A. ~~County Ownership. All reports, designs, drawings, plans, specifications, schedules, work product, and other materials, including those in electronic form, prepared or in the process of being prepared for the Work to be performed by Vendor ("Materials") not otherwise created~~

**Commented [JC14]:** UKG warrants its solutions as stated in the UKG EULA provided as part of UKG's response.

**Commented [JC15]:** Replace with "Upgrades" language from UKG's EULA provided as part of UKG's response.

~~in the course of business for Vendor's broader customer base shall be the property of County, and County shall be entitled to full access and copies of all such Materials in the form prescribed by County. Any such Materials remaining in the hands of Vendor or subcontractor upon completion or termination of the Work shall be delivered immediately to County, provided that Vendor may retain a copy of any deliverables for its records. Vendor assumes all risk of loss, damage or destruction of or to such Materials. If any Materials are lost, damaged, or destroyed before final delivery to County, Vendor shall replace them at its own expense. Any and all copyrightable subject matter in all Materials is hereby assigned to County, and Vendor agrees to execute any additional documents that may be necessary to evidence such assignment.~~

To the extent allowed by law, Cobb County shall retain all right, title and interest in and to any and all patent, copyright, trademark, trade secret, domain name registrations, websites, and other intellectual property rights, throughout the world, and all registrations and applications thereon ("Intellectual Property Rights") in and to (i) Cobb County's governmental and trade names, logos, trademarks, service marks and similar identifying material ("Cobb County Marks") and (ii) the websites directly or indirectly owned, operated or maintained by Cobb County, and (iii) all information owned, managed or developed by Cobb County.

**Commented [JC16]:** See "Reservation of Rights" provision in UKG's EULA provided as part of UKG's response. There will be no "work for hire" created by UKG as a deliverable.

- B. Vendor Ownership Rights. To the extent allowed by law, Vendor shall retain all right, title and interest in and to any and all Intellectual Property Rights in and to the (i) its Work (with the exception of Intellectual Property Rights owned by Cobb County contained therein), (ii) Describe as needed, (iii) any developed or licensed documentation, and all modifications thereto and derivative works thereof, and (iv) all information owned, managed or developed by Vendor.
- C. User Data. As between the parties, all right, title and interest in and to the data in the Work that is entered by, ~~created for or existing about users,~~ Cobb County and its clients and vendors in the SaaS Subscription during the Term ("User Data") shall be owned by Cobb County with full rights to use, market and license others to use such User Data only in compliance with applicable laws.

**Commented [JC17]:** See UKG EULA for additional Reservation of Rights

#### XI. Staff Assigned to Project

- A. Staff. Vendor shall maintain at all times, until the completion of the Project, experienced technical/implementation staff, in adequate numbers and with necessary skillset, functions and responsibilities to satisfy Vendor's obligations under this Contract~~satisfactory to County~~; and ensure that staff carries out the following duties: (i) preparation and execution of the plan of activities proposed for project implementation, pursuant to the provisions of Exhibit "4" Vendor's Statement of Work; and (ii) proper testing prior to milestone, deliverable or solution turnover to County staff.
- B. Staff Replacement. County and Vendor agree to act in good faith to complete this Pproject and work toward mutual resolutions. In the event that the County has an issue with an individual on the project, County shall have the right to require the removal and replacement of Vendor's technical/implementation staff member(s) from providing services to County under this Contract after consultation with Vendor. County shall notify Vendor in writing of such action. Vendor shall accomplish the removal and replacement ~~within five (5) business days~~ as soon as practical after written notice to Vendor. County shall review and approve the appointment of the replacement staff. Said approval shall not be unreasonably withheld. County is not required to provide any additional information, reason

or rationale in the event it requires the removal of Vendor's staff from providing further services under the Contract.

- C. Staff Transition. If it is known that a member of the Vendor project team will be leaving the Project, a replacement will be chosen to join the team, and become familiar with the Project before the original team member leaves, to ensure that the transition-in will be seamless. If a member of the Vendor project team leaves unannounced, prompt replacement shall be made in accordance with this Section.

## **XII. Indemnification**

The following obligations to indemnify the Indemnified Party(ies) shall survive the expiration or termination of this Agreement and applies notwithstanding any contrary provision.

**Commented [JC18]:** Please refer to UKG's EULA provided as part of UKG's response for indemnification obligations acceptable to UKG.

- A. Indemnification of County. Vendor covenants and agrees to take and assume all responsibility for the software and services ("Work") rendered in connection with this Agreement. Vendor shall bear all losses and damages directly or indirectly resulting to it and/or County on account of the performance or character of the Work rendered pursuant to this Agreement. To the fullest extent permitted by law, Vendor shall defend, indemnify and hold harmless County and County's elected and appointed officials, officers, boards, commissions, employees, representatives, consultants, servants, agents, attorneys and volunteers (individually an "Indemnified Party" and collectively "Indemnified Parties") from and against any and all claims, suits, actions, judgments, injuries, damages, losses, costs, expenses and liability of any kind whatsoever, including but not limited to attorney's fees and costs of defense ("Liabilities"), which may arise from or be the result of alleged willful, negligent or tortious conduct arising out of the Work, performance of contracted services, or operations by Vendor, any subcontractor, anyone directly or indirectly employed by Vendor or subcontractor or anyone for whose acts Vendor or subcontractor may be liable, regardless of whether or not the negligent act is caused in part by a party indemnified hereunder. This indemnity obligation does not include Liabilities caused by or resulting from the sole negligence of an Indemnified Party. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this provision.
- B. In any and all claims against an Indemnified Party, by any employee of Vendor, its subcontractor, anyone directly or indirectly employed by Vendor or subcontractor or anyone for whose acts Vendor or subcontractor may be liable, the indemnification obligation set forth in this provision shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Vendor or any subcontractor under workers' or workmen's compensation acts, disability benefit acts or other employee benefit acts. This obligation to indemnify, defend, and hold harmless the Indemnified Party(ies) shall survive expiration or termination of this Agreement, provided that the claims are based upon or arise out of actions or omissions that occurred during the performance of this Agreement and applies notwithstanding any contrary provision.
- C. Intellectual Property Indemnification. Vendor shall hold County, its agents, officers, or employees harmless from liability of any nature or kind for use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, articles or appliances furnished or used in the performance of this Agreement, for which Vendor is not the patentee, assignee, licensee, or other lawful user.



D. Environmental Indemnification. Vendor agrees to indemnify, defend, and hold harmless an Indemnified Party, to the fullest extent allowed under O.C.G.A. § 13-8-2, from and against all claims, suits, actions, judgments, forfeitures, damages, losses, costs, demands, or expenses and liability, of whatever kind or nature, contingent or otherwise, known or unknown, incurred under, or imposed by, any provision of federal, state or local law or regulation, common law, or in equity, including but not limited to all administrative claims, claims for injunctive relief, claims for property damage, natural resources damages, nuisance claims, bodily injury claims (including death), environmental response, remediation, abatement, detoxification, cleanup costs, removal or disposal of, or otherwise with respect to, hazardous or potentially hazardous substances, fines, penalties, and expenses (including without limitation attorney fees, consultant fees, expert fees, costs, and expenses incurred in investigating and defending against the assertion of such liabilities) that may arise from or be the result of any alleged willful, negligent or tortious conduct of that in any way may arise from, be the result of, or relate to any act or omission of Vendor, or anyone directly or indirectly employed by or otherwise in any way acting on behalf of Vendor, in its performance of the Agreement, the operation of the Facility, or failure to operate the Facility other than in accordance with this Agreement or Applicable Law, regardless of whether or not the negligent act is caused in part by an Indemnified Party. This indemnity obligation shall run from the time of initial discovery of any such potentially adverse environmental condition and shall not be construed to commence only upon realization of an actual economic loss resulting from such condition. This indemnity obligation does not include Liabilities caused by or resulting from the sole negligence of an Indemnified Party or any other act, liability, or obligation in any way prohibited by O.C.G.A. § 13-8-2. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this provision. Notwithstanding anything herein to the contrary, this indemnification provision shall survive the termination of the Agreement.

### XIII. Insurance

- A. Requirement: Vendor shall procure and maintain in full force and effect for the duration of this Agreement, insurance protecting against claims for injuries to persons or damages to property which may arise from or in connection with performance of the Work hereunder by the Vendor, its agents, representatives, employees, or subcontractors.
- B. Minimum Limits of Insurance: During the term of this Agreement, Contactor shall maintain insurance policies with coverage and limits no less than:
1. Commercial General Liability: \$1,000,000 combined single limit per occurrence for comprehensive coverage including bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom, damage for premises/operations, products/completed operations, independent contractors and contractual liability (specifically covering the indemnity), broad-form property damage, and underground, explosion and collapse hazard. This coverage may be achieved by using umbrella policy. The policy or policies must be on "an occurrence" basis ("claims made" coverage is not acceptable).
  2. Commercial Automobile Liability (owned, non-owned and hired): \$1,000,000 combined single limit per occurrence and for bodily and personal injury, sickness, disease or death, injury to or destruction of property, including loss of use resulting therefrom.

**Commented [JC19]:** During the term of the Agreement, UKG shall maintain appropriate insurance coverage and will provide its standard Certificates of Insurance reflecting such coverage if requested. UKG presently maintains insurance coverage rated 'A-' "Excellent" by A.M. Best for the following risks in the following minimum amounts in United States Dollars:

- Comprehensive General Liability Insurance: \$2 million aggregate; \$1 million per occurrence, including \$1 million personal injury.
- Business Auto: \$1 million combined single limit bodily injury and property damage liability.
- Umbrella: \$5 million aggregate, \$5 million per occurrence.
- Workers' Compensation: as required by statute.
- Errors and Omissions (includes Cyber Liability coverage): \$5 million aggregate, \$5 million per occurrence.

The provisions in this section need to be conformed to align with UKG's actual insurance.

3. Workers' Compensation and Employers Liability: Workers' Compensation limits as required by the State of Georgia and Employers Liability of \$1,000,000 per occurrence or disease.
4. Professional Liability, Technology Errors and Omissions, and Cyber Insurance Coverage: \$2,000,000 per claim and \$4,000,000 in the aggregate is required, in the event that Vendor is performing design, engineering, or other professional services.
5. Professional Liability (Errors and Omissions) and Coverage: \$2,000,000 per claim and \$4,000,000 in the aggregate. Vendor shall maintain Technology Errors and Omissions Insurance, which must include coverage Multimedia Liability, Privacy Liability, Network Security Liability, Breach Costs Coverage (including Notification, Credit Monitoring, Forensics, Public Relations), and Regulatory Fines and Penalties assessed due to a Data (Privacy) Breach.
  - a) Technology Errors and Omissions insurance must cover liabilities, punitive damages, and claim expenses arising from errors, omissions, or negligent acts in rendering or failing to render (1) all services promised, including but not limited to computer or information technology services, (2) products that perform the intended function or serve the intended purpose, and (3) violation of software copyright.
  - b) Services insured, at a minimum, must include (1) systems analysis, (2) systems programming, (3) data processing, (4) systems integration, (5) outsourcing including outsourcing development and design, (6) systems design, consulting, development and modification, (7) training services relating to computer software or hardware, (8) management, repair, and maintenance of computer products, networks, and systems, (9) marketing, selling, servicing, distributing, installing and maintaining computer hardware or software, (10) data entry, modification, verification, maintenance, storage, retrieval or preparation of data output, and (11) any other services provided by the vendor.
  - c) Vendor shall maintain Privacy, Security, and Technology Insurance.
    - i. Vendor's policy must include coverage for (1) loss, disclosure, and theft of data in any form; (2) media and content rights infringement and liability (excluding patents and trade secrets), including but not limited to, software copyright infringement; and (3) network security failure, including but not limited to, denial of service attacks and transmission of malicious code.
    - ii. The insurance coverage must include data breach regulatory fines and penalties, the cost of notifying individuals of a security or data breach, the cost of credit monitoring services, and any other causally-related crisis management expense for up to one (1) year.
    - iii. The insurance coverage must also contain severability for the insured organization for any intentional act exclusions.
    - iv. If the coverage is provided on a claims-made basis, then it must be maintained for a period of two (2) years after acceptance of the deliverables and/or services provided in connection with this Agreement.

- v. Additionally, such policy must cover consequential or vicarious liabilities (e.g., claims brought against the Vendor or its Affiliated Companies and their respective directors, officers, and employees due to the wrongful acts and failures committed by you) and direct losses (e.g., claims made by the Vendor and its Affiliated Companies and their respective directors, officers, and employees against you for financial loss due to your wrongful acts or failures).

- d) Builder's "All Risk" Insurance: In the event Vendor is performing vertical construction services under the Agreement, Vendor shall procure and maintain "All-Risk" Builder's insurance, written on a commercially recognized policy form, providing coverage for the Work performed under the contract, and the materials, equipment or other items incorporated therein, while the same are located at the construction site, stored off-site, or at the place of manufacture. The policy limit shall be in a minimum amount equal to the "full insurable value" of such equipment and 100% of the value of the Agreement, including any additional costs which are normally insured under such policy. The insurance coverage shall include boiler and machinery insurance on a comprehensive basis and include coverage against damage or loss caused by earth movement (including but not limited to earthquake, landslide, subsidence and volcanic eruption), fire, flood, hurricanes, explosion, hail, lighting, weather, vandalism, malicious mischief, wind, collapse, riot, aircraft, smoke, or other cataclysmic events, and coverage against damage or loss caused by machinery accidents and operational and performance testing, commissioning and start-up, with extended coverage, and providing coverage for transit, with sub-limits sufficient to insure the full replacement value of the property or equipment removed from its site and while located away from its site until the date of final acceptance of the Work.

Commented [JC20]: N/A - delete

The making of progress payments to Vendor shall not be construed as relieving Vendor or its subcontractors or insurance carriers providing the coverage described herein for responsibility for loss or direct physical loss, damage or destruction occurring prior to final acceptance of the Work.

- e) Commercial Umbrella Liability Coverage: \$2,000,000 in liability coverage per occurrence above the Agreements stated minimum coverage limits for Commercial General Liability, Commercial Automobile, and Professional Liability policies of insurance.

- C. Deductibles and Self-Insured Retention: ~~Any deductibles or self insurance retentions must be declared to and approved by County so that County may ensure the financial solvency of Vendor. At the option of County, either the insurer shall reduce or eliminate such deductibles or self insured retentions as respects County, its officers, officials, and employees; or Vendor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses. Vendor shall pay all deductibles and be liable for all claims, losses and damages for which it self-insures.~~

- D. Other Insurance Provisions: The policies are to contain, or be endorsed to contain, the following provisions:

Commented [JC21]: UKG will include the County as an additional insured via blanket endorsement for General Liability and ongoing operations. Such protection shall be primary and non-contributory with respect to the County's insurance, but only with respect to UKG's sole negligence. Upon written request, such blanket endorsement shall be provided to the County with the corresponding COI.

1. General Liability and Umbrella/Excess Insurance

- a) Additional Insured Requirement. Cobb County, its elected and appointed officials, officers, boards, commissions, officers, employees, representatives, servants, volunteers and agents (hereinafter referred to as "Insured Party" or "Insured Parties") shall be covered as additional insureds as respects: liability arising out of activities performed by or on behalf of Vendor; products and completed operations of Vendor, premises owned, leased, or used by Vendor. The coverage shall contain no special limitations on the scope of protection afforded to the Insured Parties. Nothing contained in this section shall be construed to require Vendor to provide liability insurance coverage to the any Insured Party for claims asserted against such Insured Party for its sole negligence.
- b) Primary Insurance Requirement. Vendor's insurance coverage shall be primary and noncontributing insurance as respects to any other insurance or self-insurance available to the Insured Parties. Any insurance or self-insurance maintained by the Insured Parties shall be in excess of Vendor's insurance and shall not contribute with it.
- c) Reporting Requirement. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Insured Parties.
- d) Separate Coverage. Coverage shall state that the Vendor's insurance shall apply separately to each Insured Party against whom claim is made or suit is brought.
- e) Defense Costs/Cross Liability. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross-liability exclusion.

