

REQUEST FOR QUALIFICATIONS ("RFQ")

RFQ Number: RFX3140003877 MDEQ-RFQ07162024

To Provide: Professional engineering and technical support services including administrative, logistical, information transfer, and operational support for the MDEQ Pollution Prevention ("P2") Program and the Envision Heightened Awareness Nurturing Conservation & Environmental Excellence ("enHance") Voluntary Stewardship Program.

Issue Date: Tuesday, July 16, 2024

CLOSING LOCATION

**Mississippi Department of Environmental Quality
515 East Amite Street
Jackson, MS 39201**

MDEQ RFQ COORDINATOR

Ms. Aveleka Moore, Contracts Division Director

E-mail: amoore@mdeq.ms.gov

CLOSING DATE AND TIME

SOQ must be received by 3:30 p.m., Monday, August 19, 2024

SECTION 1

1.1 Qualifications Acceptance Period

Offerors should submit one (1) signed original Statement of Qualifications (“SOQ”), along with one (1) digital copy in Portable Document Format (“PDF”) on a Universal Serial Bus (“USB”) flash drive with all of the attachments. The signed original SOQ and USB flash drive should be submitted in a sealed envelope or package as stated below no later than the time and date specified in Section 1.1.1 for submission deadline of the SOQ package. The electronic files shall not be password protected and shall be capable of being copied to other media including readable in Microsoft Word and/or Microsoft Excel. Timely submission of the SOQ is the responsibility of the Offeror. Any SOQ received after the specified time shall be rejected and maintained in the procurement file. The envelope or package shall be labeled with the RFx Number: RFx3140003877 MDEQ-RFQ07162024. The time and date of receipt shall be indicated on the envelope or package by the Mississippi Department of Environmental Quality (“MDEQ”). The SOQ and all attachments shall be identified with the name of the Offeror where applicable. Modifications or additions to any portion of the procurement document may be cause for rejection of the SOQ. MDEQ reserves the right to decide, on a case-by-case basis, whether to reject a SOQ with modifications or additions as non-responsive. As a precondition to SOQ acceptance, MDEQ may request the Offeror to withdraw or modify those portions of the SOQ deemed nonresponsive that do not affect quality, quantity, price, or delivery of the service.

Submissions must be clearly labeled as follows on the **exterior** of the package:

Mississippi Department of Environmental Quality
SEALED QUALIFICATION – DO NOT OPEN
RFx3140003877 MDEQ-RFQ07162024
Attention: Ms. Aveleka Moore
515 East Amite Street
Jackson, MS 39201

The Mississippi Department of Environmental Quality (“MDEQ”) will receive SOQ from Offerors having specific experience and qualifications in the area(s) identified in this solicitation. For consideration, the SOQ for the project must contain evidence of the Offeror’s experience and abilities in the specified area(s) and other disciplines directly related to the proposed service. Other information required by MDEQ is included herein. Unless otherwise stated, all Offerors shall provide profiles and resumes of the primary staff to be assigned to the project, references, illustrative examples of similar work performed, and any other information that clearly demonstrates the Offeror’s expertise in the area(s) of this solicitation.

The SOQ shall be specific and sufficiently detailed to satisfy the requirements set forth in this solicitation. MDEQ will make an award to the Offeror whose SOQ, in the opinion of MDEQ, best conforms to this solicitation and is most advantageous to the State of Mississippi and MDEQ.

1.1.1. Timeline

- **Request for Qualifications (RFQ) Issue Date: Tuesday, July 16, 2024**
- **Questions/Clarification Requests to MDEQ Deadline: Tuesday, July 30, 2024, at 8:00 a.m.**
- **Anticipated Posting of Responses to Questions/Clarification Requests: Tuesday, August 6, 2024**
- **SOQ Submission Deadline: Monday, August 19, 2024, at 3:30 p.m.**
- **SOQ Package Opening: Wednesday, August 21, 2024**
- **Anticipated Notice of Intent to Award: Monday, September 23, 2024**
- **Anticipated Post-Award Debriefing Request Deadline: Thursday, September 26, 2024, at 8:00 a.m.**
- **Post-Award Debriefing Held by Date: Tuesday, October 1, 2024**
- **Protest Deadline: Monday, September 30, 2024, at 8:00 a.m.**

All times and deadlines provided in this RFQ are in Central Standard Time (“CST”).

1.1.2. Late Submissions

All SOQ must be received by MDEQ no later than the time and date specified in Section 1.1.1 for the SOQ Package submission deadline. A SOQ received at the place designated in the solicitation for receipt after the exact time specified for receipt will not be considered unless it is the only SOQ received. SOQ submitted via facsimile (fax) machine **will not** be accepted. It is suggested that if a SOQ is mailed to MDEQ, it should be posted in certified mail with a return receipt requested. MDEQ will not be responsible for mail delays or lost mail. All risk of late arrival due to unanticipated delay – whether delivered by hand, U.S. Postal Service, courier or other delivery service or method – is entirely on the Offeror. All Offerors are urged to take the possibility of delay into account when submitting a SOQ.

Timely submission of the SOQ package is the responsibility of the Offeror. A SOQ received after the specified time will be rejected and maintained unopened in the procurement file. A SOQ received at the place designated in the solicitation for receipt of the SOQ after the exact time specified for receipt will not be considered unless it has been determined by MDEQ that the late receipt was due solely to mishandling by MDEQ after receipt at the specified address.

The time and date of receipt will be indicated on the sealed SOQ envelope or package by MDEQ staff. The only acceptable evidence to establish the time of receipt at MDEQ identified for SOQ opening is the time and date stamp of MDEQ on the SOQ wrapper or other documentary evidence of receipt used by MDEQ.

1.2 Expenses Incurred in Preparing SOQ

MDEQ accepts no responsibility for any expense incurred by the Offeror in the preparation and presentation of a SOQ. Such expenses shall be borne exclusively by the Offeror.

1.3 Propriety Information

The Offeror should mark any and all pages of the SOQ considered to be proprietary information which may remain confidential in accordance with Mississippi Code Annotated §§ 25-61-9 and 79-23-1 (1972, as amended). Any pages not marked accordingly will be subject to review by the general public after award of the contract. Requests to review the proprietary information will be handled in accordance with applicable legal procedures.

1.3.1 Offeror Certification

The Offeror agrees that submission of a signed SOQ form is certification that the Offeror will accept an award made to it as a result of the submission.

1.4 Registration with the Mississippi Secretary of State

By submitting a SOQ, the Offeror certifies that it is registered to do business in the State of Mississippi as prescribed by the Mississippi Secretary of State. Sole proprietors are not required to register with the Mississippi Secretary of State.

1.5 Registration with the System for Award Management

By submitting a SOQ, the Offeror certifies that it is registered with the System for Award Management at www.SAM.gov and has an active Unique Entity Id (“UEI”).

1.6 Debarment

By submitting a SOQ, the Offeror certifies that it is not currently debarred from submitting SOQ for Contracts issued by any political subdivision or Agency of the State of Mississippi or Federal government and that it is not an agent of a person or entity that is currently debarred from submitting SOQ for Contracts issued by any political subdivision or Agency of the State of Mississippi.

1.7 Competitive Qualifications

Discussions may be conducted with Offerors who submit SOQ determined to be reasonably susceptible of being selected for award. Likewise, MDEQ also reserves the right to accept any SOQ as submitted for contract award, without substantive negotiation of proposed terms, services, or prices. For these reasons, all parties are advised to propose their most favorable terms initially.

1.8 Contact and Questions/Requests for Clarification

Offerors must carefully review this solicitation and all attachments for defects, questionable, or objectionable material. Following review, Offerors may have questions to clarify or interpret the RFQ in order to submit the best SOQ possible. To accommodate the questions and requests for clarifications, Offerors shall submit any such question(s) via email by the deadline specified in Section 1.1.1. At no time shall any Offeror or its personnel contact, or attempt to contact, any MDEQ staff regarding this RFQ except the RFQ Coordinator as set forth and, in the manner prescribed in Section 1.7.

All Offeror communication, questions, and requests for clarification regarding this RFQ must be submitted in writing to MDEQ’s RFQ Coordinator, Ms. Aveleka Moore at amoore@mdeq.ms.gov by the deadline specified in Section 1.1.1. Unauthorized contact regarding the RFQ with other employees of MDEQ may result in the Offeror being disqualified, and the Offeror may also be suspended or disbarred from the State. No negotiations, decisions, or actions shall be initiated by any Offeror as a result of any verbal discussion with any State or MDEQ representative.

MDEQ will not be bound by any verbal or written information that is not contained within this RFQ unless formally noticed and issued by the RFQ Coordinator as an RFQ amendment. Offerors are cautioned that any statements made by contact persons that cause a material change to any portion of the RFQ document shall not be relied upon unless subsequently ratified by a formal written amendment to the RFQ document.

All questions and requests for clarification must be submitted by the deadline specified in Section 1.1.1 and made in writing. Questions and requests for clarification submitted after this date will not be considered. Official responses will be provided only for questions submitted and only to clarify information already included in the RFQ. Offerors shall provide an email address for MDEQ to direct the consolidated “question and answer” document, which will be issued as an Amendment. The identity of the organization submitting the question(s) or request(s) for clarification will not be revealed.

Should MDEQ issue any amendments, they will be provided in writing and transmitted via email to all prospective Offerors who are known to have requested a copy of the RFQ package and will also be published on MDEQ’s website and on the Mississippi Contract/Procurement Opportunity Search portal website. Only amendments transmitted in this manner will be considered official and valid by MDEQ.

1.9 Acknowledgement of Amendments

Offerors shall acknowledge receipt of any amendment issued to the RFQ by signing and returning the amendment with the SOQ package. The acknowledgement must be received by MDEQ by the deadline specified in Section 1.1.1 for receipt of SOQ. It is the Offeror’s sole responsibility to monitor the websites for any updates or amendments to the RFQ.

1.10 Pre-RFQ Conference, Tour, or Site Visit

No Pre-RFQ Conference, Tour, or Site Visit will be held for this RFQ.

1.11 Type of Contract

Compensation for services will be in the form of a firm fixed-price agreement.

1.12 Written Statement of Qualifications

All Statements of Qualifications shall be in writing.

SECTION 2

2.1 Compensation for Services

The compensation for services requested under this RFQ will be in the form of a firm fixed-price agreement.

2.2 Purpose

The Mississippi Department of Environmental Quality (“MDEQ”) hereby solicits written Statements of Qualifications, subject to the conditions stated herein and attached hereto, from qualified organizations, companies, or individuals to provide professional engineering and technical support services including administrative, logistical, information transfer, and operational support for two (2) MDEQ Programs.

The Offeror who best meets the requirements of this Request for Qualifications (“RFQ”) will be selected. It is understood that any Contract resulting from RFX3140003877 MDEQ-RFQ07162024 requires approval by the Public Procurement Review Board (“PPRB”). If any Contract resulting from RFX3140003877 MDEQ-RFQ07162024 is not approved by the PPRB, it is void and no payment shall be made.

2.3 Scope of Services

MDEQ is seeking qualified organizations, companies, or individuals with abilities and qualifications to provide professional engineering and technical support services including administrative, logistical, information transfer, and operational support for the MDEQ Pollution Prevention (“P2”) Program and the Envision Heightened Awareness Nurturing Conservation & Environmental Excellence (“enHance”) Voluntary Stewardship Program.

The Contractor shall perform and complete in a timely and satisfactory manner the following tasks for the MDEQ P2 Program and the enHance Voluntary Stewardship Program:

Task 1. P2 Program

- 1) The Contractor shall initiate, plan, develop, coordinate, promote, and conduct webinars, workshops, and in-person and virtual training activities for the P2 Program consistent with program goals and the approved Environmental Protection Agency (“EPA”) P2 grant work plan.
- 2) The Contractor shall manage the activities necessary to execute the Mississippi Economy-Energy-Environment (“E3”) Initiative for Mississippi industries and stakeholder organizations, consistent with the program goals and the approved EPA P2 grant work plan.
- 3) The Contractor shall assist the P2 Program with program direction, work plan development, grant compliance efforts, grant writing and other support related to maintaining, successful pollution prevention efforts and ongoing P2 Grant support from EPA.
- 4) The Contractor shall assist with other general administrative, logistical, promotional, and operational P2 Program activities as requested by the MDEQ P2 Program.
- 5) The Contractor shall conduct public outreach efforts on pollution prevention and Mississippi E3 in partnership with enHance members, local community groups, and other organizations.
- 6) The Contractor shall perform other related tasks as directed by MDEQ.

Task 2. enHance Voluntary Stewardship Program

- 1) The Contractor shall assist the P2 Program with ongoing member recruitment for the enHance Voluntary Stewardship Program for manufactures, municipalities, and other organizations, including providing guidance and mentoring to enHance members, planning, and hosting the enHance annual workshop, and directing enHance steering committee meetings.
- 2) The Contractor shall assist with enHance application processing and site visits.
- 3) The Contractor shall assist the P2 Program in maintaining member listings and updating pertinent information on the enHance website.
- 4) The Contractor shall process annual reports from enHance members and assist the P2 Program with evaluating and summarizing results data consistent with the EPA grant reporting requirements.
- 5) The Contractor shall perform other related tasks as directed by the MDEQ.

2.4 Term

The term of the contract shall be for a period of three (3) years with two (2) one (1) year optional renewals, upon written agreement of both parties, and under the same prices, terms, and conditions as in the original contract subject to approval by the Public Procurement Review Board (“PPRB”) and/or the Mississippi Department of Finance and Administration (“DFA”) Office of Personal Service Contract Review (“OPSCR”). The total contract term, including any renewals, shall not exceed a maximum total of five (5) years.

2.4.1 Multi-Term Contracts

Unless otherwise provided by law, a contract for services may be entered into for a period of time not to exceed three (3) years with two (2) one (1) year optional renewals, provided the term of the contract and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the first fiscal period at the time of contracting. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds.

2.4.1.1 Requirements

- a) Three (3) years of service with two (2) one (1) year optional renewals.
- b) A Proposal for Price for the services listed in RFX3140003877 MDEQ-RFQ07162024 and the rate(s) shall be the same throughout the Contract.
- c) A multi-term contract will be canceled if funds are not appropriated or otherwise made available to support the continuation of performance in any fiscal period succeeding the first; however, this does not affect either the State’s right or the Contractor’s rights under any termination clause in the contract.
- d) The Procurement Officer must notify the Contractors on a timely basis that the funds are or are not available for the continuation of the contract for each succeeding fiscal period.

SECTION 3

3.1 Insurance

Prior to Contract performance, the Offeror shall provide and maintain sufficient insurance coverage during the period of performance of the Contract, from an insurance carrier(s) licensed or holding a Certificate of Authority from the Mississippi Department of Insurance, as required by applicable state and federal law related to the work of the Contract and in connection with the Contract. This may include, but is not limited to the following:

- a) Workers' Compensation and Employer's Liability Insurance. This insurance shall protect Contractor against all claims under applicable State workers' compensation laws. Contractor shall also be protected against claims for injury, disease, or death of employees, which, for any reason, may not fall within the provisions of a workers' compensation law. The liability limits shall not be less than the required statutory limits for workers' compensation and employer's liability limits in the amount of Five Hundred Thousand and 00/100 Dollars (\$500,000.00).
- b) Comprehensive General Liability Insurance. This insurance shall include bodily injury, property damage, contractual and other standard coverage contained in comprehensive general liability insurance, in an amount of not less than Five Hundred Thousand and 00/100 Dollars (\$500,000.00).
- c) Auto Liability Insurance. This insurance shall be in the amount of not less than Five Hundred Thousand and 00/100 Dollars (\$500,000.00) Combined Single Limit to protect it from any and all claims arising from the use of the following: (1) Contractor's own automobiles and trucks; (2) hired and non-owned automobiles and trucks; and (3) automobiles and trucks owned by Contractors. The aforementioned is to cover use of automobiles and trucks in performance of the work.

MDEQ, its Commissioners, Board Members, officers, employees, agents, and representatives, and the State of Mississippi and its elected and appointed officers, employees and agents shall be named as additional insureds on such policies. The successful Contractor shall provide that the insureds thereon waive subrogation against the State of Mississippi and the said political subdivisions thereof. The successful Contractor's respective policies shall provide primary coverage before any applicable policy otherwise covering MDEQ, and any insurance covering MDEQ shall be excess coverage over the successful Contractor's coverage. Endorsements so stating shall be provided to MDEQ by the successful Contractor. The policies shall also provide for all additional insureds to be provided with a minimum 30-day written notice prior to a cancellation or modification of each respective policy. While the successful Contractor shall provide MDEQ with endorsements as set forth in this paragraph, the failure to do so, or the failure of the endorsements or insurance provided to conform to the Contract, does not constitute waiver or estoppels as to MDEQ of their respective legal and equitable rights, including but not limited to, the right to enforce the terms of the Contract. These contractual insurance provisions are intended to be, and shall be interpreted to be, separate and independent contractual obligations from the contractual provisions addressing the indemnity of MDEQ by the successful Contractor.

Upon execution of the Contract, Contractor shall promptly furnish MDEQ with a certificate of insurance showing the Contractor compliance with the insurance provisions of this paragraph. While Contractor shall provide MDEQ with a certificate of insurance as set forth in this paragraph, the failure to do so, or the failure of the insurance provided to conform to the Agreement, does not constitute waiver or estoppels as to MDEQ of their respective legal and equitable rights, including but not limited to, the

right to enforce the terms of the Contract. These contractual insurance provisions are intended to be, and shall be interpreted to be, separate and independent contractual obligations from the provisions addressing the indemnity of MDEQ by Contractor.

3.1.1 Subcontractor Insurance

The Contractor is responsible for ensuring that any Subcontractors provide adequate insurance and/or bond coverage for the activities arising out of subcontracts.