E. Workers' Compensation and Employers Liability Coverage: Vendor shall have and maintain in full force and effect for the duration of this Agreement, insurance protecting against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work by Vendor, its agents, representatives, employees or subcontractors. ~~The insurer shall agree to waive all rights of subrogation against County and its officers, officials, employees, and volunteers for losses arising from the work performed by Vendor for County.~~

~~F. Waiver of Subrogation: The insurers shall agree under each policy of insurance required by this Agreement to waive all rights of subrogation against the Insured Parties for losses arising from work performed by Vendor for County.~~

G-F. All Coverages:

- 1. Notice Requirement. Each insurance policy required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to County as provided in the Notice Section of this Agreement. County reserves the right to accept alternate notice terms and provisions provided they meet the minimum requirements under Georgia law.
- 2. Acceptability. The insurance to be maintained by Vendor must be issued by a company licensed or approved by the Insurance Commissioner to transact business in the State of

**Commented [JC22]:** Exception taken. UKG will endeavor to provide notice to the County if it is at material risk of not having such insurance in place.



Georgia. Such insurance shall be placed with insurers with a minimum AM Best's Policyholder's Rating of "A-" or better and with a financial rating of Class VIII or greater or be otherwise acceptable to Cobb County.

3. Failure of Insurers. Vendor shall be responsible for any delay resulting from the failure of any insurer to furnish proof of coverage in the prescribed form.

~~H.G.~~ Verification of Coverage: Vendor shall furnish County with certificates of insurance and endorsements to the policies evidencing all coverages required by this Agreement. ~~Additionally, the declarations page for each insurance policy listed on the certificate of insurance shall be submitted to County.~~ The certificates and endorsements for each insurance policy are to be signed by a person authorized ~~by that insurer to bind coverage on its behalf.~~ The certificates and endorsements shall be received and approved by County before any work commences. ~~County reserves the right to require complete, certified copies of all required insurance policies at any time.~~ Vendor shall provide proof that any expiring coverage has been renewed or replaced ~~prior to the expiration~~ promptly after renewal or replacement of the coverage. ~~Vendor's failure to comply with this provision shall be considered a material breach of the Agreement.~~

~~H.H.~~ Subcontractors: Vendor shall require all subcontractors to maintain insurance that is industry standard for the scope and risk of the services being provided by that subcontractor.

~~H.I.~~ Failure to Comply: Failure to comply with all insurance requirements set forth in this Section and applicable to this agreement will not relieve Vendor from any liability under the ~~A~~ agreement will not be construed to conflict with or limit Vendor's indemnification obligation ~~obligations~~ under the agreement.

~~K.J.~~ Duration: All insurance required by this Section must be maintained during the entire term of the ~~A~~ agreement, including any renewal or extension terms, ~~and until all Work has been completed to the satisfaction of County.~~

#### **IX. Records: Retention and Confidentiality**

- A. Examination and Retention of Records. Vendor shall maintain, and County and its representatives shall have the right to audit, examine, all books, records, documents, accounting procedures and practices, and other evidence sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the Work or performance of the Contract and similar materials relating to work performed for County under this Contract on file in accordance with Vendor's record retention policies for at least ten (10) years following the date of final payment to Vendor by County. Vendor shall maintain all books, records, work papers, documents, accounting ledgers, databases in accordance with Vendor's record retention policies for at least ten (10) years following the date of final payment to Vendor by County. All records stored on a computer database must be of a format compatible with County's. Any duly authorized representative(s) of County shall have access to such records for the purpose of inspection, audit, and copying at reasonable times, during usual and customary business hours. ~~All original documents, including, but not limited to, reports, plans, work papers, (including electronic copies), documents, data, and records developed in connection with the services performed hereunder shall belong to and remain the property of County.~~ Vendor may retain electronic files and reproducible copies of such documents.
- B. Confidential Information. Vendor acknowledges that some information which may come into its possession or knowledge in connection with the Work may consist of confidential

information of County, its elected officials, or employees, the disclosure of which to, or use by, third parties may be damaging to County, its elected officials or employees and/or may violate applicable law(s). Vendor accordingly agrees to hold all such confidential information, together with all material containing confidential information, in strictest confidence, not to make use thereof other than as reasonably necessary to perform according to this Agreement, and not to release or disclose any confidential information to any other person or entity except as may be required by law. Vendor shall inform and instruct all employees, subcontractors, or other agents or representatives of this obligation of confidentiality. Vendor shall immediately remove any of its employees, subcontractors, or other agents or representatives from performing work in connection with this Agreement upon request of notice from County that County reasonably believes such person or entity has failed to comply with the confidentiality obligations hereunder. Any employee, subcontractor, or other agent or representative so removed shall be replaced as provided for in the staffing requirements of this Agreement. For the purposes hereof, "Confidential Information" includes, without limitation, all personally identifiable data, trade secrets, copyrighted material, and other confidential and proprietary information not subject to disclosure or use, as such terms may be respectively defined in O.C.G.A. § 10-1-761, O.C.G.A. § 50-18-72, 45 CFR. §1 64.524, 45 CFR. § 84.14(d). "Confidential Information" further includes, without limitation, all employee data, personnel records, health records, physician and provider notes, medical bills, claims, and other written information of a personal nature.

- C. Open Records. Vendor acknowledges that County's disclosure of documentation is governed by Georgia's Open Records Act, Act, O.C.G.A. § 50-18-70 *et seq.*, and anything submitted to County is subject to release as public information. If Vendor believes that part or parts of its submission may be exempted from disclosure, Vendor must specify page-by-page and line-by-line the parts of the submission, which it believes, are exempt. In addition, Vendor must specify which exception(s) are applicable and provide detailed reasons to substantiate the exception(s). As required by law, Vendor is responsible for protecting its trade secrets and other proprietary information.
- D. Request. To the extent practicable and not legally prohibited, Vendor shall promptly notify County of any request for County information including any request required by law or judicial or regulatory process or pursuant to Georgia's Open Records Act, O.C.G.A. § 50-18-70 *et seq.*, prior to disclosing such information. In no case shall such notification occur more than five business days after receipt of such request.

#### X. Notices

- A. All written notices, demands, and other papers or documents to be delivered to County or Vendor under this Contract shall be delivered personally, by prepaid registered or certified mail return receipt requested, or by overnight receipted delivery service to the following addresses:
1. If to Cobb County:

<insert department>

<insert address here>

Attention: <insert name here>

Commented [JC23]: See UKG Affidavit

Electronic notice to: <insert email address here, or specify N/A>

Cobb County Attorney  
100 Cherokee Street, Suite 350  
Marietta, GA 30090

2. If to Vendor:

**Vendor Name**

<address>

Attention: <insert name here>

Electronic notice to: <insert email address here, or specify N/A>

- B. Any subsequent changes to place or places specified above shall be designated in writing by Vendor and County to the other.

#### **XI. Relationship of the Parties**

Vendor hereby covenants and declares that it is engaged in an independent business and agrees to perform the Work as an independent contractor and not as the agent or employee of County. Nothing contained in this Agreement shall be construed to make Vendor or any of its employees, servants or subcontractors an employee, servant or agent of County for any purpose. Vendor agrees to be solely responsible for its own matters relating to the time and place the Work is performed and the method used to perform such Work; the instrumentalities, tools, supplies and/or materials necessary to complete the Work; hiring of subcontractors, agents or employees to complete the Work; and the payment of employees, including compliance with Social Security, withholding and all other regulations governing such matters. County will not withhold income or other taxes on the fees paid to Vendor under this Contract and Vendor shall be solely responsible for the payment of all such taxes. Vendor is not entitled to any of the benefits that County provides for County's employees. Vendor agrees to be solely responsible for its own acts and omissions and those of its subordinates, employees, subcontractors, and suppliers during the life of this Agreement. Vendor specifically shall be responsible for sufficient supervision and inspection to ensure compliance in every respect with the Contract requirements. There shall be no contractual relationship between any subcontractor or supplier and County by virtue of this Agreement with Vendor. Any provisions of this Agreement that may appear to give County the right to direct Vendor as to the details of the services to be performed by Vendor or to exercise a measure of control over such services will be deemed to mean that Vendor shall follow the directions of County with regard to the results of such services only. It is further understood that this Agreement is not exclusive, and County may hire additional entities to perform Work related to this Agreement. Inasmuch as County and Vendor are independent of each other, neither has the authority to bind the other to any third person or otherwise to act in any way as the representative of the other, unless otherwise expressly agreed to in writing signed by both Parties hereto. Vendor agrees not to represent itself as County's agent for any purpose to any party or to allow any employee of Vendor to do so, unless specifically authorized, in advance and in writing, to do

so, and then only for the limited purpose stated in such authorization. Vendor shall assume full liability for any contracts or agreements Vendor enters into on behalf of County without the express knowledge and prior written consent of County.

#### XIV. Georgia Security and Immigration Compliance Act

A. Immigration Compliance. County and Vendor agree that, to the extent applicable, compliance with the requirements of

O.C.G.A. § 13-10-91 and Rule 300-10-1-.02 of the Rules of the Georgia Department of Labor are conditions of this Agreement for the physical performance of services. Physical performance of services includes any performance of labor or services for a public employer using a bidding process or by contract wherein the labor or services exceed \$2,499.99.

B. Vendor further agrees and represents that its compliance with the requirements of O.C.G.A. §13-10-91 and DOL Rule 300-10-1-.02, to the extent applicable, is attested to on the executed Exhibit "11-A" Contractor Affidavit and Agreement, included herein by reference.

C. Vendor further agrees and represents that:

1. Vendor (and any subcontractors, regardless of tier) shall fully comply with the requirements for completing Exhibit "11-C" Immigration Compliance Certification and that such certification shall be received by County prior to the commencement of any work under the contract or subcontract;
2. Vendor (or any subcontractor, regardless of tier) shall notify County within five (5) business days of entering into a contract or other agreement for hire with any subcontractor(s), regardless of tier;
3. Vendor shall be responsible for obtaining and providing to County Exhibit "11-B" Subcontractor Affidavit and Agreement and Exhibit "11-C" Immigration Compliance Certification, each incorporated herein by reference, from each subcontractor, regardless of tier, employed or retained for work under the contract prior to the commencement of any work under the contract or any subcontract;
4. County reserves the right to dismiss, or require the dismissal of, any contractor or subcontractor for failing to provide the required affidavit or certification and/or for failure to comply with the statutory requirements of O.C.G.A. § 13-10-91 and/or for providing false or misleading information upon the required affidavit(s) or certification(s);
5. Any contractor and/or subcontractor retaining any other subcontractor to perform services under the contract shall provide legal notice to any subcontractor of the requirements of County for immigration compliance and further provide notice that County reserves the right to dismiss, or require the dismissal of, any contractor or subcontractor for failing to provide the required affidavit or certification and/or for failure to comply with the statutory requirements of O.C.G.A. § 13-10-91 and/or for providing false or misleading information upon the required affidavit(s) or certification(s);
6. Failure to comply with any of the requirements and procedures of County (i.e., failure to timely supply required affidavits or compliance certification documents; failure to utilize federal work authorization procedures; failure to permit or facilitate audits or reviews of records by county or state officials upon request; and/or failure to continue to meet any of the statutory or county obligations during the life of the contract) shall constitute a material breach of the Agreement and shall entitle County to dismiss any general contractor or to

**Commented [JC24]:** See definition of subcontractor proposed by UKG in its General Exceptions.

require the dismissal of any subcontractor or sub/subcontractor (irrespective of tier) for failing to fully comply with these requirements;

7. Upon notice of a material breach of these provisions, Vendor (or subcontractor, regardless of tier) shall be entitled to cure the breach within ten (10) days and provide evidence of such cure. Should the breach not be cured, County shall be entitled to all available remedies, including termination of the Contract, the requirement that a subcontractor be dismissed from performing work under the Contract, and any and all damages permissible by law.

- D. Immigration Compliance Certification. Prior to commencing work under any contract for the physical performance of services, to the extent applicable, Vendor shall submit a completed **Exhibit "11-C" Immigration Compliance Certification**. Prior to allowing any other subcontractor to perform work under the contract, to the extent applicable, Vendor shall obtain a completed **Exhibit "11-C" Immigration Compliance Certification** from each subcontractor (regardless of tier) and submit the same to County.

#### **XV. Conflict of Interest Affidavit**

- A. Vendor agrees and shall execute **Exhibit "12" Conflict of Interest Affidavit** attesting that it shall not engage in any activity or conduct that would result in a violation of the Cobb County Code of Ethics or any other similar law or regulation. Vendor certifies that, to the best of its knowledge, no circumstances exist that will cause a conflict of interest in performing the services required by this Agreement, that no employee of County, nor any member thereof, nor any public agency or official affected by this Agreement, has any pecuniary interest in the business of Vendor or his subcontractor(s) and that no person associated with Vendor or its subcontractor(s) has any interest that would conflict in any manner or degree with the performance of the Agreement.

Should Vendor become aware of any circumstances that may cause a conflict of interest during the Term of this Agreement, Vendor shall immediately notify County. If County determines that a conflict of interest exists, County may require that Vendor take action to remedy the conflict of interest or terminate the Agreement without liability. County shall have the right to recover any fees paid for services rendered by Vendor when such services were performed while a conflict of interest existed, if Vendor had knowledge of the conflict of interest and did not notify County within five (5) business days of becoming aware of the existence of the conflict of interest.

- B. Vendor warrants that it and its subcontractor(s) have not employed or retained any company or person, other than a bona fide employee working solely for Vendor or its subcontractor(s), to solicit or secure this Agreement and that Vendor and its subcontractor(s) have not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for Vendor or its subcontractor(s) any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award of this Agreement. For any breach or violation of this provision, County shall have the right to terminate the Agreement without liability and, at its discretion, to deduct from the price, or otherwise recover, the full amount of such fee, commission, percentage, gift, payment, or consideration.
- C. Vendor shall include the terms and conditions of Paragraphs A and B of this Section in all subcontractor agreements for Work to be performed under this Agreement.

## XII. Miscellaneous.

- A. Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the rules, regulations, statutes, and laws of the State of Georgia will control. Any action or suit related to this Agreement shall be brought in the Superior Court of Cobb County, Georgia, and Vendor submits to the jurisdiction and venue of such court. Prior to filing any claim or action related to this Contract, the parties may, but shall not be obligated to, submit such claim or action to non-binding mediation before a mediator mutually agreeable to the parties. The parties shall share equally in the costs of mediation.
- B. Severability of Provisions. If a part or any provision of this Contract shall be deemed invalid or unenforceable under applicable law, said part shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remainder of such provision or the remaining provisions of the Contract, which shall be interpreted so as to give the greatest effect possible thereto.
- C. Review and Inspection of Work. Vendor shall produce progress reports or copies of any Work as performed under this Contract at any time as requested by County. Refusal by Vendor to submit progress reports shall be cause to withhold payment to Vendor until Vendor complies with County's request in this regard, or cause for termination of this Contract.
- D. Assignment. This Agreement is binding on the heirs, successors, and permitted assigns of the parties hereto. This Agreement may not be assigned by County or Vendor without the prior, written consent of the other party.
- E. Third Party Beneficiaries. Neither party intends to directly benefit a third party by this Contract. The parties agree that no third party shall be entitled to assert a right or claim against either of them based on this Contract.
- F. Materiality. Each term of this Agreement is material, and Vendor's breach of any term of this Agreement shall be considered a material breach of the entire Agreement and shall be grounds for termination or exercise of any other remedies available to ~~County either party~~ at law or in equity consistent with the terms of this Agreement.
- G. Compliance with Laws. Vendor shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations applicable to UKG and its operations in performing under the Contract.
- H. Amendment. No modification, amendment, or alteration in the terms or conditions contained herein or in the Contract shall be effective unless contained in a written document prepared with the same formality as the Contract and agreed to by both Parties in writing.
- I. Preservation of Immunities. No provision of this Agreement shall be construed or interpreted so as to waive any of the immunities or protections otherwise afforded the parties by the Constitution, statutes, rules and regulations of the State of Georgia. ~~Nothing contained in this Agreement shall be construed to be a waiver of County's sovereign immunity or any individual's qualified good faith or official immunities.~~
- J. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.
- K. Waiver. No failure by ~~County either party~~ to enforce any right or power granted under this Agreement, or to insist upon strict compliance by ~~Vendor the other party~~ with this Agreement, and no custom or practice of

Commented [JC25]: Details of progress reports need to be mutually agreed upon

Commented [JC26]: UKG will need the right to assign this Agreement in the event of a change of control, merger or acquisition or similar event.