SECTION 4

4.1 Written Statement of Qualifications Must Contain the Following Minimum Information

- A. Company Information: Offerors must provide the following information in the following manner and order:
- 1) Offeror's company name;
 - 2) The name of the Offeror, the location of the Offeror's principal place of business and, if different, the place of performance of the proposed contract;
 - 3) The age of the Offeror's business and average number of employees over the past three (3) years;
 - 4) The qualifications, including licenses, certifications, education, skills, and experience of all primary staff who would be assigned to provide the required services;
 - 5) **Attachment A** and **Attachment B** must be completed, signed, and included as part of the SOQ. These pages are not included in the 30 (thirty) page limit of the SOQ.
- B. The Offeror must certify in writing that they will adhere to the following:
- 1) **Attachment D** – U.S. Environmental Protection Agency Assistance Amendment #NP-01D16020-4
 - 2) **Attachment E** – Environmental Protection Agency General Terms and Conditions
 - 3) **Attachment F** – FY 2020 - FY 2021 Pollution Prevention Grant Program Funding Opportunity No. EPA-HQ-OPPT-2020-001
 - 4) **Attachment G** – Revised Work Plan and Timeline in Conjunction with the No-Cost Time Extension Request Grant #NP01D16020 from MDEQ to EPA
- C. The Offeror must provide a listing of other contracts under which services similar in scope, size, or discipline to the required services were performed or undertaken within a previous period of time, as specified in the Request for Qualifications.

- D. The Offeror must demonstrate direct experience in conducting P2 activities. Information should be provided in a written summary/report for review including timelines and budgets for associated projects demonstrating experience with the following activities.
- 1) Conducting on-site E3 assessment visits;
 - 2) Conducting pollution prevention workshops/webinars/trainings to manufacturers and businesses in Mississippi and/or other States;
 - 3) Engaging in active membership recruitment efforts in the enHance Voluntary Stewardship Program;
 - 4) Determining the economic impacts of pollution prevention and waste reduction; and
 - 5) Developing P2 case studies and success stories.
- E. Offerors without direct experience in the above items shall similarly demonstrate knowledge of and/or experience with the following:
- 1) Pollution prevention concepts, waste reduction strategies, conservation of resources, and continuous environmental enhancement;
 - 2) Knowledge and experience in demonstrating the impacts of pollution prevention and sustainable practices on job growth and economic development;
 - 3) Conducting other types of site assessments; and
 - 4) Conducting other types of workshops, webinars, or trainings.
- F. The Offeror must show proof of financial stability and good business practices for the past two (2) years through the submission of a letter of reference from its primary bank or lending institution.
- G. The Offeror must provide documentation of availability of professional engineering services through staff or sub-contracted services.
- H. The Offeror must show proof of reliability with MDEQ or other agencies or organizations demonstrating responsiveness and the ability to complete work in a timely manner or otherwise within established parameters such as budget.
- I. If the Offeror is a non-resident contractor, the Offeror must provide a copy of the Offeror's current state preference law pertaining to that state's treatment of non-resident contractors pursuant to Mississippi Code Annotated § 31-7-47 or a statement on letterhead signed by an officer or manager of the Offeror stating that no preference laws exist in that state. The state of residency of a contractor shall be the same as the corporate office reported by the Offeror to the Mississippi Secretary of State. Any documentation submitted in response to this requirement will not be included in the thirty (30) page limit of the SOQ.

- J. The Offeror must provide an official Certificate of Good Standing issued within sixty (60) days prior to the submission deadline from the Office of the Secretary of State of the State of Mississippi demonstrating that Offeror is in good standing to do business in Mississippi, which will not be included in the thirty (30) page limit of the SOQ.
- K. The Offeror shall acknowledge receipt of any amendment to this RFQ by signing and returning the amendment with its SOQ. Such acknowledgement must be received by MDEQ by the time and at the place specified for receipt of SOQ. Any documentation in response to this requirement will not be included in the thirty (30) page limit of the SOQ.
- L. The Offeror shall acknowledge receipt of any Response to Inquiries issued in regard to this RFQ by signing and returning the Response to Inquiries with its SOQ. Such acknowledgement must be received by MDEQ by the time and at the place specified for receipt of SOQ. Any documentation submitted in response to this requirement will not be included in the thirty (30) page limit of the SOQ.
- M. The Offeror must submit a Proposal for Price for the services listed in Section 2.3 Scope of Services in the RFQ.

4.1.1 Nonconforming Terms and Conditions

A SOQ response that includes terms and conditions that do not conform to the terms and conditions in the RFQ document is subject to rejection as non-responsive. MDEQ reserves the right to permit the Offeror to withdraw nonconforming terms and conditions from its SOQ response prior to a determination by MDEQ of non-responsiveness based on the submission of nonconforming terms and conditions.

4.1.2 Conditioning SOQ Upon Other Awards

Any SOQ which is conditioned upon receiving award of both the particular contract being solicited and another Mississippi contract shall be deemed non-responsive and not acceptable.

4.2 Minimum Qualifications

Offerors will be evaluated based on requirements set forth in RFx3140003877 MDEQ-RFQ07162024. Those criteria that will affect the SOQ and be considered in evaluation for award shall be objectively measurable where possible. This RFQ sets forth the evaluation criteria to be used. No criteria will be used in an evaluation that is not set in this RFQ. Only respondents who are found responsive and responsible will have their SOQ considered.

MDEQ will receive SOQs from Offerors having specific experience and qualifications in the area identified in this solicitation. For consideration, SOQ for the project must contain evidence of the Offeror's experience and abilities in the specified area and other disciplines directly related to the proposed service. Other information required by MDEQ is included herein. Unless otherwise stated, all Offerors shall provide profiles and resumes of the primary staff to be assigned to the project, references, illustrative examples of similar work performed, and any other information that clearly demonstrates the Offeror's expertise in the area of this solicitation.

The SOQ shall be specific and sufficiently detailed to satisfy the requirements set forth in this solicitation. A selection committee shall review and evaluate the SOQ.

4.2.1 Responsive Offeror

The Offeror must submit an SOQ, which conforms in all material respect to this Request for Qualifications, RFX3140003877 MDEQ-RFQ07162024, as determined by MDEQ.

4.2.2 Responsible Offeror

The Offeror must have capability in all respects to perform fully the contract requirements and the integrity and reliability, which will assure good faith performance, as determined by MDEQ.

4.3 SOQ Opening

The SOQ opening will be on the date listed in Section 1.1.1, but it is not open to the public.

4.4 Evaluation Procedure

4.4.1 Evaluation Factors

***Technical factors:** *Factors scored without knowledge of the identity of the Offeror (blind). These factors aid in determining the Offeror's technical ability to perform the service. 40%*

- Does the Offeror's qualifications demonstrate a clear understanding of the scope of work and related objectives? **5%**
- Are the Offeror's qualifications complete and responsive to the specific request for qualifications requirements? **5%**
- Does the Offeror have experience in conducting on-site E3 assessment visits, pollution prevention workshops/webinars/training to manufacturers and businesses in Mississippi or other states? **10%**
- Does the Offeror have knowledge of the Environmental Stewardship recognition program, providing mentoring to the members, hosting annual workshops for the members, processing annual reports from the members and summarizing results data consistent with the EPA grant reporting requirements? **10%**
- Does the Offeror have knowledge and experience in demonstrating the impacts of pollution prevention and waste reduction on job growth and economic development in Mississippi or other states? **10%**

***Cost factors:** *Factors must be submitted separately from other factors. 35%*

- Relative Cost: How does the cost compare to other similarly scored qualifications? **35%**

Full explanation: Is the price and its component charges, fees, etc. adequately explained or documented?

***Management factors:** *Factors scored with knowledge of the identity of the Offeror. These factors aid in determining the Offeror's past performance of the service. 25%*

- Does the Offeror sufficiently document the availability of in-house resources and/or contracted resources? **10%**
- Does the Offeror demonstrate the ability, capacity, skill, and financial/other resources to perform the work required to provide specialized engineering services and technical support for Pollution Prevention Programs and associated services to our State's industrial, commercial, and municipal sectors? **5%**
- Does the Offeror have a record of reliability with the MDEQ or other agencies/organizations in terms of being responsive and offering appropriate plans/timelines for the completion of work as well as evidences timely contract performance within the established budget? **5%**
- Does the Offeror demonstrate knowledge of and/or experience in the pollution prevention industry and state regulations regarding pollution prevention and waste reduction? **5%**

4.4.2 Submission Format

The SOQ shall be limited to no more than a total of thirty (30) typed pages including contents pages, supporting appendices, etc. (the page count includes every printed page except for the front and back cover, the transmittal letter, and any other exemption stated herein). Any information contained on pages that exceed the page limit may not be evaluated. Paper size shall be 8 1/2" x 11". Text shall not be smaller than a font size of 12. Offerors shall submit one (1) signed original complete copy of the SOQ, along with one (1) digital copy of the SOQ in PDF format on a USB flash drive, in a sealed envelope or package to MDEQ on or before the date and time specified. The original must be signed by an authorized representative of the Offeror.

Offerors must NOT identify the business/company name on any of the Statement of Qualification documents except on the following documentation:

- Cover Page
- Section 4.1, A. Company Information
- Section 4.1, B.
- Proof of financial stability
- Non-resident contractor
- Certificate of Good Standing from the Mississippi Secretary of State
- Proposal for Price

Any information provided from the above list should be submitted in a separate, sealed envelope clearly marked "**Company Information**".

All submission packages must be clearly labeled as follows on the **exterior** of the package:

**Mississippi Department of Environmental Quality
SEALED QUALIFICATION – DO NOT OPEN
RFx3140003877 MDEQ-RFQ07162024
Attention: Ms. Aveleka Moore
515 East Amite Street
Jackson, MS 39201**

4.5 Award

MDEQ intends to award one (1) Contract to the highest scoring Offeror whose SOQ meets the requirements and criteria set forth in this RFQ.

4.5.1 Notification

The award for this procurement will be posted on the Mississippi Contract/Procurement Opportunity Search Portal website and the MDEQ website. All participating Offerors will be notified of MDEQ's intent to award a Contract. In addition, MDEQ will identify the selected Offeror. The Notice of Intent to award is also made available to the public.

SECTION 5

5.1 Post-Award Vendor Debriefing

An Offeror, successful or unsuccessful, may request a post-award debriefing, in writing, by U.S. mail or electronic submission. The written request must be received by the Executive Director of MDEQ within three (3) business days of notification of the contract award. A post-award debriefing is a meeting and not a hearing; therefore, legal representation is not required. A debriefing must occur within three (3) business days of receipt of the request. If the Offeror prefers to have legal representation present, the Offeror must notify the Executive Director of MDEQ in writing and identify its attorney by name, address, and telephone number. MDEQ will schedule and/or suspend and reschedule the meeting at a time when legal counsel can be present.

Unless good cause exists for delay, the debriefing should occur within three (3) business days after receipt of the vendor request and may be conducted during a face-to-face meeting, by telephonic or video conference, or by any other method acceptable to the Agency. The Chief Procurement Officer or designee should chair the meeting, and where practicable, include other staff with direct knowledge of the procurement.

At a minimum, the debriefing information shall include the following:

- (1) MDEQ's evaluation of significant weaknesses or deficiencies in the Offeror's SOQ, proposal, or qualifications, if applicable;
- (2) The overall evaluated cost or price, and technical rating, if applicable, of the successful Offeror(s) and the debriefed Offeror;

- (3) The overall ranking of all Offerors, when any ranking was developed by the MDEQ during the selection process;
- (4) A summary of the rationale for award; and,
- (5) Reasonable responses to relevant questions about selection procedures contained in the solicitation, applicable regulations, and other applicable authorities that were followed.

The debriefing shall not include point-by-point comparisons of the debriefed Offeror's SOQ, proposal, or qualification with those of other offering vendors. Any written request by an Offeror for nondisclosure of trade secrets and other proprietary data is subject to the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1 and §§ 75-26-1 through 75-26-19.

For additional information regarding Post-Award Debriefing, as well as the information that may be provided and excluded, please see Section 7-113 through 7-113.07, Post- Award Vendor Debriefing, of the *Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations*.

5.2 Protest of Award

Any actual or prospective Offeror or Contractor who is aggrieved in connection with this solicitation or the outcome of the Request for Qualifications may file a protest with the MDEQ RFQ Coordinator, Ms. Aveleka Moore, Contracts Division Director. The protest shall be submitted, in writing, within seven (7) calendar days of the Notice of Intent to Award. All protests must be in writing, dated, signed by the Offeror or an individual authorized to sign contracts on behalf of the protesting Offeror, and contain a statement of the reason(s) for protest, citing the law(s), rule(s) or regulation(s), and/or procedure(s) on which the protest is based. The written protest letter shall contain an explanation of the specific basis for the protest. The protesting Offeror must provide facts and evidence to support the protest. A protest is considered filed when received by the MDEQ RFQ Coordinator, Aveleka Moore, Contracts Division Director, via either U.S. mail, postage prepaid, or personal delivery. Protests filed after the seven (7) calendar days will not be considered.

5.3 Standard Contract Terms and Conditions

Any Contract entered into between MDEQ, and an Offeror shall include the clauses found in **Attachment C** and those required by the *Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations* as updated.

5.4 Mississippi Contract/Procurement Opportunity Search Portal

This SOQ, any Amendments, and the Notice of Intent to Award will be posted on the MDEQ website and on the Mississippi Contract/Procurement Opportunity Search Portal website.

5.5 Attachments

The attachments to this Request for Qualifications are made a part of this Request for Qualifications as if copied herein in words and figures.

Attachment A – Offeror Information Sheet

Attachment B – Certifications and Assurances

Attachment C – Standard Contract Terms and Conditions

Attachment D – U.S. Environmental Protection Agency Assistance Amendment #NP-01D16020-4

Attachment E – Environmental Protection Agency General Terms and Conditions

Attachment F – FY 2020 - FY 2021 Pollution Prevention Grant Program Funding Opportunity No. EPA-HQ-OPPT-2020-001

Attachment G – Revised Work Plan and Timeline in Conjunction with the No-Cost Time Extension Request Grant #NP01D16020 from MDEQ to EPA

Attachment A

Offeror Information Sheet

As part of the Offeror's SOQ, this Attachment must be completed and signed by the company's authorized representative.

Offeror's Company Name:	
Unique Entity ID ("UEI"):	
Principal point of contact:	
Contact's Email Address:	
Contact's Telephone Number:	
Address of Offeror's Principal Place of Business:	
Age of the Company:	
Average number of employees over the last three (3) years:	

The Offeror must maintain a list of other clients for review by MDEQ and identify any potential conflicts of interest due to previous work or that may arise during the contract duration. Offerors must provide a list of current or previous clients upon request.

By signing below, the Company Representative certifies that he/she has authority to bind the company, and further acknowledges on behalf of the company:

1. That he/she has thoroughly read and understands the Request for Qualifications, RFX3140003877 MDEQ-RFQ07162024, and the attachments herein;
2. That the company meets all requirements and acknowledges all certifications contained in this Request for Qualifications, RFX3140003877 MDEQ-RFQ07162024, and attachments herein;
3. That the company agrees to all provisions of this Request for Qualifications, RFX3140003877 MDEQ-RFQ07162024, and the attachments herein;
4. That the company has, or will secure, at its own expense, applicable personnel who shall be qualified to perform the duties required to be performed under this Request for Qualifications.

Printed Name: _____

Signature: _____

Title: _____

Date: _____

Attachment B

Certifications and Assurances

I/We make the following certifications and assurances as a required element of the SOQ to which it is attached, of the understanding that the truthfulness of the facts affirmed here and the continued compliance with these requirements are conditions precedent to the award or continuation of the related contract(s).

- 1. NON-DEBARMENT:** By submitting a SOQ, the Offeror certifies that it is not currently debarred from submitting SOQ for contracts issued by any political subdivision or agency of the State of Mississippi and that it is not an agent of a person or entity that is currently debarred from submitting SOQ for contracts issued by any political subdivision or agency of the State of Mississippi.
- 2. PROSPECTIVE CONTRACTOR'S REPRESENTATION REGARDING CONTINGENT FEES:** The Offeror represents as a part of such SOQ that such Offeror *has/has not* retained any person or agency on a percentage, commission, or other contingent arrangement to secure this contract.
- 3. REPRESENTATION REGARDING CONTINGENT FEES:** The Offeror represents that it *has/has not* retained a person to solicit or secure a State contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in the Offeror's SOQ.
- 4. REPRESENTATION REGARDING GRATUITIES:** The Offeror represents that it *has/has not* violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations.
- 5. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION:** The Offeror certifies that the prices submitted in response to the solicitation have been arrived at independently and without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Offeror or competitor relating to those prices, the intention to submit a SOQ, or the methods or factors used to calculate the prices in the SOQ.

Offeror Name: _____

Printed Name of Representative: _____

Signature: _____

Title: _____

Date: _____

*Note: Please be sure to **circle the applicable word or words** provided above. Failure to circle the applicable word or words and/or to sign the form may result in the SOQ being rejected as non-responsive. **Modifications or additions to any portion of this document may be cause for rejection of the SOQ.***

Attachment C

Standard Contract Terms and Condition

1. Applicable Law

The Contract shall be governed by and construed in accordance with the laws of the State of Mississippi, excluding its conflicts of laws provisions, and any litigation with respect thereto shall be brought in the courts of the State. The Contractor shall comply with applicable federal, state, and local laws and regulations.

2. Approval

It is understood that if this contract requires approval by the Public Procurement Review Board and/or the Mississippi Department of Finance and Administration Office of Personal Service Contract Review, and this contract is not approved by the PPRB and/or OPSCR, it is void and no payment shall be made hereunder.

3. Availability of Funds

It is expressly understood and agreed that the obligation of the MDEQ to proceed under this agreement is conditioned upon the appropriation of funds by the Mississippi State Legislature and the receipt of state and/or federal funds. If the funds anticipated for the continuing fulfillment of the agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to the MDEQ, the MDEQ shall have the right upon ten (10) working days written notice to the Contractor, to terminate this agreement without damage, penalty, cost or expenses to the MDEQ of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

4. Acknowledgment of Amendments

The Offerors shall acknowledge receipt of any amendment and returning the amendment with the SOQ, by identifying the amendment number and date in the space provided for this purpose on the form, or by letter. The acknowledgement must be received by MDEQ by the time and at the place specified for receipt of SOQ.

5. Certification of Independent Price Determination

The Offeror certifies that the prices submitted in response to the solicitation have been arrived at independently and without, for the purpose of restricting competition, any consultation, communication, or agreement with any other Offeror or competitor relating to those prices, the intention to submit a SOQ, or the methods or factors used to calculate the prices of the SOQ.

6. Compliance with Laws

The Contractor understands that the Agency is an equal opportunity employer and therefore, maintains a policy, which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful and the Contractor agrees during the term of the agreement that the Contractor will strictly adhere to this policy in its employment practices and provision of services. The Contractor shall comply with, and all activities under this agreement shall be subject to, all applicable federal, State of Mississippi, and local laws and regulations, as now existing and as may be amended or modified.