~~County either party~~ at variance with the terms and conditions of this Agreement shall constitute a general waiver of any future breach or default or affect ~~County's a party's~~ right to demand exact and strict compliance by ~~Vendor the other party~~ with the terms and conditions of this Agreement. Further, no express waiver shall affect any term or condition other than the one specified in such waiver, and that one only for the time and manner specifically stated.

- L. Headings. All headings herein are intended for convenience and ease of reference purposes only and in no way define, limit, or describe the scope or intent thereof, or of this Agreement, or in any way affect this Agreement.
- M. Intentionally left blank Time is of The Essence. ~~With regard to all dates and/or time periods in this Agreement or any of the documents incorporated by reference into this Agreement and/or the mutually agreed to project plan, time is of the essence.~~
- N. Subcontracts. Vendor shall be responsible for the work products and actions of all subcontractors. All subcontractors are subject to approval by County. Subcontractors must comply with the same insurance requirements as Vendor. Subcontractors must comply with the requirements of the Georgia Security and Immigration Compliance Act as set forth in this Agreement.
- O. Intentionally Left blank Liquidated Damages. ~~The Parties acknowledge and agree that delays in the completion of the Work will result in damages to County and that the exact sum of such damages to County are impossible to precisely estimate and will be difficult to ascertain. If the Work is not completed in accordance with Exhibit "1.A" Project Schedule, then Vendor shall be required to pay County \$100 per business day that the Work is delayed. The liquidated damages set forth in this section are intended to be, and the parties acknowledge and agree that (1) the liquidated damages are reasonably proportionate to and are a reasonable estimate of the probable loss that Owner is likely to incur as a result of delays, and (2) the liquidated damages are not intended to be a penalty.~~

**Commented [JC27]:** See proposed definition of "subcontractors" in UKG's General Exceptions.

**Commented [JC28]:** To the extent a Participating Public Agency is not subject to Georgia law, UKG assumes that when contracting with such Public Agency, provisions specific to Georgia law are deemed N/A.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, said parties have hereunto set their seals.

**Vendor**

**County**

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Lisa N. Cupid, Chairwoman

\_\_\_\_\_  
Vendor Name

\_\_\_\_\_  
Cobb County Board of Commissioners

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

SEAL

Attest:

Attest:

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Pamela L. Mabry, County Clerk

Recommended by:

\_\_\_\_\_  
Name and Title

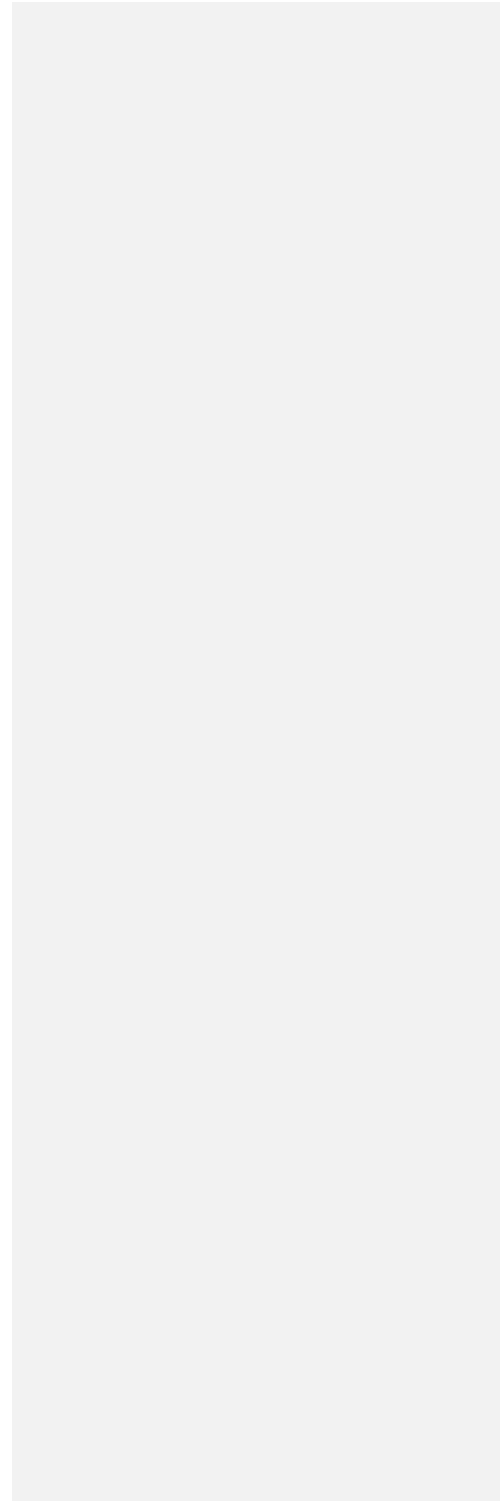
Approved as to Form

\_\_\_\_\_  
Cobb County Attorney's Office

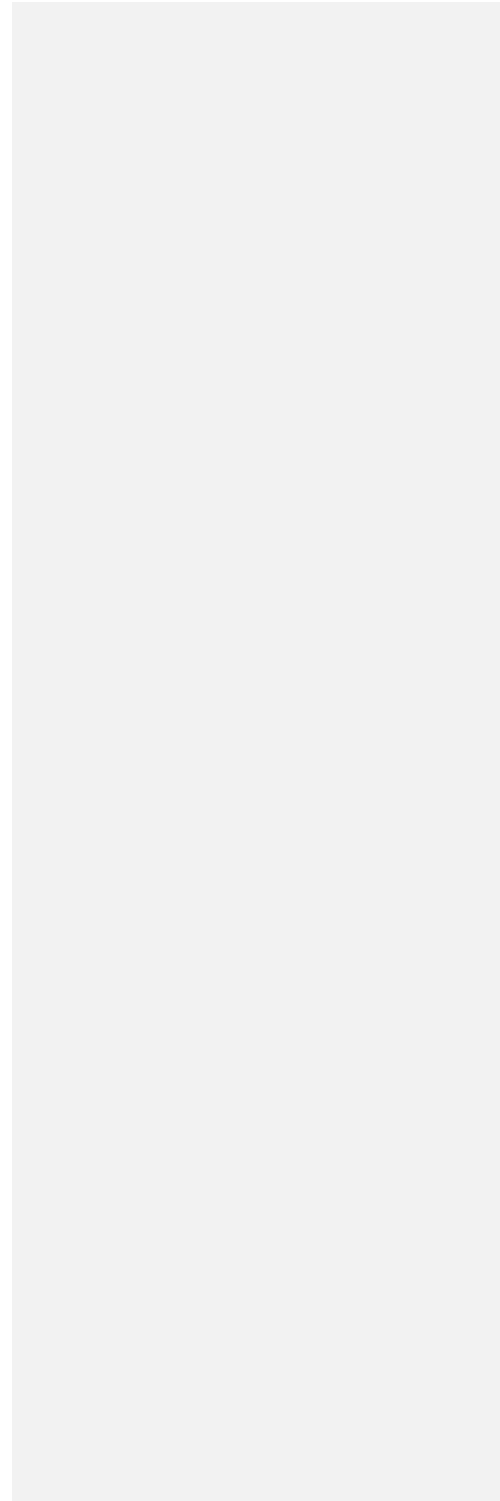


**Exhibit “1” Invitation to Bid or Request for Proposal**

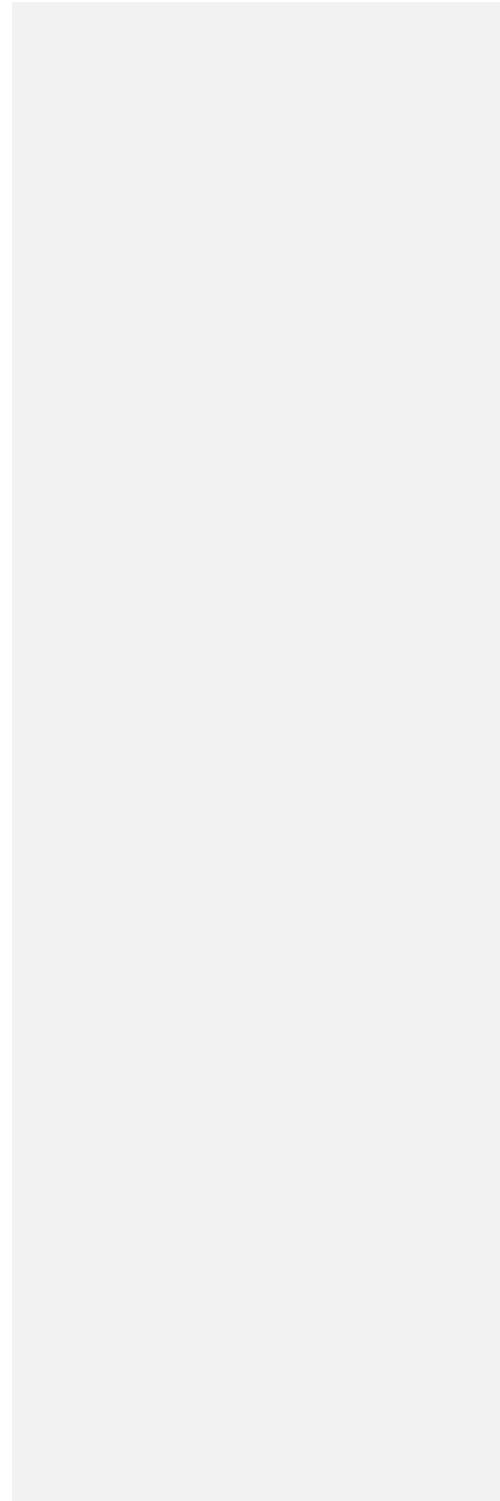
**Exhibit “2” Vendor’s Bid or Proposal**



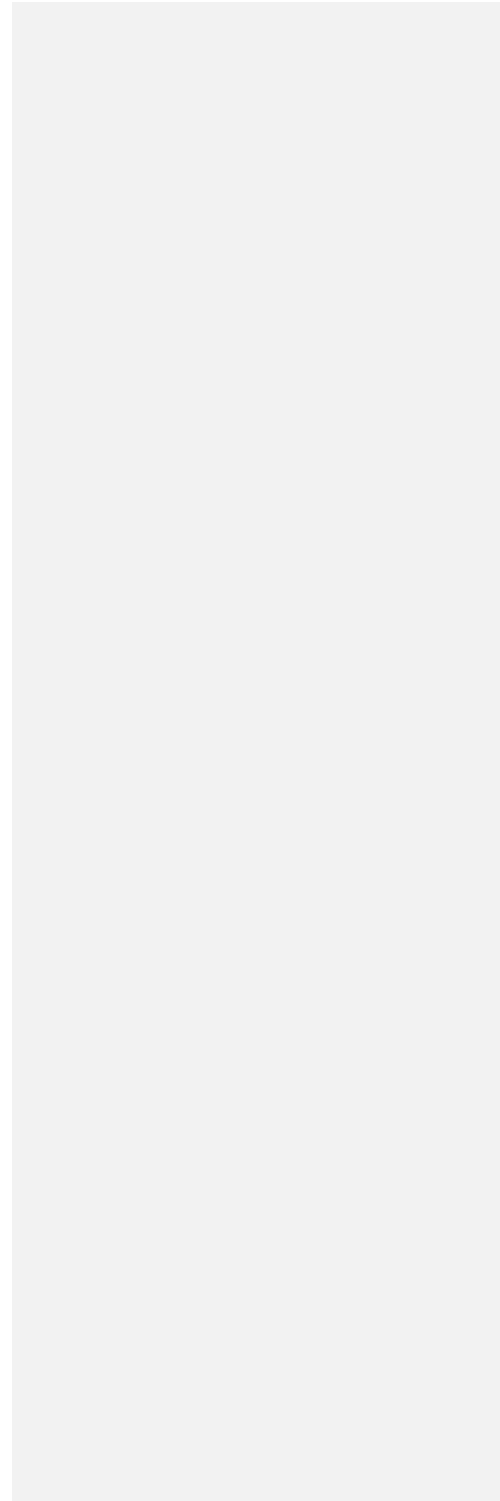
**Exhibit “3” Vendor’s Price Quote**



**Exhibit “4” Vendor’s Statement of Work**

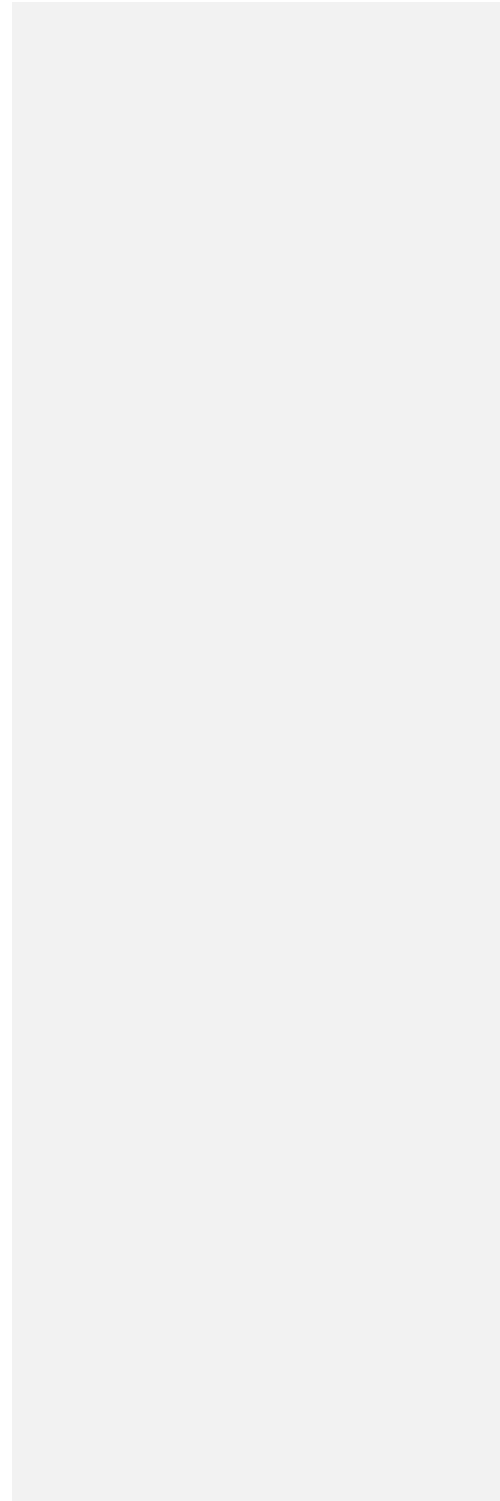


**Exhibit “4-A” Project Schedule**



**Exhibit “5” Vendor’s End User License Agreement (EULA). License. Software**

**Exhibit “6” Vendor’s Maintenance or Support Agreement**





**Exhibit “7” Vendor’s Service Level Agreement**

## **Exhibit “9” Information Security**

### **Information Security**

#### **1. General Provisions**

- 1.1. Contractor represents and warrants that it will comply with all applicable federal, state, and local privacy and data protection laws, as well as all other applicable regulations.
- 1.2. Contractor shall implement administrative, physical, and technical safeguards to ensure the security of Protected Information that are no less rigorous than accepted industry practices including National Institute of Standards and Technology (NIST) 800-53, Center for Internet Security (CIS) controls, the International Organization for Standardization’s standards: ISO/IEC 27001:2005 – Information Security Management Systems – Requirements and ISO-IEC 27002:2005 – Code of Practice for International Security Management, the Information Technology Infrastructure Library (ITIL) standards, or other applicable industry standards for information security, and shall ensure that all such safeguards, including the manner in which Protected Information is collected, accessed, used, stored, processed, disposed of and disclosed, comply with all applicable data protection and privacy laws, as well as the terms and conditions of this Agreement.
- 1.3. ~~All employees and subcontractors given access to any Personally Identifiable Information (PII) or Restricted or Protected Information such as information protected as or by Payment Card Industry Data Security Standard (PCI DSS), PII, Health Insurance Portability and Accountability Act (HIPAA), Criminal Justice Information Services (CJIS), etc. must agree to abide by the terms of the Agreement and restrict the use of Protected Information only for subcontractor’s or employees’ internal business purposes and only as necessary for the execution of the Agreement.~~
- 1.4. Contractor shall maintain current supported operating system for Cobb County systems.
- 1.5. ~~Contractor shall provide evidence of background check completion or verification of such security measure control through the SOC 2 Report for Core Subscription Services.~~
- 1.6. If any regulator, or any subpoena, warrant, or other court or administrative order, requires Contractor to disclose or provide County Data to a regulator or to any third party, or to respond to inquiries concerning the processing of County Data, Contractor shall promptly notify County, unless prohibited by applicable law. Following such notification, Contractor shall reasonably cooperate with County in its response, except to the extent otherwise required by applicable law.
- 1.7. County consents to Contractor’s use of subcontractors to provide aspects of the Services and to Contractor’s disclosure and provision of County Data to those subcontractors. Contractor shall be responsible for the performance of its subcontractors. Contractor shall ensure subcontractors are subject to contractual obligations which are the same as or equivalent to those imposed on Contractor with regard to the processing of County Data. Contractor shall maintain a list of its subcontractors on its company website under the Privacy page. Contractor shall inform County of any intended changes concerning the addition or replacement of any subcontractor within a reasonable time prior to implementation of such change. In the event of County objecting to such change, Contractor shall make reasonable efforts to address County’s concerns ~~(including making reasonable efforts to find an alternative subcontractor).~~

**Commented [JC29]:** Clarify that these laws are those applicable to UKG and its operations

**Commented [TS30]:** Not applicable nor in scope for the services provided.

**Commented [TS31]:** Customers can rely on the SOC 2 Report where our independent third-party verifies controls, such as background checking.