7. E-Payment

The Contractor agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. The agency agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of invoice. Mississippi Code Annotated § 31-7-301 *et seq.*

8. E-Verification

If applicable, the Contractor represents and warrants that it will ensure its compliance with the Mississippi Employment Protection Act of 2008 and will register and participate in the status verification system for all newly hired employees. Mississippi Code Annotated §§ 71-11-1 *et seq.* The term "employee" as used herein means any person that is hired to perform work within the State of Mississippi. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. The Contractor agrees to maintain records of such compliance. Upon request of the State and after approval of the Social Security Administration or Department of Homeland Security when required, the Contractor agrees to provide a copy of each such verification. The Contractor further represents and warrants that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws. The breach of this agreement may subject the Contractor to the following:

- a) termination of this Contract for services and ineligibility for any state or public contract in Mississippi for up to three (3) years with notice of such cancellation/termination being made public;
- b) the loss of any license, permit, certification, or other document granted to the Contractor by an agency, department, or governmental entity for the right to do business in Mississippi for up to one (1) year, or both.
- c) In the event of such cancellation/termination, the Contractor would also be liable for any additional costs incurred by the State due to Contract cancellation or loss of license or permit to do business in the State.

9. Paymode

Payments by state agencies using the State's accounting system shall be made and remittance information provided electronically as directed by the State. These payments shall be deposited into the bank account of the Contractor's choice. The State may, at its sole discretion, require the Contractor to electronically submit invoices and supporting documentation at any time during the term of this Agreement. The Contractor understands and agrees that the State is exempt from the payment of taxes. All payments shall be in United States currency.

10. Procurement Regulations

The Contract shall be governed by the applicable provisions of the *Mississippi Public Procurement Board Office of Personal Service Contract Review Rules and Regulations*, a copy of which is available at 501 North West Street, Suite 701E, Jackson, Mississippi 39201 for inspection, or downloadable at <http://www.DFA.ms.gov>.

11. Representation Regarding Contingent Fees

The Contractor represents that it has not retained a person to solicit or secure a state contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except as disclosed in the Contractor's SOQ.

12. Representation Regarding Gratuities

The Contractor represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the *Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations*.

13. Stop Work Order

- a) Order to Stop Work: The Chief Procurement Officer may, by written order to the Contractor at any time, and without notice to any surety, require the Contractor to stop all or any part of the work called for by this contract. This order shall be for a specified period not exceeding 90 days after the order is delivered to the Contractor unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, the Contractor shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the parties shall have agreed, the Chief Procurement Officer shall either:
 - i. cancel the stop work order; or,
 - ii. terminate the work covered by such order as provided in the Termination for Default clause or the Termination for Convenience clause of this Contract.
- b) Cancellation or Expiration of the Order: If a stop work order issued under this clause is canceled at any time during the period specified in the order, or if the period of the order or any extension thereof expires, the Contractor shall have the right to resume work. An appropriate adjustment shall be made in the delivery schedule or the Contractor price, or both, and the contract shall be modified in writing accordingly, if:

- i. the stop work order results in an increase in the time required for, or in the Contractor's cost properly allocable to, the performance of any part of this Contract; and,
 - ii. The Contractor asserts a claim for such an adjustment within 30 days after the end of the period of work stoppage; provided that, if the Chief Procurement Officer decides that the facts justify such action, any such claim asserted may be received and acted upon at any time prior to final payment under this contract.
- c) Termination of Stopped Work: If a stop work order is not canceled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order shall be allowed by adjustment or otherwise.

14. Termination for Convenience

- a) Termination. The Agency Head or designee may, when the interests of the State so require, terminate this contract in whole or in part, for the convenience of the State. The Agency Head or designee shall give written notice of the termination to the Contractor specifying the part of the contract terminated and when termination becomes effective.
- b) Contractor's Obligations. The Contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the Contractor will stop work to the extent specified. The Contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Agency Head or designee may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or subcontracts to the State. The Contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

15. Termination for Default

- a) Default. If the Contractor refuses or fails to perform any of the provisions of this contract with such diligence as will ensure its completion within the time specified in this contract or any extension thereof, or otherwise fails to timely satisfy the contract provisions, or commits any other substantial breach of this Contract, the Agency Head or designee may notify the Contractor in writing of the delay or nonperformance and if not cured in ten (10) days or any longer time specified in writing by the Agency Head or designee, such officer may terminate the Contractor's right to proceed with the contract or such part of the contract as to which there has been delay or a failure to properly perform. In the event of termination in whole or in part, the Agency Head or designee may procure similar supplies or services in a manner and upon terms deemed appropriate by the Agency Head or designee. The Contractor shall continue performance of the contract to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.
- b) Contractor's Duties. Notwithstanding termination of the Contract and subject to any directions from the Chief Procurement Officer, the Contractor shall take timely, reasonable, and necessary action to protect and preserve property in the possession of the Contractor in which the State has an interest.

- c) Compensation. Payment for completed services delivered and accepted by the State shall be at the contract price. The State may withhold from amounts due to the Contractor such sums as the Agency Head or designee deems to be necessary to protect the State against loss because of outstanding liens or claims of former lien holders and to reimburse the State for the excess costs incurred in procuring similar goods and services.
- d) Excuse for Nonperformance or Delayed Performance. Except with respect to defaults of subcontractors, the Contractor shall not be in default by reason of any failure in performance of this contract in accordance with its terms (including any failure by the Contractor to make progress in the prosecution of the work hereunder which endangers such performance) if the Contractor has notified the Agency Head or designee within 15 days after the cause of the delay and the failure arises out of causes such as: acts of God; acts of the public enemy; acts of the State and any other governmental entity in its sovereign or contractual capacity; fires; floods; epidemics; quarantine restrictions; strikes or other labor disputes; freight embargoes; or unusually severe weather. If the failure to perform is caused by the failure of a subcontractor to perform or to make progress, and if such failure arises out of causes similar to those set forth above, the Contractor shall not be deemed to be in default, unless the services to be furnished by the subcontractor were reasonably obtainable from other sources in sufficient time to permit the Contractor to meet the contract requirements. Upon request of the Contractor, the Agency Head or designee shall ascertain the facts and extent of such failure, and, if such officer determines that any failure to perform was occasioned by any one (1) or more of the excusable causes, and that, but for the excusable cause, the Contractor's progress and performance would have met the terms of the contract, the delivery schedule shall be revised accordingly, subject to the rights of the State under the clause entitled "Termination for Convenience". (As used in this Paragraph of this clause, the term "subcontractor" means subcontractor at any tier).
- e) Erroneous Termination for Default. If, after notice of termination of the Contractor's right to proceed under the provisions of this clause, it is determined for any reason that the contract was not in default under the provisions of this clause, or that the delay was excusable under the provisions of Paragraph (4) (Excuse for Nonperformance or Delayed Performance) of this clause, the rights and obligations of the parties shall, if the contract contains a clause providing for termination for convenience of the State, be the same as if the notice of termination had been issued pursuant to such clause.
- f) Additional Rights and Remedies. The rights and remedies provided in this clause are in addition to any other rights and remedies provided by law or under this Contract.

16. Termination Upon Bankruptcy

This Contract may be terminated in whole or in part by MDEQ upon written notice to the Contractor, if the Contractor should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by the Contractor of an assignment for the benefit of its creditors. In the event of such termination, the Contractor shall be entitled to recover just and equitable compensation for satisfactory work performed under this Contract, but in no case shall said compensation exceed the total contract price.

17. Trade Secrets, Commercial and Financial Information

It is expressly understood that Mississippi law requires that the provisions of this Contract which contain the commodities purchased or the personal or professional services provided, the price to be paid, and the term of the contract shall not be deemed to be a trade secret or confidential commercial or financial information and shall be available for examination, copying, or reproduction.

18. Transparency

This contract, including any accompanying exhibits, attachments, and appendices, is subject to the "Mississippi Public Records Act of 1983," and its exceptions. See Mississippi Code Annotated §§ 25-61-1 *et seq.* and Mississippi Code Annotated § 79- 23-1. In addition, this contract is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Mississippi Code Annotated §§ 27-104-151 *et seq.* Unless exempted from disclosure due to a court-issued protective order, a copy of this executed contract is required to be posted to the Mississippi Department of Finance and Administration's independent agency contract website for public access at <http://www.transparency.mississippi.gov>. Information identified by the Contractor as trade secrets, or other proprietary information, including confidential vendor information or any other information, which is required confidential by state or federal law or outside the applicable freedom of information statutes, will be redacted.

19. Anti-assignment/Subcontracting

The Contractor acknowledges that it was selected by the State to perform the services required hereunder based, in part, upon the Contractor's special skills and expertise. The Contractor shall not assign, subcontract, or otherwise transfer this agreement, in whole or in part, without the prior written consent of the State, which the State may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of its obligations without such consent shall be null and void. No such approval by the State of any subcontract shall be deemed in any way to provide for the incurrence of any obligation of the State in addition to the total fixed price agreed upon in this agreement. Subcontracts shall be subject to the terms and conditions of this agreement and to any conditions of approval that the State may deem necessary. Subject to the foregoing, this agreement shall be binding upon the respective successors and assigns of the parties.

20. Antitrust

By entering into this Contract, the Contractor conveys, sells, assigns, and transfers to MDEQ all rights, titles, and interest it may now have, or hereafter acquire, under the antitrust laws of the United States and the State that relate to the services purchased or acquired by MDEQ under this Contract.

21. Attorney's Fees and Expenses

Subject to other terms and conditions of this agreement, in the event the Contractor defaults in any obligations under this agreement, the Contractor shall pay to the State all costs and expenses (including, without limitation, investigative fees, court costs, and attorney's fees) incurred by the State in enforcing this agreement or otherwise reasonably related thereto. The Contractor agrees that under no circumstances shall the customer be obligated to pay any attorney's fees or costs of legal action to the Contractor.

22. Authority to Contract

The Contractor warrants: (a) that it is a validly organized business with valid authority to enter into this agreement; (b) that it is qualified to do business and in good standing in the State of Mississippi; (c) that entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and, (d) notwithstanding any other provision of this agreement to the contrary, that there are no existing legal proceedings or prospective legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.

23. Change in Scope of Work

MDEQ may order changes in the services consisting of additions, deletions, or other revisions within the general scope of the Contract. No claims may be made by the Contractor that the scope of the Project or of Contractor's services has been changed, requiring changes to the amount of compensation to the Contractor or other adjustments to the Contract, unless such changes or adjustments have been made by written amendment to the Contract signed by MDEQ and the Contractor.

If the Contractor believes that any particular work is not within the scope of the Project, is a material change, or will otherwise require more compensation to the Contractor, the Contractor must immediately notify MDEQ in writing of this belief. If MDEQ believes that the particular work is within the scope of the Contract as written, the Contractor will be ordered to and shall continue with the work as changed and at the cost stated for the services within the Contract.

24. Claims based on Chief Procurement Officer's Actions or Omissions

A. *Notice of Claim.* If any action or omission on the part of a Chief Procurement Officer or designee of such officer requiring performance changes within the scope of the Contract constitutes the basis for a claim by the Contractor for additional compensation, damages, or an extension of time for completion, the Contractor shall continue with performance of the Contract in compliance with the directions or orders of such officials, but by so doing, the Contractor shall not be deemed to have prejudiced any claim for additional compensation, damages, or an extension of time for completion, provided:

- (1) The Contractor shall have given written notice to the Chief Procurement Officer or designee of such officer:
 - (i) prior to the commencement of the work involved, if at that time the Contractor knows of the occurrence of such action or omission;
 - (ii) within 30 days after the Contractor knows of the occurrence of such action or omission, if the Contractor did not have such knowledge prior to the commencement of the work; or,
 - (iii) within such further time as may be allowed by the Chief Procurement Officer in writing.

This notice required shall state that the Contractor regards the act or omission as a reason which may entitle the Contractor to additional compensation, damages, or an extension of time; and the procurement officer or designee of such officer, upon receipt of such notice, may rescind such action, remedy such omission, or take such other steps as may be deemed advisable in the discretion of the Chief Procurement Officer or designee of such officer;

- (2) The notice required by subparagraph (1) of this paragraph describes, as clearly as practicable at the time, the reasons why the Contractor believes that additional compensation, damages, or an extension of time may be remedies to which the Contractor is entitled; and,
- (3) The Contractor maintains and, upon request, makes available to the Chief Procurement Officer within a reasonable time, detailed records to the extent practicable, of the claimed additional costs or basis for an extension of time in connection with such changes.

B. *Limitation of Clause.* Nothing contained herein shall excuse the Contractor from compliance with any rules of law precluding state officers and the Contractors from acting in collusion or bad faith in issuing or performing change orders which are clearly not within the scope of the Contract.

C. *Adjustment of Price.* Any adjustment in the Contract price made pursuant to this clause shall be determined in accordance with the "Price Adjustment" clause of this Contract.

25. Confidential Information

"Confidential Information" shall mean: (a) those materials, documents, data, and other information, which the Contractor has designated in writing as proprietary and confidential; and (b) all data and information, which the Contractor acquires as a result of its contact with, and efforts on behalf of the customer and any other information designated in writing as confidential by the State. Each party to this Contract agrees to the following:

- (1) to protect all confidential information provided by one party to the other;
- (2) to treat all such confidential information as confidential to the extent that confidential treatment is allowed under state and/or federal law; and,
- (3) except as otherwise required by law, not to publish or disclose such information to any third party without the other party's written permission; and
- (4) to do so by using those methods and procedures normally used to protect the party's own confidential information.

Any liability resulting from the wrongful disclosure of confidential information on the part of the Contractor, or its subcontractor shall rest with the Contractor. Disclosure of any confidential information by the Contractor or its subcontractor without the express written approval of the Agency shall result in the immediate termination of this Contract.

26. Confidentiality

- A. *Information Designated by Contractor as Confidential.* Any disclosure of those materials, documents, data and other information, which the Contractor has designated in writing as proprietary and confidential shall be subject to the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1. As provided in this Contract, the personal or professional services to be provided, the price to be paid, and the term of the Contract shall not be deemed to be a trade secret or confidential commercial or financial information.
- B. *Public Records.* Notwithstanding any provision to the contrary contained herein, all Parties recognize that MDEQ is a public agency of the State of Mississippi and is subject to the Mississippi Public Records Act. Mississippi Code Annotated §§ 25-61-1 *et seq.* If a public records request is made for any information provided to MDEQ pursuant to this Contract and designated by the Contractor in writing as trade secrets or other proprietary confidential information, MDEQ shall follow the provisions of Mississippi Code Annotated §§ 25-61-9 and 79-23-1 before disclosing such information. MDEQ shall not be liable to the Contractor for disclosure of information required by court order or required by law.
- C. *Disclosure of Confidential Information.* In the event that either party to this Contract receives notice that a third party requests divulgence of Confidential Information or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of Confidential Information or otherwise protected information, that party shall promptly inform the other party and thereafter respond in conformity with such subpoena to the extent mandated by law. This section shall survive the termination or completion of this Contract. The parties agree that this section is subject to and superseded by Mississippi Code Annotated §§ 25-61-1 *et seq.*
- D. *Wrongful Disclosure of Confidential Information.* Any liability resulting from the wrongful disclosure of Confidential Information on the part of the Contractor or its subcontractor shall rest with the Contractor. Disclosure of any Confidential Information by the Contractor or its subcontractor without the express written approval of MDEQ may result in the immediate termination of this Contract.
- E. *Exceptions to Confidential Information.* The Contractor and the State shall not be obligated to treat as confidential and proprietary any information disclosed by the other party (“**Disclosing Party**”) which is:
- (1) Rightfully known to the recipient prior to negotiations leading to this Contract, other than information obtained in confidence under prior engagements;
 - (2) Generally known or easily ascertainable by nonparties to this Contract;
 - (3) Released by the Disclosing Party to any other person, firm, or entity (including governmental agencies or bureaus) without restriction;
 - (4) Independently developed by the recipient without any reliance on confidential information;

(5) Part or later becomes part of the public domain or may be lawfully obtained by the State or Contractor from any nonparty; or

(6) Disclosed with the Disclosing Party's prior written consent; or

(7) Otherwise required to be disclosed by law.

27. Conflict of Interest

The Contractor shall immediately notify MDEQ in writing of any interests (financial, contractual, organizational, or otherwise) relating to the services to be performed under this Contract that would create any actual or potential conflict of interest (or apparent conflicts of interest) (including conflicts of interest for immediate family members: spouses, parents, children) with respect to the U.S. Department of the Treasury, RESTORE Council, MDEQ, or the Project that would impinge on the Contractor's ability to render impartial, technically sound, and objective assistance or advice or result in it being given an unfair competitive advantage. In this clause, the term "potential conflict" means reasonably foreseeable conflict of interest. The Contractor further certifies that it has and will continue to exercise due diligence in identifying and removing or mitigating, to MDEQ's satisfaction, such conflict of interest (or apparent conflict of interest). If such conflict cannot be resolved to MDEQ's satisfaction, MDEQ reserves the right to terminate this Contract per the Termination for Convenience clause of this Contract.

28. Contractor Personnel

The Agency shall, throughout the life of the contract, have the right of reasonable rejection and approval of staff or subcontractors assigned to the work by the Contractor. If the Agency reasonably rejects staff or subcontractors, the Contractor must provide replacement staff or subcontractors satisfactory to the Agency in a timely manner and at no additional cost to the Agency. The day-to-day supervision and control of the Contractor's employees and subcontractors is the sole responsibility of the Contractor.

29. Counterparts

This Contract may be executed in counterparts, each of which shall be deemed an original but all of which together shall be deemed to be one and the same agreement. A signed copy of this Contract delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Contract.

30. Debarment and Suspension

The Contractor certifies to the best of its knowledge and belief, that it:

A. is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any federal department or agency or any political subdivision or agency of the State of Mississippi;

B. has not, within a three-year period preceding this SOQ, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction;

- C. has not, within a three-year period preceding this SOQ, been convicted of or had a civil judgment rendered against it for a violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- D. is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of these offenses enumerated in paragraphs two (B) and (C) of this certification; and,
- E. has not, within a three-year period preceding this SOQ, had one (1) or more public transactions (federal, state, or local) terminated for cause or default.