**Commented [JC32]:** If UKG is unable to address the County’s concerns, the County may terminate the agreement with respect to that portion of the Services to which County objects.

1.7.1. When Contractor's or a subcontractor's personnel are providing services on County's systems or premises, Contractor shall comply and shall require its personnel and subcontractors' personnel to comply, with all applicable laws, rules, and regulations, as well as County policies and standards in effect during the performance of this Agreement, including (without limitation) County's reasonable confidentiality requirements, County's policies, standards and procedures regarding data access, security, personnel conduct, safety, and ethics, including spoken directives of County facility staff. In the event that any of Contractor's or a subcontractor's personnel do not comply with such requirements, County, in its sole reasonable discretion, may have the personnel's access revoked and/or have such personnel removed from the premises.

**Commented [TS33]:** While supporting the services, UKG would follow County policies while accessing customer owned systems or offices.

## 2. Compliance

~~2.1.~~ If, in the course of this engagement, Contractor has access to or will collect, access, use, store, process, dispose of or disclose credit, debit, or other payment cardholder information, Contractor shall at all times remain in compliance with the PCI DSS requirements, including remaining aware at all times of changes to the PCI DSS and promptly implementing all procedures and practices as may be necessary to remain in compliance with the PCI DSS at Contractor's sole cost and expense.

~~2.2.2.1.~~ If, in the course of this engagement, Contractor has access to or will collect, access, use, store, process, dispose of or disclose protected health information, Contractor shall at all times remain in compliance with HIPAA requirements, including remaining aware at all times of changes to HIPAA and promptly implementing all procedures and practices as may be necessary to remain in compliance with HIPAA at Contractor's sole cost and expense.

~~2.2.1-2.1.1.~~ Contractor agrees to execute and incorporate into this Agreement a Business Associate Agreement if and when it is necessary under HIPAA, including any regulations promulgated thereunder, including as a result of a change in the Services or the manner in which they are provided.

~~2.3.~~ If, in the course of this engagement, Contractor has access to or will collect, access, use, store, process, dispose of or disclose criminal justice information, Contractor shall at all times remain in compliance with CJIS requirements, including remaining aware at all times of changes to CJIS and promptly implementing all procedures and practices as may be necessary to remain in compliance with CJIS, including certifying staff for background check and training, at Contractor's sole cost and expense.

~~2.4.2.2.~~ In respect of Personal Data provided to Contractor by County in connection with the Agreement, Contractor shall comply and shall ensure that its personnel complies, with the requirements of state, federal, and national privacy laws and regulations governing such Personal Data in Contractor's possession or under its control and applicable to Contractor's provision of Services.

**Commented [TS34]:** Not applicable nor in scope for the services provided. UKG provides a human capital management solution, where Personally Identifiable Information ("PII"), such as name, email, address, etc. is in scope for the application.

~~2.5.2.3.~~ Contractor shall notify County, without undue delay, of any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to County Data in Contractor's possession or under its control (a "Data Breach"). Each party shall reasonably cooperate with the other with respect to the investigation and resolution of any Data Breach including, in the case of Contractor, prompt provision of the following, to the extent then known to Contractor: (i) the possible cause and

consequences of the Data Breach; (ii) the categories of County Data involved; (iii) a summary of the possible consequences for the relevant users; (iv) a summary of the unauthorized recipients of County Data; and (v) the measures taken by Contractor to mitigate any damage. Upon confirmation of any vulnerability or breach of Contractor's security affecting County Data in Contractor's custody and control, Contractor shall modify its processes and security program, as necessary, to mitigate the effects of the vulnerability or breach upon such County Data.

### 3. Data Security

- 3.1. Contractor shall ensure all County Data ~~is stored remains within the United States and is not processed, stored, transmitted, or disposed of out of the country without the prior written authorization by County.~~
- 3.2. Where possible, Contractor shall remove, disable or change all default credentials prior to placing equipment into production. Removal is preferable.
- 3.3. Contractor shall uninstall or disable unnecessary programs and services prior to placing equipment into production. Uninstalling is preferable.
- 3.4. Contractor shall implement and maintain commercially reasonable technical and organizational security measures designed to meet the following objectives: (i) ensure the security and confidentiality of County Data in the custody of and processed by Contractor; (ii) protect against any anticipated threats or hazards to the security or integrity of such County Data; (iii) protect against unauthorized access to or use of such County Data; and (iv) ensure that Contractor's return or disposal of such County Data is performed in a manner consistent with Contractor's obligations under items (i)-(iii).
- 3.5. Contractor shall store all County backup data as part of its designated backup and recovery processes in encrypted form, using a commercially supported encryption solution. Contractor shall encrypt all County confidential data. Encryption solutions will be deployed with no less than a 128-bit encryption key using the Advanced Encryption Standard (AES). The encryption standards apply to data at rest and data in motion.
- 3.6. Contractor shall use Transport Layer Security (TLS) protocol TLS 1.2 or higher.
- 3.7. If any user requests Contractor to provide them with information relating to processing of their Personal Data, or to make changes to their Personal Data, Contractor shall promptly notify County of the request, unless otherwise required by applicable law. County may make changes to User Data using the features and functionality of the Application. Contractor shall not make changes to User Data except as agreed in writing with County. Contractor shall process County Personal Data only as necessary to provide the Services, and in accordance with County's written instructions. This Agreement and County's use of the Application's features and functionality are County's instructions to Contractor in relation to the processing of County Personal Data.
- 3.8. County is solely responsible for its data retention obligations with respect to County Data. County may export County Data from the Application at any time during the Agreement Term, using the Application's then existing features and functionality, at no additional charge. County may delete County Data on its Instances at any time. Contractor shall delete County's Instances (and any data remaining on such Instances) upon termination or expiration of the Agreement.

**Commented [TS35]:** The location where Customer data is hosted, stored, and backed up is dependent on the geographic location selected on the Order Form by the Customer. For example, if the Customer selects the United States on the Order Form, the Customer's data will be hosted, stored, and backed up within the United States.

UKG provides 24/7/365 global support to its Customers. UKG's team is comprised of variety of individuals from all over the globe. Customer Data may be accessed outside of the US by UKG personnel for the purposes of support. Access to electronically held Customer Data is granted only to authorized personnel, who are UKG employees, using the principle of least privilege role-based access model. UKG employees are provisioned the access required to perform their job responsibilities and all of activity is logged and monitored in accordance with the ISO 27001, 27017 and 27018 programs, as well as the audited controls reflected in the SOC 2 Type I and SOC 2 Type II reports.

UKG is a global company with a follow the sun support model. UKG may provide support for the services from any of its global locations, which currently consist of the US, United Kingdom, Australia, Canada, India, France, Singapore, Uruguay and Ireland. UKG may stand up additional or change locations as necessary to meet its support needs. Additionally, all support locations are vetted through our third-party risk process, and depending on the location proposed, may be evaluated by our Threat Intelligence team within Enterprise Security to determine whether the geographic location is appropriate for the support activities proposed.

UKG's Legal Privacy team evaluates any legal privacy considerations associated with a support location to ensure compliance with data protection regulations.

3.9. All rights, title, and interest in and to County Data are and shall remain the property of County. County understands that certain applications will not function absent County Data, and as such, County shall provide digital files, in the form and format and on the schedule specified by Contractor, County Data, and other information reasonably required for Contractor's performance of its obligations under the Agreement. Subject to the terms of the Agreement, County hereby grants to Contractor throughout the term of the Agreement (and after the term solely as reasonably necessary for the performance of Contractor's post-termination obligations to County) the rights to use, reproduce, store, distribute, modify, cache, and transmit County Data via the applicable Application solely to the extent necessary for Contractor to provide the Services or otherwise perform its obligations under the Agreement. Contractor shall allow access to County Data on a need to know basis using the principle of least privilege.

**Commented [JC36]:** Refer to UKG's EULA for relevant provisions addressing permitted uses of County Data.

3.10. County Data will be and remain the property of County. Contractor may not use County Data for any purpose other than to render the Services. No County Data will be sold, assigned, leased, or otherwise disposed of to third parties or commercially exploited by or on behalf of Contractor (or any of its Subcontractors). Neither the Contractor nor any of its Subcontractors may possess or assert any lien or other right against or to County Data. Without limiting the generality of the foregoing, (a) the Contractor may use County Data only as strictly necessary to render the Services and must restrict access to such information to Contractor Personnel on a strict need-to-know basis, and (b) the Contractor will not download, copy, transmit or make available any County Data to any third party, except as expressly permitted by this Agreement.

**Commented [JC37]:** Refer to UKG's EULA for relevant provisions addressing permitted uses of County Data.

3.11. When County Data is in the Contractor's possession or under the Contractor's control and an event occurs that prevents or hinders the access to or reliable use of such County Data, the Contractor will re-create or restore such data immediately, or in any case, as soon as reasonably practicable, to the last scheduled back-up applicable to such County Data in accordance with the Contractor's responsibilities hereunder. Any such re-creation or restoration will be at the Contractor's expense and County will not be subject to any charge in connection therewith.

~~3.12.~~ The Contractor will maintain a comprehensive Security Program in compliance with generally accepted industry standards and applicable laws (i) County Rules and (ii) the Federal Information Security Management Act (FISMA), 44 U.S.C. § 3541 et seq. The content and implementation of the Security Program and associated technical, organizational, and security measures will be fully documented by the Contractor.

**Commented [TS38]:** This is a commercial SaaS software solution. UKG's policies are designed in accordance with UKG's policies for our entire customer base. Upon request, UKG can provide the County with relevant material information through UKG's Customer Due Diligence Package, so that the County may determine whether UKG is in compliance with its policies. With respect to UKG's information security practices, UKG Pro is audited against the AICPA/SSAE 18 SOC 2 Trust Principles, and has achieved ISO 27001, 27017 & 27018 Certifications.

#### 4. Right to Audit

4.1. Vendor shall provide County Information Security Team with the most recent Service Organization Control 2 (SOC 2) Type 2 Report upon request to assess the effectiveness of security processes by observing operations for at least three months, but preferably 6-12 months.

4.2. Contractor shall maintain compliance with industry standards and applicable governing frameworks such as Statement on Standards for Attestation Engagements (SSAE) and the International Organization for Standardization (ISO) (e.g., SSAE 16, ISO 27001, and ISO 27018) throughout the Agreement Term. Contractor shall make available to County, annually and upon request, all-relevant information necessary to demonstrate compliance with its



obligations. Contractor shall allow for and contribute to audits conducted by County, or third-party auditor mandated by County, so long as said third party auditor is acceptable to Contractor, under the following parameters:

- 4.2.1. County may elect to conduct an audit not more than once within any 12-month period at no cost to County. Any such audits shall be limited to a robust customer due diligence package consisting of details on Contractor's information security/risk practices and reasonable access to knowledgeable personnel to discuss the controls in place, including a meeting at Contractor's corporate headquarters. In the event County requests support or information beyond the content described above, or requests Any additional audits within the same 12-month period, then, upon County's audit request, the Parties will mutually agree on the terms of the audit plan, which shall include details regarding the scope, duration, and scheduling of the audit and shall be subject to a reasonable fees.
- 4.2.2. Third-party auditors mandated by County shall enter into confidentiality agreements with Contractor that are no less restrictive than those set out in this Agreement;
- 4.2.3. County provides reasonable prior notice of such request for an audit;
- 4.2.4. County ensures such audit shall not be unreasonably disruptive to Contractor's business; and
  - 4.2.4.1.1. Neither County nor its auditors shall be permitted to make unaccompanied site visits or to logically access Contractor's IT systems

## 5. Confidential Information

- 5.1. Contractor's employees, agents, and subcontractors may have access to confidential data maintained by County to the extent necessary to carry out Contractor's responsibilities under the Agreement. Contractor shall presume that all information received pursuant to the Agreement is confidential unless otherwise designated by County. If it is reasonably likely Contractor will have access to County's confidential information, then:
  - 5.1.1. Contractor shall provide to County a written description of Contractor's policies and procedures to safeguard confidential information;
  - 5.1.2. Policies of confidentiality shall address, as appropriate, information conveyed in verbal, written, and electronic formats;
  - 5.1.3. Contractor must designate one individual who shall remain the responsible authority in charge of all data collected, used, or disseminated by Contractor in connection with the performance of the Services; and
  - 5.1.4. Contractor shall provide adequate supervision and training to its agents, employees, and subcontractors to ensure compliance with the terms of the Agreement.
- 5.2. The private or confidential data shall remain the property of County at all times. Some services performed for County may require Contractor to sign a nondisclosure agreement. Contractor understands and agrees that refusal or failure to sign such a nondisclosure agreement if required, may result in termination of the Agreement.
- 5.3. No confidential data collected, maintained, or used in the course of performance of the Services shall be disseminated except as authorized by law and with the written consent of County, either during the period of the Agreement or thereafter. Any data supplied to or created by Contractor shall be considered the property of County. Contractor shall return any and all data collected, maintained, created, or used in the course of the

**Commented [TS39]:** UKG maintains a Customer Audit Program, where we inform and provide Customers with assurances of UKG's information security and risk management practices, through our Customer Due Diligence Package, in support of Customer's due diligence efforts. Should Customer's need information beyond the Customer Due Diligence Package and reasonable access to knowledgeable personnel to discuss the controls in place, then the parties will mutually agree on an audit plan, and UKG will reasonably support the Customer in their due diligence efforts.

performance of the Services, in whatever form it is maintained, promptly at the request of County.

- 5.4. In the event that a subpoena or other legal process is served upon Contractor for records containing confidential information, Contractor shall promptly notify County and cooperate with County in any lawful effort to protect the confidential information.
- 5.5. Contractor shall immediately report to County any unauthorized disclosure of confidential information.
- 5.6. Contractor's confidentiality obligation under the Agreement shall survive termination of the Agreement.

## 6. Termination

- 6.1. Following the termination or expiration of this Agreement, Contractor shall offer transition assistance, which may include, to the extent practicable, an export of County Data from the applicable Application or Instance. To the extent Contractor makes available to County an Application Program Interface (API) or other means to assist with such transition, the API shall be Contractor's Confidential Information, and County is granted a personal, non-sublicensable, nonexclusive, non-transferable, limited license to use the API solely for County's internal use for exporting County's content from the existing system to the new County system. County shall not (a) copy, rent, sell, disassemble, reverse engineer, or decompile (except to the limited extent expressly authorized by applicable statutory law), modify, or alter any part of the API, or (b) otherwise use the API on behalf of any third party. The API license shall automatically terminate in the event County breaches this Section or immediately upon notice from Contractor.
- 6.2. Upon termination of this Agreement and transfer of data to County, Contractor shall sanitize/erase, destroy, and render unrecoverable all County Data still in its possession and certify in writing, upon request, that these actions have been completed within thirty (30) days of the termination of this Agreement and transfer of data or within seven (7) days of the request of an agent of County, whichever shall come first. At a minimum, a "Clear" media sanitization is to be performed according to the standards enumerated by the National Institute of Standards, Guidelines for Media Sanitization, SP800-88, Appendix A (<http://csrc.nist.gov/>) or other generally accepted guidelines for the secure deletion of data.
- 6.3. In order to protect the interests of the public, Contractor agrees that upon termination of this Contract for any reason, it shall provide sufficient efforts and cooperation to ensure an orderly and efficient transition of services to County or another contractor. Contractor shall provide full disclosure to County and third party contractor of the equipment, Software, Licenses, and Services required to perform for County. Contractor shall transfer licenses or assign agreements for any Software or third party services used to provide the Services to County or to another contractor.

Further, in the event that County has entered into or enters into agreements with other contractors for additional work related to services rendered under the Contract, Contractor agrees to cooperate fully with such other contractors. Contractor shall not commit any act, which will interfere with the performance of work by any other contractor.

**Commented [JC40]:** Refer to Effect of Termination in UKG's EULA provided as part of its response.

**Commented [JC41]:** See UKG EULA for "Effects of Termination" and the scope of UKG's post-termination support. All other efforts and cooperation would be subject to a mutually agreed upon Statement of Work, including any associated costs.

**Commented [TS42]:** The County is the controller of its data input within the application. Upon termination of the contract, the County would be provided with an access window (generally 30 days) to extract their data from the application. Once, that extraction window passes, UKG would lock the County's company records within the application, revoking the County's ability to access the environment. Following this period, UKG would delete confidential County data from the environment in accordance with generally accepted guidelines for the secure deletion and sanitization of data. Final deletion of County Data will be completed when the last backup that contained County Data is securely overwritten within the Service.

**Field Code Changed**

**Commented [JC43]:** See UKG EULA for "Effects of Termination" and the scope of UKG's post-termination support. All other efforts and cooperation would be subject to a mutually agreed upon Statement of Work, including any associated costs.



#### **Exhibit “10-A” Change Control Definitions and Process**

##### **1. Change Control Definitions and Process**

Project scope and schedule changes to **Exhibit “4” Vendor’s Statement of Work** shall be addressed through this Change Control Process using **Exhibit “10-B” Change Order Form**. Any changes shall be documented, reviewed, and mutually agreed upon by the Parties. The Change Order Form shall document the scope of work and a fee. Implementation of the change shall be factored into the initial project plan and a modified completion date for the project will be detailed, if necessary. The hourly bill rate for all change orders is \$\_\_\_\_\_ USD.

##### **2. Change Control Definitions**

- a. “**Change Control**” describes the process for managing potential project changes.
- b. “**Change Request**” is an informal request by Customer or Vendor to modify the scope, schedule, and/or budget of the Professional Services to be provided pursuant to SOW-#.
- c. “**Change Order**” is a formal amendment to SOW-#, generated by Vendor signed by both parties.

##### **3. Change Control Process**

The following provides a summary of the process to follow if a change to this SOW is desired:

- a. Customer or Vendor submits a written (email acceptable) Change Request including the following:
  - i. change description, detailing what is to be amended from this SOW
  - ii. rationale for the change
  - iii. impact the change may have on the Professional Services
- b. Both Customer and Vendor review the Change Request to determine the merits of the request and the impact of on the fees, schedule, scope, and other terms and conditions of the SOW that may result from the implementation of the Change Request.
- c. The parties decide either to accept or to reject the change.
- d. Vendor prepares a Change Order, which includes a description of the applicable changes to scope, estimated fees, planned resources, timeline, and any other terms.
- e. Vendor submits Change Order to Customer for final review and approval.
- f. Vendor executes the Change Order and sends to Customer.
- g. Customer executes the Change Order, and if applicable, generates a purchase order associated with that Change Order.

The Professional Services described in the fully executed Change Order will be performed by Vendor as included as part of the **Exhibit “4” Vendor’s Statement of Work**.

**Exhibit "10-B" Change Order Form**

Change Order No. **X** ("Change Order") by and between County and **Vendor Name** ("Vendor") is subject to all the terms and conditions of **Exhibit "4" Vendor's Statement of Work** ("SOW") in the Agreement between County and **Vendor Name** dated **mm/dd/yyyy**.

The Parties agree to revise the scope and budget of the SOW as follows:

**1. Change Order Summary**

This Change Order is necessary to redefine the requirements to accommodate changes requested by the County for <insert description here>.

**2. Tasks Removed from Scope**

The tasks below have been removed from the scope of the project:

#	Task
1	
2	
3	

**3. Tasks Added to Scope**

The tasks below are added to the scope of the project:

#	Task
1	
2	
3	

**4. Estimated Hours**

The Change Order represents an update to the Budgetary Guidance set forth in SOW-**X** as follows:

Change Order Scope		Estimated Time to Complete (in hours)
1		
2		
3		

	<b>Totals Hours:</b>	
--	----------------------	--

**5. Change Order Effect on SOW-X Scope Hours and Cost**

Original SOW Budgetary Guidance	Original Project Scope Hours	Change Order #	Increase (Decrease) Hours	Increase (Decrease) Cost	New Project Scope Hours	New Project Budget
<b>Total Project Hours and Budget</b>						

**6. Change Order Payment Terms**

Actual professional services under this Change Order will be billed at an hourly rate of at \$xxx.xx USD and invoiced monthly with net 30 payment terms.

If no Bill Rate is provided above, billing for actual professional services under this Change Order will be agreed to by the Parties and will include:

Bill Rate

Invoice Frequency

Net Payment Terms

If travel and expenses (T&E) are expected, details are included in this formal Change Order and will be agreed to and executed between the Parties.

**Exhibit "11-A" Contractor Affidavit and Agreement**

**CONTRACTOR AFFIDAVIT AND AGREEMENT**

By executing this affidavit, the undersigned Contractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is contracting with Cobb County, Georgia, has registered with, is authorized to use, and is participating in a federal work authorization program (an electronic verification of work authorization program operated by the U.S. Department of Homeland Security or any equivalent federal work authorization program operated by the U.S. Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA)). The undersigned Contractor further attests that it will continue to use the federal Employment Eligibility Verification (EEV) work authorization program throughout the Contract period.

The undersigned further agrees that should it employ or contract with any subcontractor(s) or should its subcontractor(s) employ other subcontractor(s) for the physical performance of services pursuant to the contract with Cobb County, Georgia, the contractor or subcontractor will:

- (1) Notify County within five business days of entering into a contract or agreement for hire with any subcontractor(s);
- (2) Secure from any subcontractor(s) and/or their subcontractor(s) verification of compliance with O.C.G.A. § 13-10-91 on the attached **Exhibit "11-B" Subcontractor Affidavit and Agreement** prior to the commencement of any work under the contract/agreement;
- (3) Secure from any subcontractor(s) and/or their subcontractor(s) a completed **Exhibit "11-C" Immigration Compliance Certification** prior to the commencement of any work under the contract/agreement;
- (4) Provide the subcontractor(s) with legal notice that Cobb County, Georgia, reserves the right to dismiss, or require the dismissal of, any Contractor or subcontractor for failing to provide the affidavit and/or for failure to comply with the requirements referenced in the affidavit;
- (5) Maintain records of such compliance for a period of five (5) years and provide a copy of each such verification to Cobb County, Georgia, at the time the subcontractor(s) is retained to perform such services or upon any request from Cobb County, Georgia; and
- (6) Allow the audit or review of records of compliance by County upon request.

\_\_\_\_\_  
EEV (E-Verify) Program Number

\_\_\_\_\_  
EEV Program Date of Authorization

\_\_\_\_\_  
BY: Authorized Officer or Agent  
[Contractor Name]

\_\_\_\_\_  
Contractor Business Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

SWORN AND SUBSCRIBED BEFORE ME  
ON THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 202\_\_

\_\_\_\_\_  
Commission Expires:

Version 09-20-2013

**Exhibit "11-B" Subcontractor Affidavit and Agreement**

**SUBCONTRACTOR AFFIDAVIT AND AGREEMENT**

By executing this affidavit, the undersigned subcontractor verifies its compliance with O.C.G.A. § 13-10-91, stating affirmatively that the individual, firm or corporation which is engaged in the physical performance of services on behalf of Cobb County, Georgia, has registered with, is authorized to use, and is participating in a federal work authorization program (an electronic verification of work authorization program operated by the U.S. Department of Homeland Security or any equivalent federal work authorization program operated by the U.S. Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA)). The undersigned subcontractor further attests that it will continue to use the federal Employment Eligibility Verification (EEV) work authorization program throughout the contract period.

The undersigned further agrees that should it employ or contract with any subcontractor(s) or should its subcontractor(s) employ other subcontractor(s) for the physical performance of services pursuant to the contract with Cobb County, Georgia, the contractor or subcontractor will:

- (1) Notify County within five business days of entering into a contract or agreement for hire with any subcontractor(s);
- (2) Secure from any subcontractor(s) and/or their subcontractor(s) verification of compliance with O.C.G.A. § 13-10-91 on the **Exhibit "11-B" Subcontractor Affidavit and Agreement** prior to the commencement of any work under the contract/agreement;
- (3) Secure from any subcontractor(s) and/or their subcontractor(s) a completed **Exhibit "11-C" Immigration Compliance Certification** prior to the commencement of any work under the contract/agreement;
- (4) Provide the subcontractor(s) with legal notice that Cobb County, Georgia, reserves the right to dismiss, or require the dismissal of, any Contractor or subcontractor for failing to provide the affidavit and/or for failure to comply with the requirements referenced in the affidavit;
- (5) Maintain records of such compliance and provide a copy of each such verification to Cobb County, Georgia, at the time the subcontractor(s) is retained to perform such services or upon any request from Cobb County, Georgia; and
- (6) Maintain such records for a period of five (5) years.

\_\_\_\_\_  
EEV (E-Verify) Program Number

\_\_\_\_\_  
EEV Program Date of Authorization

\_\_\_\_\_  
BY: Authorized Officer or Agent  
[Subcontractor Name]

\_\_\_\_\_  
Subcontractor Business Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

SWORN AND SUBSCRIBED BEFORE ME  
ON THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 202\_

Commission Expires: \_\_\_\_\_

*Version 09-20-2013*

**Exhibit "11-C" Immigration Compliance Certification**

**EMPLOYER IMMIGRATION COMPLIANCE CERTIFICATION**

*(To be completed by Contractor and all subcontractors prior to contract initiation, every six months after commencement of work, and at any time there is a change in personnel assigned to the Project.)*

I certify to the Cobb County Board of Commissioners that the following employees will be assigned to the <...>

_____	_____	_____
_____	_____	_____
_____	_____	_____

I further certify to Cobb County, Georgia the following:

1. The E-Verify program was used to verify the employment eligibility of each of the above-listed employees hired after the effective date of our contract to use the program;
2. We have not received a Final Nonconfirmation response from E-Verify for any of the employees listed;
3. If we receive a Final Nonconfirmation response from E-Verify for any of the employees listed above, we will immediately terminate that employee's involvement with the Project;
4. I have confirmed that we have an I-9 on file for every employee listed above and that to the best of my knowledge all the I-9s are accurate;
5. To the best of my knowledge and belief, all of the employees on the above list are legally authorized to work in the United States;
6. If any other employee is assigned to this Cobb County project, a certification will be provided for said employee prior to the employee commencing work on the Project.

To the best of my knowledge and belief, the above certification is true, accurate and complete.

**Sworn to by:**

**Employer Name & Address:**

\_\_\_\_\_  
Signature of Officer

\_\_\_\_\_

\_\_\_\_\_  
Printed Name/Title

\_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_

SWORN AND SUBSCRIBED BEFORE ME  
ON THIS THE \_\_\_\_ DAY OF \_\_\_\_\_, 202\_

Commission Expires: \_\_\_\_\_

Version 09-20-2013

**Exhibit "12" Conflict of Interest Affidavit**

As a duly authorized representative of **Vendor Name** ("Vendor"), I, **<insert affiant's name>**, **<insert affiant's title>**, certify that to the best of my knowledge that Vendor did not engage in any activity or conduct that would result in a violation of the Cobb County Code of Ethics or any other similar law or regulation, that no circumstances exist that will cause a conflict of interest in performing services for Cobb County, Georgia, that no employee of Cobb County, nor any public agency official or employee affected by this Agreement has any pecuniary interest in the business of this firm, associates or consultants of this firm, or the firm's parent firm, subsidiary, or other legal entity of which this firm is a part, and that no person associated with or employed by this firm has any interest that would conflict in any way, manner or degree with the performance of services for Cobb County, Georgia.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name and Title

\_\_\_\_\_  
Date

Subscribed and sworn before me  
on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_



## **APPENDIX 6 – EXHIBIT F: FEDERAL FUNDS CERTIFICATIONS**

If and when federal funding is intended to be used by a Participating Public Agency, UKG will review and discuss the applicability of the various FARs to the specific transaction with such Participating Public Agency and incorporate such provisions in the contract with the Participating Public Agency as appropriate.

## Exhibit F Federal Funds Certifications

---

### FEDERAL CERTIFICATIONS

#### ADDENDUM FOR AGREEMENT FUNDED BY U.S. FEDERAL GRANT

---

#### TO WHOM IT MAY CONCERN:

Participating Agencies may elect to use federal funds to purchase under the Master Agreement. This form should be completed and returned.

---

#### DEFINITIONS

**Contract** means a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward

**Contractor** means an entity that receives a contract as defined in Contract.

**Cooperative agreement** means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302–6305:

- (a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal government or pass-through entity's direct benefit or use;
- (b) Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.
- (c) The term does not include:
  - (1) A cooperative research and development agreement as defined in 15 U.S.C. 3710a; or
  - (2) An agreement that provides only:
    - (i) Direct United States Government cash assistance to an individual;
    - (ii) A subsidy;
    - (iii) A loan;
    - (iv) A loan guarantee; or
    - (v) Insurance.

**Federal awarding agency** means the Federal agency that provides a Federal award directly to a non-Federal entity

**Federal award** has the meaning, depending on the context, in either paragraph (a) or (b) of this section:

- (a)(1) The Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101 Applicability; or
- (2) The cost-reimbursement contract under the Federal Acquisition Regulations that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101 Applicability.
- (b) The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance covered in paragraph (b) of § 200.40 Federal financial assistance, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.
- (c) Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal government owned, contractor operated facilities (GOCOs).
- (d) See also definitions of Federal financial assistance, grant agreement, and cooperative agreement.

**Non-Federal entity** means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

**Nonprofit organization** means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

- (a) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
- (b) Is not organized primarily for profit; and
- (c) Uses net proceeds to maintain, improve, or expand the operations of the organization.

**Obligations** means, when used in connection with a non-Federal entity's utilization of funds under a Federal award, orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period.

**Pass-through entity** means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

**Recipient** means a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients.

**Simplified acquisition threshold** means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is \$250,000, but this threshold is periodically adjusted for inflation. (Also see definition of § 200.67 Micro-purchase.)

**Subaward** means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

**Subrecipient** means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

**Termination** means the ending of a Federal award, in whole or in part at any time prior to the planned end of period of performance.

The following provisions may be required and apply when Participating Agency expends federal funds for any purchase resulting from this procurement process. Per FAR 52.204-24 and FAR 52.204-25, solicitations and resultant contracts shall contain the following provisions.

#### **52.204-24 Representation Regarding Certain Telecommunications and Video Surveillance Services or Equipment (Oct 2020)**

The Offeror shall not complete the representation at paragraph (d)(1) of this provision if the Offeror has represented that it "does not provide covered telecommunications equipment or services as a part of its offered products or services to the Government in the performance of any contract, subcontract, or other contractual instrument" in paragraph (c)(1) in the provision at [52.204-26, Covered Telecommunications Equipment or Services—Representation](#), or in paragraph (v)(2)(i) of the provision at [52.212-3, Offeror Representations and Certifications-Commercial Items](#). The Offeror shall not complete the representation in paragraph (d)(2) of this provision if the Offeror has represented that it "does not use covered telecommunications equipment or services, or any equipment, system, or service that uses covered telecommunications equipment or services" in paragraph (c)(2) of the provision at [52.204-26](#), or in paragraph (v)(2)(ii) of the provision at [52.212-3](#).