31. Disputes

Before pleading to any judicial system at any level, the Contractor must exhaust all administrative remedies. A written complaint must first be sent to the Executive Director of MDEQ. The decision of the Executive Director shall be reduced to writing and a copy thereof mailed or furnished to the Contractor. Pending non-resolution of the complaint at this point, successive administrative remedies will include bringing the complaint before the Mississippi Commission on Environmental Quality pursuant to Mississippi Code Annotated Section 49-17-35 (Rev. 2012), with appeals from the Commission's decision following procedures as outlined in Mississippi Code Annotated Section 49-17-41 (Rev. 2012).

32. Failure to Deliver

In the event of failure of the Contractor to deliver services in accordance with the contract terms and conditions, the Agency, after due oral or written notice, may procure the services from other sources and hold the Contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies that the Agency may have.

33. Failure to Enforce

Failure by the Agency at any time to enforce the provisions of the contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the Contract or any part thereof or the right of the Agency to enforce any provision at any time in accordance with its terms.

34. Final Payment

Upon satisfactory completion of the work performed under this contract, as a condition before final payment under this Contract, or as a termination settlement under this Contract, the Contractor shall execute and deliver to the Agency a release of all claims against the State arising under, or by virtue of, the contract, except claims which are specifically exempted by the Contractor to be set forth therein. Unless otherwise provided in this contract, by state law, or otherwise expressly agreed to by the parties in this contract, final payment under the contract or settlement upon termination of this contract shall not constitute waiver of the State's claims against the Contractor under this contract.

35. Force Majeure

Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters (“force majeure events”). When such a cause arises, the Contractor shall notify the State immediately in writing of the cause of its inability to perform, how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to force majeure events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless the State determines it to be in its best interest to terminate the agreement.

36. Headings

The headings in this Contract are for reference only and shall not affect the interpretation of this Contract.

37. HIPAA Compliance

The Contractor agrees to comply with the “Administrative Simplification” provisions of the Health Insurance Portability and Accountability Act of 1996, including electronic data interchange, code sets, identifiers, security, and privacy provisions, as may be applicable to the services under this Contract.

38. Indemnification

To the fullest extent allowed by law, the Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate the agency, its commissioners, board members, officers, employees, agents, and representatives, and the State of Mississippi from and against all claims, demands, liabilities, suits, actions, damages, losses, and costs of every kind and nature whatsoever including, without limitation, court costs, investigative fees and expenses, and attorney’s fees, arising out of or caused by the Contractor and/or its partners, principals, agents, employees and/or subcontractors in the performance of or failure to perform this agreement. In the State’s sole discretion, the Contractor may be allowed to control the defense of any such claim, suit, etc. In the event the Contractor defends said claim, suit, etc., the Contractor shall use legal counsel acceptable to the State. The Contractor shall be solely responsible for all costs and/or expenses associated with such defense, and the State shall be entitled to participate in said defense. The Contractor shall not settle any claim, suit, etc. without the State’s concurrence, which the State shall not unreasonably withhold.

39. Independent Contractor Status

The Contractor shall, at all times, be regarded as, shall be legally considered an independent contractor, and shall at no time act as an agent for the State. Nothing contained herein shall be deemed or construed by the State, the Contractor, or any third party as creating the relationship of principal and agent, master and servant, partners, joint ventures, employer, and employee, or any similar such

relationship between the State and the Contractor. Neither the method of computation of fees or other charges, nor any other provision contained herein, nor any acts of the State or the Contractor hereunder creates or shall be deemed to create a relationship other than the independent relationship of the State and the Contractor. The Contractor's personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of the State. Neither the Contractor nor its employees shall, under any circumstances, be considered servants, agents, or employees of the Agency, and the Agency shall be at no time legally responsible for any negligence or other wrongdoing by the Contractor, its servants, agents, or employees. The Agency shall not withhold from the contract payments to the Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security tax, or any other amounts for benefits to the Contractor. Further, the Agency shall not provide to the Contractor any insurance coverage or other benefits, including Worker's Compensation, normally provided by the State for its employees.

40. Infringement Indemnification

The Contractor warrants that the materials and deliverables provided to MDEQ under this Contract, and their use by MDEQ, will not infringe or constitute an infringement of any copyright, patent, trademark, or other proprietary right. Should any such items become the subject of an infringement claim or suit, the Contractor shall defend the infringement action and/or obtain for the customer the right to continue using such items. Should the Contractor fail to obtain for the customer the right to use such items, the Contractor shall suitably modify them to make them non-infringing or substitute equivalent software or other items at the Contractor's expense. In the event the above remedial measures cannot possibly be accomplished, and only in that event, the Contractor may require the customer to discontinue using such items, in which case Contractor will refund to the customer the fees previously paid by the customer for the items the customer may no longer use and shall compensate the customer for the lost value of the infringing part to the phase in which it was used up to and including the Contract price for said phase. Said refund shall be paid within ten (10) working days of notice to the customer to discontinue said use.

Scope of Indemnification: Provided that the State promptly notifies the Contractor in writing of any alleged infringement claim of which it has knowledge, the Contractor shall indemnify, defend, save and hold harmless, protect, and exonerate, at its own expense, MDEQ, its Commissioners, officers, employees, agents and representatives, and the State of Mississippi, against and pay all costs, including discovery costs, damages (including punitive damages) and attorney fees that a court finally awards for infringement based on the programs and deliverables provided under this Contract.

41. Insurance

Prior to Contract performance, Contractor shall provide and maintain sufficient insurance coverage during the period of performance of the Contract, from an insurance carrier(s) licensed or holding a Certificate of Authority from the Mississippi Department of Insurance, as required by applicable state and federal law related to the work of the Contract and in connection with the Contract. This may include, but is not limited to the following:

- a) Workers' Compensation and Employer's Liability Insurance. This insurance shall protect Contractor against all claims under applicable State workers' compensation laws. Contractor shall also be protected against claims for injury, disease, or death of employees, which, for any

reason, may not fall within the provisions of a workers' compensation law. The liability limits shall not be less than the required statutory limits for workers' compensation and employer's liability limits in the amount of Five Hundred Thousand and 00/100 Dollars (\$500,000.00).

- b) Comprehensive General Liability Insurance. This insurance shall include bodily injury, property damage, contractual and other standard coverage contained in comprehensive general liability insurance, in an amount of not less than Five Hundred Thousand and 00/100 Dollars (\$500,000.00) per occurrence and Five Million and 00/100 Dollars (\$5,000,000.00) aggregate.
- c) Auto Liability Insurance. This insurance shall be in the amount of not less than Five Hundred Thousand and 00/100 Dollars (\$500,000.00) Combined Single Limit to protect it from any and all claims arising from the use of the following: (1) Contractor's own automobiles and trucks; (2) hired and non-owned automobiles and trucks; and (3) automobiles and trucks owned by Contractors. The aforementioned is to cover use of automobiles and trucks in performance of the work.

MDEQ, its Commissioners, Board Members, officers, employees, agents, and representatives, and the State of Mississippi and its elected and appointed officers, employees and agents shall be named as additional insureds on such policies. The successful Contractor shall provide that the insureds thereon waive subrogation against the State of Mississippi and the said political subdivisions thereof. The successful Contractor's respective policies shall provide primary coverage before any applicable policy otherwise covering MDEQ, and any insurance covering MDEQ shall be excess coverage over the successful Contractor's coverage. Endorsements so stating shall be provided to MDEQ by the successful Contractor. The policies shall also provide for all additional insureds to be provided with a minimum 30-day written notice prior to a cancellation or modification of each respective policy. While the successful Contractor shall provide MDEQ with endorsements as set forth in this paragraph, the failure to do so, or the failure of the endorsements or insurance provided to conform to the Contract, does not constitute waiver or estoppels as to MDEQ of their respective legal and equitable rights, including but not limited to, the right to enforce the terms of the Contract. These contractual insurance provisions are intended to be, and shall be interpreted to be, separate and independent contractual obligations from the contractual provisions addressing the indemnity of MDEQ by the successful Contractor.

Upon execution of the Contract, the Contractor shall promptly furnish MDEQ with endorsements showing the Contractor compliance with the insurance provisions of this paragraph. While the Contractor shall provide MDEQ with endorsements as set forth in this paragraph, the failure to do so, or the failure of the endorsements or insurance provided to conform to the Agreement, does not constitute waiver or estoppels as to MDEQ of their respective legal and equitable rights, including but not limited to, the right to enforce the terms of the Contract. These contractual insurance provisions are intended to be, and shall be interpreted to be, separate and independent contractual obligations from the provisions addressing the indemnity of MDEQ by the Contractor.

42. Integrated Agreement/Merger

This agreement, including all contract documents, represents the entire and integrated agreement between the parties hereto and supersedes all prior negotiations, representations or agreements, irrespective of whether written or oral. This agreement may be altered, amended, or modified only

by a written document executed by the State and the Contractor. The Contractor acknowledges that it has thoroughly read all contract documents and has had the opportunity to receive competent advice and counsel necessary for it to form a full and complete understanding of all rights and obligations herein. Accordingly, this agreement shall not be construed or interpreted in favor of or against the State or the Contractor on the basis of draftsmanship or preparation hereof.

43. Modification or Renegotiation

This Contract may be modified only by written agreement signed by the parties hereto. The parties agree to renegotiate the agreement if federal and/or state revisions of any applicable laws or regulations make changes in this agreement necessary.