(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(1) of this provision.

(2) Disclosure for the representation in paragraph (d)(2) of this provision. If the Offeror has responded "does" in the representation in paragraph (d)(2) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (b)(2) of this provision.

#### 52.204-25 Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment (Aug 2020).

(a) *Definitions.* As used in this clause—

*Backhaul* means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).

*Covered foreign country* means The People's Republic of China.

*Covered telecommunications equipment or services* means—

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);

(2) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);

(3) Telecommunications or video surveillance services provided by such entities or using such equipment; or

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

*Critical technology* means—

(1) Defense articles or defense services included on the United States Munitions List set forth in the International Traffic in Arms Regulations under subchapter M of chapter I of title 22, Code of Federal Regulations;

(2) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled—

(i) Pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

(ii) For reasons relating to regional stability or surreptitious listening;

(3) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities);

(4) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating to export and import of nuclear equipment and material);

(5) Select agents and toxins covered by part 331 of title 7, Code of Federal Regulations, part 121 of title 9 of such Code, or part 73 of title 42 of such Code; or

(6) Emerging and foundational technologies controlled pursuant to section 1758 of the Export Control Reform Act of 2018 (50 U.S.C. 4817).

*Interconnection arrangements* means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.

*Reasonable inquiry* means an inquiry designed to uncover any information in the entity's possession about the identity of the producer or provider of covered telecommunications equipment or services used by the entity that excludes the need to include an internal or third-party audit.

*Roaming* means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.

*Substantial or essential component* means any component necessary for the proper function or performance of a piece of equipment, system, or service.

**(b) Prohibition.**

(1) Section 889(a)(1)(A) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2019, from procuring or obtaining, or extending or renewing a contract to procure or obtain, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. The Contractor is prohibited from providing to the Government any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR [4.2104](#).

(2) Section 889(a)(1)(B) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019 (Pub. L. 115-232) prohibits the head of an executive agency on or after August 13, 2020, from entering into a contract, or extending or renewing a contract, with an entity that uses any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, unless an exception at paragraph (c) of this clause applies or the covered telecommunication equipment or services are covered by a waiver described in FAR [4.2104](#). This prohibition applies to the use of covered telecommunications equipment or services, regardless of whether that use is in performance of work under a Federal contract.

**(c) Exceptions.** This clause does not prohibit contractors from providing—

- (1) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements;
- or
- (2) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

**(d) Reporting requirement.**

(1) In the event the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the Contractor is notified of such by a subcontractor at any tier or by any other source, the Contractor shall report the information in paragraph (d)(2) of this clause to the Contracting Officer, unless elsewhere in this contract are established procedures for reporting the information; in the case of the Department of Defense, the Contractor shall report to the website at <https://dibnet.dod.mil>. For indefinite delivery contracts, the Contractor shall report to the Contracting Officer for the indefinite delivery contract and the Contracting Officer(s) for any affected order or, in the case of the Department of Defense, identify both the indefinite delivery contract and any affected orders in the report provided at <https://dibnet.dod.mil>.

(2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause

(i) Within one business day from the date of such identification or notification: the contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.



(ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: any further available information about mitigation actions undertaken or recommended. In addition, the Contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) *Subcontracts*. The Contractor shall insert the substance of this clause, including this paragraph (e) and excluding paragraph (b)(2), in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

The following certifications and provisions may be required and apply when Participating Agency expends federal funds for any purchase resulting from this procurement process. Pursuant to 2 C.F.R. § 200.326, all contracts, including small purchases, awarded by the Participating Agency and the Participating Agency's subcontractors shall contain the procurement provisions of Appendix II to Part 200, as applicable.

---

#### APPENDIX II TO 2 CFR PART 200

(A) Contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Pursuant to Federal Rule (A) above, when a Participating Agency expends federal funds, the Participating Agency reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach of contract by either party.

Does offeror agree? YES \_\_\_\_\_ Initials of Authorized Representative of offeror

(B) Termination for cause and for convenience by the grantee or subgrantee including the manner by which it will be effected and the basis for settlement. (All contracts in excess of \$10,000)

Pursuant to Federal Rule (B) above, when a Participating Agency expends federal funds, the Participating Agency reserves the right to immediately terminate any agreement in excess of \$10,000 resulting from this procurement process in the event of a breach or default of the agreement by Offeror as detailed in the terms of the contract.

Does offeror agree? YES \_\_\_\_\_ Initials of Authorized Representative of offeror

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 CFR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

Pursuant to Federal Rule (C) above, when a Participating Agency expends federal funds on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

Does offeror agree to abide by the above? YES \_\_\_\_\_ Initials of Authorized Representative of offeror

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In

addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to Federal Rule (D) above, when a Participating Agency expends federal funds during the term of an award for all contracts and subgrants for construction or repair, offeror will be in compliance with all applicable Davis-Bacon Act provisions.

Does offeror agree? YES \_\_\_\_\_ Initials of Authorized Representative of offeror

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Rule (E) above, when a Participating Agency expends federal funds, offeror certifies that offeror will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act during the term of an award for all contracts by Participating Agency resulting from this procurement process.

Does offeror agree? YES \_\_\_\_\_ Initials of Authorized Representative of offeror

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §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 or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

Pursuant to Federal Rule (F) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (F) above.

Does offeror agree? YES \_\_\_\_\_ Initials of Authorized Representative of offeror

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to 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 as amended (33 U.S.C. 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA)

In the event Federal Transit Administration (FTA) or Department of Transportation (DOT) funding is used by Participating Public



Agency, Offeror also agrees to include Clean Air and Clean Water requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

Pursuant to Federal Rule (G) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency member resulting from this procurement process, the offeror agrees to comply with all applicable requirements as referenced in Federal Rule (G) above.

Does offeror agree? YES \_\_\_\_\_ Initials of Authorized Representative of offeror

**(H) Debarment and Suspension (Executive Orders 12549 and 12689)**—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the Executive Office of the President Office of Management and Budget (OMB) guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to Federal Rule (H) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror certifies that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency. If at any time during the term of an award the offeror or its principals becomes debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency, the offeror will notify the Participating Agency.

Does offeror agree? YES \_\_\_\_\_ Initials of Authorized Representative of offeror

**(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)**—Contractors that apply or bid for an award exceeding \$100,000 must 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 must 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.

Pursuant to Federal Rule (I) above, when federal funds are expended by Participating Agency, the offeror certifies that during the term and after the awarded term of an award for all contracts by Participating Agency resulting from this procurement process, the offeror certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure of Lobbying Activities,” in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(3) The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify

and disclose accordingly.

Does offeror agree? YES \_\_\_\_\_ Initials of Authorized Representative of offeror

---

**RECORD RETENTION REQUIREMENTS FOR CONTRACTS INVOLVING FEDERAL FUNDS**

---

When federal funds are expended by Participating Agency for any contract resulting from this procurement process, offeror certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. The offeror further certifies that offeror will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

Does offeror agree? YES \_\_\_\_\_ Initials of Authorized Representative of offeror

---

**CERTIFICATION OF COMPLIANCE WITH THE ENERGY POLICY AND CONSERVATION ACT**

---

When Participating Agency expends federal funds for any contract resulting from this procurement process, offeror certifies that it will comply with the 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. 6321 et seq.; 49 C.F.R. Part 18).

Does offeror agree? YES \_\_\_\_\_ Initials of Authorized Representative of offeror

---

**CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS**

---

To the extent purchases are made with Federal Highway Administration, Federal Railroad Administration, or Federal Transit Administration funds, offeror certifies that its products comply with all applicable provisions of the Buy America Act and agrees to provide such certification or applicable waiver with respect to specific products to any Participating Agency upon request. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition. Additionally:

- (1) The Contractor agrees to comply with 49 USC 5323(j) and 49 CFR Part 661, which provide that federal funds may not be obligated unless steel, iron and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7. A general public interest waiver from the Buy America requirements applies to microprocessors, computers, microcomputers, software or other such devices, which are used solely for the purpose of processing or storing data. This general waiver does not extend to a product or device that merely contains a microprocessor or microcomputer and is not used solely for the purpose of processing or storing data. Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR 661.11.
- (2) A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification with all bids on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

The following certificates titled FTA and DOT Buy America Certification should be completed and returned with the response as part of FTA and DOT requirements.

**FEDERAL TRASIT ADMINISTRATION (FTA) AND DEPARTMENT OF TRANSPORTATION (DOT) -  
BUY AMERICA: CERTIFICATION REQUIREMENT FOR PROCUREMENT OF ROLLING STOCK**

**CERTIFICATE OF COMPLIANCE**

(select one of the two options, NOT BOTH)

**Certificate of Compliance with 49 USC §5323(j)**

The proposer hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j), and the applicable regulations of 49 CFR 661.11.

Check for YES: ☐

OR



**Certificate of Non-Compliance with 49 USC §5323(j)**

The proposer hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but may qualify for an exception to the requirement consistent with 49 U.S.C. 5323(j)(2)(C), and the applicable regulations in 49 CFR 661.7.

Check for YES: ☐

**FEDERAL TRASIT ADMINISTRATION (FTA) AND DEPARTMENT OF TRANSPORTATION (DOT) -  
BUY AMERICA: CERTIFICATION REQUIREMENT FOR PROCUREMENT OF STEEL OR MANUFACTURED PRODUCTS**

**CERTIFICATE OF COMPLIANCE (select one of the two options, NOT BOTH)**

**Certificate of Compliance with 49 USC §5323(j)(1)**

The proposer hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 CFR part 661.

Check for YES: ☐

**OR**

**Certificate of Non-Compliance with 49 USC §5323(j)(1)**

The proposer hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 CFR 661.7.

Check for YES: ☐

Does offeror agree? YES \_\_\_\_\_ Initials of Authorized Representative of offeror

Offeror's Name: \_\_\_\_\_

Address, City, State, and Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Printed Name and Title of Authorized Representative: \_\_\_\_\_

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

Signature of Authorized Representative: \_\_\_\_\_

Date: \_\_\_\_\_

---

**CERTIFICATION OF ACCESS TO RECORDS – 2 C.F.R. § 200.336**

---

Offeror agrees that the Inspector General of the Agency or any of their duly authorized representatives shall have access to any documents, papers, or other records of offeror that are pertinent to offeror's discharge of its obligations under the Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to offeror's personnel for the purpose of interview and discussion relating to such documents.

Does offeror agree? YES \_\_\_\_\_ Initials of Authorized Representative of offeror

---

**CERTIFICATION OF APPLICABILITY TO SUBCONTRACTORS**

---

Offeror agrees that all contracts it awards pursuant to the Contract shall be bound by the foregoing terms and conditions.

Does offeror agree? YES \_\_\_\_\_ Initials of Authorized Representative of offeror

---

**COMMUNITY DEVELOPMENT BLOCK GRANTS**

---

Purchases made under this contract may be partially or fully funded with federal grant funds. Funding for this work may include Federal Funding sources, including Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban Development. When such funding is provided, Offeror shall comply with all terms, conditions and requirements

enumerated by the grant funding source, as well as requirements of the State statutes for which the contract is utilized, whichever is the more restrictive requirement. When using Federal Funding, Offeror shall comply with all wage and latest reporting provisions of the Federal Davis-Bacon Act. HUD-4010 Labor Provisions also applies to this contract.

Does offeror agree? YES \_\_\_\_\_ Initials of Authorized Representative of offeror \_\_\_\_\_

---

Offeror agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that offeror certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.

Offeror's Name: \_\_\_\_\_

Address, City, State, and Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Printed Name and Title of Authorized Representative: \_\_\_\_\_

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

Signature of Authorized Representative: \_\_\_\_\_ Date: \_\_\_\_\_

## FEMA AND ADDITIONAL FEDERAL FUNDING SPECIAL CONDITIONS

Awarded Supplier(s) (also referred to as Contractors) may need to respond to events and losses where products and services are needed for the immediate and initial response to emergency situations such as, but not limited to, water damage, fire damage, vandalism cleanup, biohazard cleanup, sewage decontamination, deodorization, and/or wind damage during a disaster or emergency situation. By submitting a proposal, the Supplier is accepted these FEMA and Additional Federal Funding Special Conditions required by the Federal Emergency Management Agency (FEMA) and other federal entities.

"Contract" in the below pages under FEMA AND ADDITIONAL FEDERAL FUNDING SPECIAL CONDITIONS is also referred to and defined as the "Master Agreement".

"Contractor" in the below pages under FEMA AND ADDITIONAL FEDERAL FUNDING SPECIAL CONDITIONS is also referred to and defined as "Supplier" or "Awarded Supplier".

### Conflicts of Interest

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a FEMA award if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties, has a financial or other interest in or a tangible personal benefit from a firm considered for award. 2 C.F.R. § 200.318(c)(1); See also Standard Form 424D, ¶ 7; Standard Form 424B, ¶ 3. i. FEMA considers a "financial interest" to be the potential for gain or loss to the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of these parties as a result of the particular procurement. The prohibited financial interest may arise from ownership of certain financial instruments or investments such as stock, bonds, or real estate, or from a salary, indebtedness, job offer, or similar interest that might be affected by the particular procurement. ii. FEMA considers an "apparent" conflict of interest to exist where an actual conflict does not exist, but where a reasonable person with knowledge of the relevant facts would question the impartiality of the employee, officer, or agent participating in the procurement. c. Gifts. The officers, employees, and agents of the Participating Public Agency nor the Participating Public Agency ("NFE") must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, NFE's may set standards for situations in which the financial interest is de minimus, not substantial, or the gift is an unsolicited item of nominal value. 2 C.F.R. § 200.318(c)(1). d. Violations. The NFE's written standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the NFE. 2 C.F.R. § 200.318(c)(1). For example, the penalty for a NFE's employee may be dismissal, and the penalty for a contractor might be the termination of the contract.

### **Contractor Integrity**

A contractor must have a satisfactory record of integrity and business ethics. Contractors that are debarred or suspended, as described in and subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Non-procurement Debarment and Suspension), must be rejected and cannot receive contract awards at any level.

### **Notice of Legal Matters Affecting the Federal Government**

In the event FTA or DOT funding is used by Participating Public Agency, Contractor agrees to:

- 1) The Contractor agrees that if a current or prospective legal matter that may affect the Federal Government emerges, the Contractor shall promptly notify the Participating Public Agency of the legal matter in accordance with 2 C.F.R. §§ 180.220 and 1200.220.



- 2) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- 3) The Contractor further agrees to include the above clause in each subcontract, at every tier, financed in whole or in part with Federal assistance provided by the FTA.

### **Public Policy**

A contractor must comply with the public policies of the Federal Government and state, local government, or tribal government. This includes, among other things, past and current compliance with the:

- a. Equal opportunity and nondiscrimination laws
- b. Five affirmative steps described at 2 C.F.R. § 200.321(b) for all subcontracting under contracts supported by FEMA financial assistance; and FEMA Procurement Guidance June 21, 2016 Page IV- 7
- c. Applicable prevailing wage laws, regulations, and executive orders

### **Affirmative Steps**

For any subcontracting opportunities, Contractor must take the following Affirmative steps:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

### **Prevailing Wage Requirements**

When applicable, the awarded Contractor (s) and any and all subcontractor(s) agree to comply with all laws regarding prevailing wage rates including the Davis-Bacon Act, applicable to this solicitation and/or Participating Public Agencies. The Participating Public Agency shall notify the Contractor of the applicable pricing/prevailing wage rates and must apply any local wage rates requested. The Contractor and any subcontractor(s) shall comply with the prevailing wage rates set by the Participating Public Agency.

### **Federal Requirements**

If products and services are issued in response to an emergency or disaster recovery the items below, located in this FEMA Special Conditions section of the Federal Funds Certifications, are activated and required when federal funding may be utilized.

### **2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, Required Contract Clauses**

#### **1. CONTRACT REMEDIES**

Contracts for more than the federal simplified acquisition threshold (SAT), the dollar amount below which an NFE may purchase property or services using small purchase methods, currently set at \$250,000 for procurements made on or after June 20, 2018,<sup>4</sup> must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and must provide for sanctions and penalties as appropriate.

### 1.1 Applicability

This contract provision is required for contracts over the SAT, currently set at \$250,000 for procurements made on or after June 20, 2018. Although not required for contracts at or below the SAT, FEMA suggests including a remedies provision.

### 1.2 Additional Considerations

For FEMA's Assistance to Firefighters Grant (AFG) Program, recipients must include a penalty clause in all contracts for any AFG-funded vehicle, regardless of dollar amount. In that situation, the contract must include a clause addressing that non-delivery by the contract's specified date or other vendor nonperformance will require a penalty of no less than \$100 per day until such time that the vehicle, compliant with the terms of the contract, has been accepted by the recipient. This penalty clause should, however, account for force majeure or acts of God. AFG recipients should refer to the applicable year's Notice of Funding Opportunity (NOFO) for additional information, which can be accessed at FEMA.gov.

## 2. TERMINATION FOR CAUSE AND CONVENIENCE

- a. Standard. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity, including the manner by which it will be effected and the basis for settlement. See 2 C.F.R. Part 200, Appendix II(B).
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

## 3. EQUAL EMPLOYMENT OPPORTUNITY

When applicable:

- a. Standard. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II(C).
- b. Key Definitions.
  - i. Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a "federally assisted construction contract" as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant,

contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

- ii. Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.
- c. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.
- d. Required Language. The regulation at 41 C.F.R. Part 60-1.4(b) requires the insertion of the following contract clause.

During the performance of this contract, the contractor 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 consideration 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 of September 24, 1965, 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 of September 24, 1965, 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 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, 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 (8) 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 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. 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 or vendor 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 of September 24, 1965, 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 grant (contract, loan, insurance, guarantee); 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.

#### 4. DAVIS-BACON ACT

- a. Standard. All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction). See 2 C.F.R. Part 200, Appendix II(D). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.
- b. Applicability. The Davis-Bacon Act applies to the Emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program.
- c. Requirements. If applicable, the non-federal entity must do the following:
  - i. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
  - ii. Additionally, pursuant 2 C.F.R. Part 200, Appendix II(D), contracts subject to the Davis-Bacon Act, must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti-Kickback Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA.



- iii. Include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction").

Suggested Language. The following provides a sample contract clause:

Compliance with the Davis-Bacon Act.

- a. All transactions regarding this contract shall be done in compliance with the Davis-Bacon Act (40 U.S.C. 3141- 3144, and 3146-3148) and the requirements of 29 C.F.R. pt. 5 as may be applicable. The contractor shall comply with 40 U.S.C. 3141-3144, and 3146-3148 and the requirements of 29 C.F.R. pt. 5 as applicable.
- b. Contractors are required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor.
- c. Additionally, contractors are required to pay wages not less than once a week.

## 5. COPELAND ANTI-KICKBACK ACT

- a. Standard. Recipient and subrecipient contracts must include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States").
- b. Applicability. This requirement applies to all contracts for construction or repair work above \$2,000 in situations where the Davis-Bacon Act also applies. It DOES NOT apply to the FEMA Public Assistance Program.
- c. Requirements. If applicable, the non-federal entity must include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). Each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA. Additionally, in accordance with the regulation, each contractor and subcontractor must furnish each week a statement with respect to the wages paid each of its employees engaged in work covered by the Copeland Anti-Kickback Act and the Davis Bacon Act during the preceding weekly payroll period. The report shall be delivered by the contractor or subcontractor, within seven days after the regular payment date of the payroll period, to a representative of a Federal or State agency in charge at the site of the building or work.

Sample Language. The following provides a sample contract clause:

Compliance with the Copeland "Anti-Kickback" Act.

- a. Contractor. The contractor shall comply with 18 U.S.C. §874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- b. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.
- c. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. §5.12."

## 6. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- a. Standard. Where applicable (see 40 U.S.C. §§ 3701-3708), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II(E). Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Further, no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous.
- b. Applicability. This requirement applies to all FEMA contracts awarded by the non- federal entity in excess of \$100,000 under grant and cooperative agreement programs that involve the employment of mechanics or laborers. It is applicable to construction work. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- c. Suggested Language. The regulation at 29 C.F.R. § 5.5(b) provides contract clause language concerning compliance with the Contract Work Hours and Safety Standards Act. FEMA suggests including the following contract clause:

Compliance with the Contract Work Hours and Safety Standards Act.

- (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 \$27 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 Federal agency or loan/grant recipient 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) *Subcontracts.* The contractor or subcontractor shall insert in any subcontracts 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 prime contractor 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.

## 7. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

- a. Standard. If the FEMA award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the non-Federal entity 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 FEMA. See 2 C.F.R. Part 200, Appendix II(F).
- b. Applicability. This requirement applies to "funding agreements," but it DOES NOT apply to the Public Assistance, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households –



Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of “funding agreement.”

- c. Funding Agreements Definition. The regulation at 37 C.F.R. § 401.2(a) defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

## 8. CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

- a. Standard. If applicable, contracts must contain a provision that requires the contractor to agree to 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 as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II(G).
- b. Applicability. This requirement applies to contracts awarded by a non-federal entity of amounts in excess of \$150,000 under a federal grant.
- c. Suggested Language. The following provides a sample contract clause.

### Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the Participating Public Agency and understands and agrees that the Participating Public Agency will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

### Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders, or

regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

2. The contractor agrees to report each violation to the Participating Public Agency and understands and agrees that the Participating Public Agency will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

## 9. DEBARMENT AND SUSPENSION

- a. Standard. Non-Federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Non-procurement Debarment and Suspension).
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.
- c. Requirements.
  - i. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II(H); and 2 C.F.R. § 200.213. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at [www.sam.gov](http://www.sam.gov). See 2 C.F.R. § 180.530.
  - ii. In general, an "excluded" party cannot receive a Federal grant award or a contract within the meaning of a "covered transaction," to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a "covered transaction," which is any non-procurement transaction (unless excepted) at either a "primary" or "secondary" tier. Although "covered transactions" do not include contracts awarded by the Federal Government for purposes of the non-procurement common rule and DHS's implementing regulations, it does include some contracts awarded by recipients and subrecipients.

- iii. Specifically, a covered transaction includes the following contracts for goods or services:
  - 1. The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.
  - 2. The contract requires the approval of FEMA, regardless of amount.
  - 3. The contract is for federally-required audit services.
  - 4. A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.
- d. Suggested Language. The following provides a debarment and suspension clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified.

#### Suspension and Debarment

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by the Participating Public Agency. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Participating Public Agency, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

## 10. BYRD ANTI-LOBBYING AMENDMENT

- a. Standard. 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. FEMA's regulation at 44 C.F.R. Part 18 implements the requirements of 31 U.S.C. § 1352 and provides, in Appendix A to Part 18, a copy of the certification that is required to be completed by each entity as described in 31 U.S.C. § 1352. Each tier must 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 Federal awarding agency.

- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs. Contractors that apply or bid for a contract of \$100,000 or more under a federal grant must file the required certification. See 2 C.F.R. Part 200, Appendix II(I); 31 U.S.C. § 1352; and 44 C.F.R. Part 18.

- c. Suggested Language.

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

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

- d. Required Certification. If applicable, contractors must sign and submit to the non-federal entity the following certification.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or

cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

\_\_\_\_\_  
Signature of Contractor's Authorized Official

\_\_\_\_\_  
Name and Title of Contractor's Authorized Official

\_\_\_\_\_  
Date

## 11. PROCUREMENT OF RECOVERED MATERIALS

- a. Standard. 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. See 2 C.F.R. Part 200, Appendix II(J); and 2 C.F.R. §200.322.
- b. Applicability. This requirement applies to all contracts awarded by a non- federal entity under FEMA grant and cooperative agreement programs.
- c. Requirements. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, 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.
- d. Suggested Language.
  - i. In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—
    1. Competitively within a timeframe providing for compliance with the contract performance schedule;
    2. Meeting contract performance requirements; or
    3. At a reasonable price.
  - ii. Information about this requirement, along with the list of EPA- designated items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.
  - iii. The Contractor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act."

## 12. DOMESTIC PREFERENCES FOR PROCUREMENTS

As appropriate, and to the extent consistent with law, CONTRACTOR should, to the greatest extent practicable under a federal award, provide a preference for the purchase, acquisition, or use of goods, products or materials produced in the United States. This includes, but is not limited to, iron, aluminum, steel, cement, and other manufactured products.

Applicability For purchases in support of FEMA declarations and awards issued on or after November 12, 2020, all FEMA recipients and subrecipients are required to include in all contracts and purchase orders for work or products a contract provision encouraging domestic preference for procurements.

Domestic Preference for Procurements As appropriate, and to the extent consistent with law, the contractor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to iron, aluminum, steel, cement, and other manufactured products. For purposes of this clause: Produced in the United States means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Manufactured products mean items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber."



### 13. ACCESS TO RECORDS

- a. Standard. All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff. Recipients must give DHS/FEMA access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance. See DHS Standard Terms and Conditions: Version 8.1 (2018). Additionally, Section 1225 of the Disaster Recovery Reform Act of 2018 prohibits FEMA from providing reimbursement to any state, local, tribal, or territorial government, or private non-profit for activities made pursuant to a contract that purports to prohibit audits or internal reviews by the FEMA administrator or Comptroller General.

Access to Records. The following access to records requirements apply to this contract:

- i. The Contractor agrees to provide Participating Public Agency, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- ii. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- iii. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
- iv. In compliance with the Disaster Recovery Act of 2018, the Participating Public Agency and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

### 14. CHANGES

- a. Standard. To be eligible for FEMA assistance under the non-Federal entity's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope.
- b. Applicability. FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

### 15. DHS SEAL, LOGO, AND FLAGS

- a. Standard. Recipients must obtain permission prior to using the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials. See DHS Standard Terms and Conditions: Version 8.1 (2018).
- b. Applicability. FEMA recommends that all non-Federal entities place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

- c. "The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.

## 16. COMPLIANCE WITH FEDERAL LAW, REGULATIONS, AND EXECUTIVE ORDERS

- a. Standard. The recipient and its contractors are required to comply with all Federal laws, regulations, and executive orders.
- b. Applicability. FEMA recommends that all non-Federal entities place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable Federal law, regulations, executive orders, and FEMA policies, procedures, and directives.
- c. "This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures, and directives."

## 17. NO OBLIGATION BY FEDERAL GOVERNMENT

- a. Standard. FEMA is not a party to any transaction between the recipient and its contractor. FEMA is not subject to any obligations or liable to any party for any matter relating to the contract.
- b. Applicability. FEMA recommends that the non-Federal entity include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- c. "The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract."

## 18. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

- a. Standard. Recipients must comply with the requirements of The False Claims Act (31 U.S.C. §§ 3729-3733) which prohibits the submission of false or fraudulent claims for payment to the federal government. See DHS Standard Terms and Conditions: Version 8.1 (2018); and 31 U.S.C. §§ 3801-3812, which details the administrative remedies for false claims and statements made. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.
- b. Applicability. FEMA recommends that the non-Federal entity include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.
- c. "The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract."
- d. In the event FTA or DOT funding is used by a Participating Public Agency, Contractor further acknowledges U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, and apply to its actions pertaining to this Contract. Upon execution of the underlying Contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Contract or the FTA assisted project for which



this Contract Work is being performed.

In addition to other penalties that may be applicable, Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.

Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307 (n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

*Contractor agrees to include the above clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.*

**Offeror agrees to comply with all terms and conditions outlined in the FEMA Special Conditions section of this solicitation.**

Offeror's Name: \_\_\_\_\_

Address, City, State, and Zip Code:

\_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Printed Name and Title of Authorized Representative:

\_\_\_\_\_

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

Signature of Authorized Representative: \_\_\_\_\_

Date: \_\_\_\_\_

## APPENDIX 7 – EXHIBIT G: NEW JERSEY BUSINESS COMPLIANCE

### NEW JERSEY BUSINESS COMPLIANCE

Suppliers intending to do business in the State of New Jersey must comply with policies and procedures required under New Jersey statutes. All offerors submitting proposals must complete the following forms specific to the State of New Jersey. Completed forms should be submitted with the offeror's response to the RFP. Failure to complete the New Jersey packet will impact OMNIA Partners' ability to promote the Master Agreement in the State of New Jersey.

## Exhibit G - DOC #1: Ownership Disclosure Form



DOC #1

**STATEMENT OF OWNERSHIP DISCLOSURE**

N.J.S.A. 52:25-24.2 (P.L. 1977, c.33, as amended by P.L. 2016, c.43)

This statement shall be completed, certified to, and included with all bid and proposal submissions. Failure to submit the required information is cause for automatic rejection of the bid or proposal.

**Name of Organization:** UKG Kronos Systems LLC

**Organization Address:** 900 Chelmsford Street, Lowell, MA 01851

**Part I Check the box that represents the type of business organization:**

- ☐ Sole Proprietorship (skip Parts II and III, execute certification in Part IV)
- ☐ Non-Profit Corporation (skip Parts II and III, execute certification in Part IV)
- ☐ For-Profit Corporation (any type) ☒ Limited Liability Company (LLC)
- ☐ Partnership ☐ Limited Partnership ☐ Limited Liability Partnership (LLP)
- ☐ Other (be specific): \_\_\_\_\_

**Part II**

- ☒ The list below contains the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein, as the case may be. **(COMPLETE THE LIST BELOW IN THIS SECTION)**

OR

- ☐ No one stockholder in the corporation owns 10 percent or more of its stock, of any class, or no individual partner in the partnership owns a 10 percent or greater interest therein, or no member in the limited liability company owns a 10 percent or greater interest therein, as the case may be. **(SKIP TO PART IV)**

(Please attach additional sheets if more space is needed):

Name of Individual or Business Entity	Home Address (for Individuals) or Business Address
Kronos Acquisition LLC	UKG Kronos Systems, LLC is 100% owned by Kronos Acquisition LLC

**Part III DISCLOSURE OF 10% OR GREATER OWNERSHIP IN THE STOCKHOLDERS, PARTNERS OR LLC MEMBERS LISTED IN PART II**

If a bidder has a direct or indirect parent entity which is publicly traded, and any person holds a 10 percent or greater beneficial interest in the publicly traded parent entity as of the last annual federal Security and Exchange Commission (SEC) or foreign equivalent filing, ownership disclosure can be met by providing links to the website(s) containing the last annual filing(s) with the federal Securities and Exchange Commission (or foreign equivalent) that contain the name and address of each person holding a 10% or greater beneficial interest in the publicly traded parent entity, along with the relevant page numbers of the filing(s) that contain the information on each such person. **Attach additional sheets if more space is needed.**

Website (URL) containing the last annual SEC (or foreign equivalent) filing	Page #'s

Please list the names and addresses of each stockholder, partner or member owning a 10 percent or greater interest in any corresponding corporation, partnership and/or limited liability company (LLC) listed in Part II **other than for any publicly traded parent entities referenced above.** The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, and member exceeding the 10 percent ownership criteria established pursuant to N.J.S.A. 52:25-24.2 has been listed. **Attach additional sheets if more space is needed.**

Stockholder/Partner/Member and Corresponding Entity Listed in Part II	Home Address (for Individuals) or Business Address

**Part IV Certification**

I, being duly sworn upon my oath, hereby represent that the foregoing information and any attachments thereto to the best of my knowledge are true and complete. I acknowledge: that I am authorized to execute this certification on behalf of the bidder/proposer; that the **<name of contracting unit>** is relying on the information contained herein and that I am under a continuing obligation from the date of this certification through the completion of any contracts with **<type of contracting unit>** to notify the **<type of contracting unit>** in writing of any changes to the information contained herein; that I am aware that it is a criminal offense to make a false statement or misrepresentation in this certification, and if I do so, I am subject to criminal prosecution under the law and that it will constitute a material breach of my agreement(s) with the, permitting the **<type of contracting unit>** to declare any contract(s) resulting from this certification void and unenforceable.

Full Name (Print):	John Butler	Title:	Treasurer
Signature:		Date:	August 4, 2024

## Exhibit G - DOC #2: Non-Collusion Affidavit



DOC #2

NON-COLLUSION AFFIDAVIT

STANDARD BID DOCUMENT REFERENCE	
	Reference: VII-H
Name of Form:	NON-COLLUSION AFFIDAVIT
Statutory Reference:	No specific statutory reference State Statutory Reference N.J.S.A. 52:34-15
Instructions Reference:	Statutory and Other Requirements VII-H
Description:	The Owner's use of this form is optional. It is used to ensure that the bidder has not participated in any collusion with any other bidder or Owner representative or otherwise taken any action in restraint of free and competitive bidding.

# NON-COLLUSION AFFIDAVIT

Commonwealth of Virginia  
 State of New Jersey  
 County of City of Lynchburg

SSC:

I, John Butler residing in North Reading  
(name of affiant) (name of municipality)  
 in the County of Middlesex and State of MA of full age,  
 being duly sworn according to law on my oath depose and say that:

I am Treasurer of the firm of UKG Kronos Systems, LLC  
(title or position) (name of firm)

the bidder making this Proposal for the bid  
#24-6833: Human Resource Information  
Systems and Related Products and Services  
(title of bid proposal)  
 entitled Systems and Related Products and Services, and that I executed the said proposal with

full authority to do so that said bidder has not, directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the above named project; and that all statements contained in said proposal and in this affidavit are true and correct, and made with full knowledge that the OMNIA Partners  
(name of contracting unit)  
 relies upon the truth of the statements contained in said Proposal and in the statements contained in this affidavit in awarding the contract for the said project.

I further warrant that no person or selling agency has been employed or retained to solicit or secure such contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by UKG Kronos Systems LLC.

Subscribed and sworn to

before me this day

John Butler  
 Signature

31st of July, 2024

John Butler

(Type or print name of affiant under signature)

Commonwealth of Virginia  
 Notary public of

My Commission expires 03/31/2025

(Seal)



JONATHAN EDWARD CROTSLEY  
 NOTARY PUBLIC  
 REGISTRATION # 7737003  
 COMMONWEALTH OF VIRGINIA  
 MY COMMISSION EXPIRES  
03/31/2025

Jonathan Crotsley

## Exhibit G - DOC #3: Affirmative Action Affidavit

DOC #3

**AFFIRMATIVE ACTION AFFIDAVIT  
(P.L. 1975, C.127)**

**Company Name:** UKG Kronos Systemss LLC

**Street:** 900 Chelmsford Street

**City, State, Zip Code:** Lowell, MA 01851

**Proposal Certification:**

Indicate below company's compliance with New Jersey Affirmative Action regulations. Company's proposal will be accepted even if company is not in compliance at this time. No contract and/or purchase order may be issued, however, until all Affirmative Action requirements are met.

**Required Affirmative Action Evidence:**

Procurement, Professional & Service Contracts (Exhibit A)

**Vendors must submit with proposal:**

1. A photocopy of a valid letter that the contractor is operating under an existing Federally approved or sanctioned affirmative action program (good for one year from the date of the letter);

OR

2. A photocopy of a Certificate of Employee Information Report approval, issued in accordance with N.J.A.C. 17:27-4;

OR

3. A photocopy of an Employee Information Report (Form AA302) provided by the Division of Contract Compliance and Equal Employment Opportunity in Public Contracts and distributed to the public agency to be completed by the contractor in accordance with N.J.A.C. 17:27-4.

**Public Work – Over \$50,000 Total Project Cost:**

A. No approved Federal or New Jersey Affirmative Action Plan. We will complete Report Form AA201. A project contract ID number will be assigned to your firm upon receipt of the completed Initial Project Workforce Report (AA201) for this contract.

B. Approved Federal or New Jersey Plan – certificate enclosed

*I further certify that the statements and information contained herein, are complete and correct to the best of my knowledge and belief.*

July 29, 2024

*Date*

 **Treasurer**  
*Authorized Signature and Title*



DOC #3, continued

P.L. 1995, c. 127 (N.J.A.C. 17:27)  
MANDATORY AFFIRMATIVE ACTION LANGUAGE

PROCUREMENT, PROFESSIONAL AND SERVICE  
CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. The contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation. 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 by the Public Agency Compliance Officer setting forth provisions of this non-discrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisement for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation.

The contractor or subcontractor, where applicable, will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to attempt in good faith to employ minority and female workers trade consistent with the applicable county employment goal prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C.127, as amended and supplemented from time to time or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, C.127, as amended and supplemented from time to time.

The contractor or subcontractor agrees to inform in writing appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the state of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

The contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and lay-off to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation, and conform with the applicable employment goals, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor and its subcontractors shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code (NJAC 17:27).



Signature of Procurement Agent



### Affirmative Action Supplement

<b>AFFIRMATIVE ACTION</b>	<b>Term Contract - Advertised Bid Proposal</b>
Department of the Treasury Division of Purchase & Property State of New Jersey 33 W. State St., 9th Floor PO Box 230 Trenton, New Jersey 08625-0230	<b>Bid Number:</b> 24-6833 <b>Bidder:</b> UKG Kronos Systems LLC

### EXHIBIT A MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127) N.J.A.C. 17:27

#### GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will ensure that equal employment opportunity is afforded to such applicants in recruitment and employment, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such equal employment opportunity 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 by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to afford equal employment opportunities to minority and women workers consistent with Good faith efforts to meet targeted county employment goals established in accordance with N.J.A.C. 17:27-5.2, or Good faith efforts to meet targeted county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions. In conforming with the targeted employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, race, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Public Contracts Equal Employment Opportunity Compliance as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Public Contracts Equal Employment Opportunity Compliance for conducting a compliance investigation pursuant to **Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.**

**\* NO FIRM MAY BE ISSUED A PURCHASE ORDER OR CONTRACT WITH THE STATE UNLESS THEY COMPLY WITH THE AFFIRMATIVE ACTION REGULATIONS**

#### PLEASE CHECK APPROPRIATE BOX (ONE ONLY)

- ☐ I HAVE A CURRENT NEW JERSEY AFFIRMATIVE ACTION CERTIFICATE, (PLEASE ATTACH A COPY TO YOUR PROPOSAL).
- ☐ I HAVE A VALID FEDERAL AFFIRMATIVE ACTION PLAN APPROVAL LETTER, (PLEASE ATTACH A COPY TO YOUR PROPOSAL).
- ☒ I HAVE COMPLETED THE ENCLOSED FORM AA302 AFFIRMATIVE ACTION EMPLOYEE INFORMATION REPORT.



## INSTRUCTIONS FOR COMPLETING THE EMPLOYEE INFORMATION REPORT (FORM AA302)

**IMPORTANT:** READ THE FOLLOWING INSTRUCTIONS CAREFULLY BEFORE COMPLETING THE FORM. PRINT OR TYPE ALL INFORMATION. FAILURE TO PROPERLY COMPLETE THE ENTIRE FORM **AND TO SUBMIT THE REQUIRED \$150.00 NON-REFUNDABLE FEE MAY DELAY ISSUANCE OF YOUR CERTIFICATE. IF YOU HAVE A CURRENT CERTIFICATE OF EMPLOYEE INFORMATION REPORT, DO NOT COMPLETE THIS FORM UNLESS YOUR ARE RENEWING A CERTIFICATE THAT IS DUE FOR EXPIRATION. DO NOT COMPLETE THIS FORM FOR CONSTRUCTION CONTRACT AWARDS.**

**ITEM 1** - Enter the Federal Identification Number assigned by the Internal Revenue Service, or if a Federal Employer Identification Number has been applied for, or if your business is such that you have not or will not receive a Federal Employer Identification Number, enter the Social Security Number of the owner or of one partner, in the case of a partnership.

**ITEM 2** - Check the box appropriate to your TYPE OF BUSINESS. If you are engaged in more than one type of business check the predominate one. If you are a manufacturer deriving more than 50% of your receipts from your own retail outlets, check "Retail".

**ITEM 3** - Enter the total "number" of employees in the entire company, including part-time employees. This number shall include all facilities in the entire firm or corporation.

**ITEM 4** - Enter the name by which the company is identified. If there is more than one company name, enter the predominate one.

**ITEM 5** - Enter the physical location of the company. Include City, County, State and Zip Code.

**ITEM 6** - Enter the name of any parent or affiliated company including the City, County, State and Zip Code. If there is none, so indicate by entering "None" or N/A.

**ITEM 7** - Check the box appropriate to your type of company establishment. "Single-establishment Employer" shall include an employer whose business is conducted at only one physical location. "Multi-establishment Employer" shall include an employer whose business is conducted at more than one location.

**ITEM 8** - If "Multi-establishment" was entered in item 8, enter the number of establishments within the State of New Jersey.

**ITEM 9** - Enter the total number of employees at the establishment being awarded the contract.

**ITEM 10** - Enter the name of the Public Agency awarding the contract. Include City, County, State and Zip Code. This is not applicable if you are renewing a current Certificate.

**ITEM 11** - Enter the appropriate figures on all lines and in all columns. THIS SHALL ONLY INCLUDE EMPLOYMENT DATA FROM THE FACILITY THAT IS BEING AWARDED THE CONTRACT. DO NOT list the same employee in more than one job category. **DO NOT attach an EEO-1 Report.**

### **Racial/Ethnic Groups will be defined:**

**Black:** Not of Hispanic origin. Persons having origin in any of the Black racial groups of Africa.

**Hispanic:** Persons of Mexican, Puerto Rican, Cuban, or Central or South American or other Spanish culture or origin, regardless of race.

**American Indian or Alaskan Native:** Persons having origins in any of the original peoples of North America, and who maintain cultural identification through tribal affiliation or community recognition.

**Asian or Pacific Islander:** Persons having origin in any of the original peoples of the Far East, Southeast Asia, the Indian Sub-continent or the Pacific Islands. This area includes for example, China, Japan, Korea, the Phillipine Islands and Samoa.

**Non-Minority:** Any Persons not identified in any of the aforementioned Racial/Ethnic Groups.

**ITEM 12** - Check the appropriate box. If the race or ethnic group information was not obtained by 1 or 2, specify by what other means this was done in 3.

**ITEM 13** - Enter the dates of the payroll period used to prepare the employment data presented in Item 12.

**ITEM 14** - If this is the first time an Employee Information Report has been submitted for this company, check block "Yes".

**ITEM 15** - If the answer to Item 15 is "No", enter the date when the last Employee Information Report was submitted by this company.

**ITEM 16** - Print or type the name of the person completing the form. Include the signature, title and date.

**ITEM 17** - Enter the physical location where the form is being completed. Include City, State, Zip Code and Phone Number.

### TYPE OR PRINT IN SHARP BALL POINT PEN

THE VENDOR IS TO COMPLETE THE EMPLOYEE INFORMATION REPORT FORM (AA302) AND RETAIN A COPY FOR THE VENDOR'S OWN FILES. THE VENDOR SHOULD ALSO SUBMIT A COPY TO THE PUBLIC AGENCY AWARDED THE CONTRACT IF THIS IS YOUR FIRST REPORT; AND FORWARD ONE COPY **WITH A CHECK IN THE AMOUNT OF \$150.00 PAYABLE TO THE TREASURER, STATE OF NEW JERSEY (FEE IS NON-REFUNDABLE)** TO:

**NJ Department of the Treasury  
Division of Public Contracts  
Equal Employment Opportunity Compliance  
P.O. Box 206**

Trenton, New Jersey 08625-0206

Telephone No. (609) 292-5473

**State of New Jersey**  
**Division of Public Contracts Equal Employment Opportunity Compliance**  
**EMPLOYEE INFORMATION REPORT**

**IMPORTANT- READ INSTRUCTIONS ON BACK OF FORM CAREFULLY BEFORE COMPLETING FORM. TYPE OR PRINT IN SHARP BALLPOINT PEN. FAILURE TO PROPERLY COMPLETE THE ENTIRE FORM AND SUBMIT THE REQUIRED \$150.00 FEE MAY DELAY ISSUANCE OF YOUR CERTIFICATE. DO NOT SUBMIT EEO-1 REPORT FOR SECTION B, ITEM 11.**

**SECTION A - COMPANY IDENTIFICATION**

1. FID. NO. OR SOCIAL SECURITY 04-2640942	2. TYPE OF BUSINESS <input type="checkbox"/> 1. MFG <input checked="" type="checkbox"/> 2. SERVICE <input type="checkbox"/> 3. WHOLESALE <input type="checkbox"/> 4. RETAIL <input type="checkbox"/> 5. OTHER	3. TOTAL NO. OF EMPLOYEES IN THE ENTIRE COMPANY. 14,628
4. COMPANY NAME UKG Kronos Systems LLC		
5. STREET 900 Chelmsford Street	CITY Lowell	COUNTY Middlesex
	STATE MA	ZIP CODE 01851
6. NAME OF PARENT OR AFFILIATED COMPANY (IF NONE, SO INDICATE) UKG Inc.		CITY Lowell
		STATE MA
		ZIP CODE 01851
7. CHECK ONE: IS THE COMPANY: <input type="checkbox"/> SINGLE-ESTABLISHMENT EMPLOYER <input checked="" type="checkbox"/> MULTI-ESTABLISHMENT EMPLOYER		
8. IF MULTI-ESTABLISHMENT EMPLOYER, STATE THE NUMBER OF ESTABLISHMENTS IN NJ One		
9. TOTAL NUMBER OF EMPLOYEES AT ESTABLISHMENT WHICH HAS BEEN AWARDED THE CONTRACT 9,307		
10. PUBLIC AGENCY AWARDED CONTRACT	CITY	COUNTY
	STATE	ZIP CODE

Official Use Only	DATE RECEIVED	INAUG DATE	ASSIGNED CERTIFICATION NUMBER

**SECTION B - EMPLOYMENT DATA**

11. Report all permanent, temporary and part-time employees ON YOUR OWN PAYROLL. Enter the appropriate figures on all lines and in all columns. Where there are no employees in a particular category, enter a zero. Include ALL employees, not just those in minority/non-minority categories, in columns 1, 2, & 3. **DO NOT SUBMIT AN EEO-1 REPORT.**

JOB Categories	PERMANENT MINORITY/NON-MINORITY EMPLOYEE BREAKDOWN													
	All Employees													
	Total (Cols. 2 & 3)	COL. 2 MALE	COL. 3 FEMALE	Black	Hispanic	Amer. Indian	Asian	Non Min	Black	Hispanic	Amer. Indian	Asian	Non Min	
Officials/Managers	1440	733	705	24	91	0	78	491	51	89	0	54	469	
Professionals	5239	2603	2625	175	472	0	321	1467	275	383	0	276	1529	
Technicians	5	5	0	0	3	0	0	2	0	0	0	0	0	
Sales Workers	425	263	162	3	13	0	4	224	4	12	0	6	128	
Office & Clerical	1978	796	1169	108	207	0	89	343	232	275	0	104	464	
Craftworkers (Skilled)	0	0	0	0	0	0	0	0	0	0	0	0	0	
Operatives (Semi-Skilled)	0	0	0	0	0	0	0	0	0	0	0	0	0	
Laborers (Unskilled)	0	0	0	0	0	0	0	0	0	0	0	0	0	
Service Workers	0	0	0	0	0	0	0	0	0	0	0	0	0	
Total	9087	4400	4661	310	786	0	492	2527	562	759	0	440	2590	
Total employment from previous Report (if any)	0	0	0	0	0	0	0	0	0	0	0	0	0	
Temporary & Part Time Employees	The data below shall NOT be included in the figures for the appropriate categories above.													
	220	106	114	22	30	0	21	27	18	31	0	31	23	

12. HOW WAS INFORMATION AS TO RACE OR ETHNIC GROUP IN SECTION B OBTAINED? Employment Record	14. IS THIS THE FIRST Employee Information Report Submitted? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	15. IF NO, DATE LAST REPORT SUBMITTED 2/28/2023
13. DATES OF PAYROLL PERIOD USED FROM: TO: 7/23/2024		

**SECTION C - SIGNATURE AND IDENTIFICATION**

16. NAME OF PERSON COMPLETING FORM (Print or Type) John Butler	SIGNATURE 	TITLE Treasurer	DATE July 29, 2024
17. ADDRESS NO. & STREET 900 Chelmsford Street	CITY Lowell	COUNTY Middlesex	STATE MA
	ZIP CODE 01851	PHONE, AREA CODE, NO. (978) 250-9800	

I certify that the information on this form is true and correct.



## Exhibit G - DOC #4: Political Contribution Disclosure Form