44. No Limitation of Liability

Nothing in this Contract shall be interpreted as excluding or limiting any tort liability of the Contractor for harm caused by the intentional or reckless conduct of the Contractor or for damages incurred through the negligent performance of duties by the Contractor or the delivery of products that are defective due to negligent construction.

45. Notices

All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of document (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this subsection):

For the Agency (Contractual related items):	For Contractor:
Aveleka Moore, Contracts Division Director	[Name, Title]
MDEQ	[Contractor Name }
515 East Amite Street	[Address]
Jackson, MS 39201	[City, State, Zip]

46. Non-solicitation of Employees

Each party to this agreement agrees not to employ or to solicit for employment, directly or indirectly, any persons in the full-time or part-time employment of the other party until at least six (6) months after this agreement terminates unless mutually agreed to in writing by the State and the Contractor.

47. Oral Statements

No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this Contract. All modifications to the contract must be made in writing by the MDEQ and agreed to by the Contractor.

48. Ownership of Documents and Work Papers

MDEQ shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with the project, which is the subject of this agreement, except for the Contractor's internal administrative and quality assurance files and internal project correspondence. The Contractor shall deliver such documents and work papers to MDEQ upon termination or completion of the agreement. The foregoing notwithstanding, the Contractor shall be entitled to retain a set of such work papers for its files. The Contractor shall be entitled to use such work papers only after receiving written permission from MDEQ and subject to any copyright protections.

49. Priority

The Contract consists of this agreement with exhibits, the Request for Qualifications RFx3140003877 MDEQ-RFQ07162024 (hereinafter referred to as "RFQ", and attached as Exhibit []), and the Offeror's SOQ dated [date] by [CONTRACTOR NAME] (hereinafter referred to as "SOQ" and attached as Exhibit []). Any ambiguities, conflicts or questions interpretation of this Contract shall be resolved by first, reference to this agreement/contract with exhibits and, if still unresolved, by reference to the RFQ and, if still unresolved, by reference to the proposal. Omission of any term or obligation from this agreement or attached Exhibits [] or [] shall not be deemed an omission from this Contract if such term or obligation is provided for elsewhere in this Contract.

50. Prospective Contractor's Representation Regarding Contingent Fees

The prospective Contractor represents as a part of such Contractor's SOQ that such Contractor has not retained any person or agency on a percentage, commission, or other contingent arrangement to secure this Contract.

51. Record Retention and Access to Records

Provided the Contractor is given reasonable advance written notice and such inspection is made during normal business hours of the Contractor, the State or any duly authorized representatives shall have unimpeded, prompt access to any of the Contractor's books, documents, papers, and/or records which are maintained or produced as a result of the Project for the purpose of making audits, examinations, excerpts, and transcriptions. Except as provided below, all records related to this Contract shall be retained by the Contractor for a minimum of three (3) years after final payment is made under this Contract and all pending matters are closed; however, if any audit, litigation or other action arising out of or related in any way to this Project is commenced before the end of the three (3) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the three (3) year period, whichever is later.

The Contractor is not required to retain the above-mentioned records for the three-year period prescribed in this Section and the "Right to Audit" provision only if all of the following conditions are satisfied:

- A. The Contractor has provided all of the documents described above and in the "Right to Audit" provision to MDEQ prior to the expiration of the three (3) year retention period and a certification stating the same is simultaneously provided in writing to MDEQ;

- B. No audit, litigation or other action arising out of or related in any way to this Project is commenced before the Contractor provides the records and corresponding certification to MDEQ, in which case, the Contractor shall retain the records until all issues arising out of the action are finally resolved; and
- C. The Contractor provides MDEQ a minimum of thirty (30) days written notice before providing the above-mentioned records and corresponding certification.

52. Recovery of Money

Whenever, under the contract, any sum of money shall be recoverable from or payable by the Contractor to the Agency, the same amount may be deducted from any sum due to Contractor under the contract or under any other contract between the Contractor and the Agency. The rights of the Agency are in addition and without prejudice to any other right the Agency may have to claim the amount of any loss or damage suffered by the Agency on account of the acts or omissions of the Contractor.

53. Right to Audit

The Contractor shall maintain such financial records and other records as may be prescribed by the Agency or by applicable federal and state laws, rules, and regulations. These records shall be made available during the term of the contract and the subsequent retention period, as applicable under the "Record Retention and Access to Record" provision of this Contract for examination, transcription, and audit by the Mississippi State Auditor's Office, its designees, or other authorized bodies.

54. Right to Inspect Facility

The State may, at reasonable times, inspect the place of business of a Contractor or any subcontractor, which is related to the performance of any contract awarded by the State.

55. Severability

If any part of this agreement is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the agreement that can be given effect without the invalid or unenforceable provision, and to this end, the provisions hereof are severable. In such event, the parties shall amend the agreement as necessary to reflect the original intent of the parties and to bring any invalid or unenforceable provisions in compliance with applicable law.

56. State Property

The Contractor will be responsible for the proper custody and care of any state- owned property furnished for the Contractor's use in connection with the performance of this agreement. The Contractor will reimburse the State for any loss or damage, normal wear and tear excepted.

57. Third Party Action Notification

The Contractor shall give the customer prompt notice in writing of any action or suit filed, and prompt notice of any claim made against the Contractor by any entity that may result in litigation related in any way to this agreement.

58. Unsatisfactory Work

If, at any time during the contract term, the service performed or work done by the Contractor is considered by the Agency to create a condition that threatens the health, safety, or welfare of the citizens and/or employees of the State of Mississippi, the Contractor shall, on being notified by the Agency, immediately correct such deficient service or work. In the event the Contractor fails, after notice, to correct the deficient service or work immediately, the Agency shall have the right to order the correction of the deficiency by separate contract or with its own resources at the expense of the Contractor.


59. Venue

The Venue for the resolution of any dispute, according to Disputes Clause of this Contract, and any subsequent litigation shall be in Jackson, Hinds County, Mississippi.

60. Waiver

MDEQ may waive any provision, in whole or in part, of this Contract not otherwise required by law. Failure by MDEQ, at any time, to enforce the provisions of the Contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the Contract or any part thereof or the right of MDEQ to enforce any provision at any time in accordance with its terms.

Attachment D

 <p style="font-size: 1.2em; font-weight: bold; margin-top: 10px;">U.S. ENVIRONMENTAL PROTECTION AGENCY</p> <p style="font-weight: bold; margin-top: 10px;">Assistance Amendment</p>	GRANT NUMBER (FAIN): 01D16020 MODIFICATION NUMBER: 4 PROGRAM CODE: NP	DATE OF AWARD 06/10/2024
	TYPE OF ACTION No Cost Amendment	MAILING DATE 06/10/2024
	PAYMENT METHOD: ASAP	ACH# 40110
	RECIPIENT TYPE: State	
RECIPIENT: MS Dept of Environmental Quality P.O. Box 2339 515 E. Amite Jackson, MS 39225 EIN: 64-0629297		PAYEE: Mississippi Department of Environmental Quality P.O. Box 2339 515 E. Amite Jackson, MS 39225
PROJECT MANAGER Mark Williams P.O. Box 2339 515 E. Amite Jackson, MS 39225 Email: mwilliams@mdeq.ms.gov Phone: 601-961-5304	EPA PROJECT OFFICER Margaret Reynolds 61 Forsyth Street SW Atlanta, GA 30303-8960 Email: reynolds.margaret@epa.gov Phone: 706-355-8637	EPA GRANT SPECIALIST Jessica Hamrick Grants Management Section 61 Forsyth St SW Atlanta, GA 30303-8960 Email: hamrick.jessica@epa.gov Phone: 404-564-8889
PROJECT TITLE AND EXPLANATION OF CHANGES Pollution Prevention Grant Program This action approves a time extension of the budget and project period end date from 09/30/2024 to 09/30/2025 to provide Mississippi Department of Environmental Quality(MDEQ) additional time to achieve the goals of their workplan. MDEQ has faced extraneous circumstances including contractual issues that have resulted in project delays. The purpose of this project is to reduce solid and hazardous wastes, energy, water consumption and discharges to air and water.		
BUDGET PERIOD 10/01/2020 - 09/30/2025	PROJECT PERIOD 10/01/2020 - 09/30/2025	TOTAL BUDGET PERIOD COST \$ 320,000.00
		TOTAL PROJECT PERIOD COST \$ 320,000.00
<h2 style="margin: 0;">NOTICE OF AWARD</h2> <p style="font-size: 0.9em; margin-top: 5px;">Based on your Application dated 04/30/2020 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$ 0.00. EPA agrees to cost-share <u>38.14%</u> of all approved budget period costs incurred, up to and not exceeding total federal funding of \$ 122,043.00. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.</p>		
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)		AWARD APPROVAL OFFICE
ORGANIZATION / ADDRESS U.S. EPA, Region 4 61 Forsyth Street Atlanta, GA 30303-8960		ORGANIZATION / ADDRESS U.S. EPA, Region 4, Land, Chemical & Redevelopment Division R4 - Region 4 61 Forsyth Street SW Atlanta, GA 30303
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY		
Digital signature applied by EPA Award Official Jessica Hamrick - Grant Management Specialist		DATE 06/10/2024

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$ 122,043	\$ 0	\$ 122,043
EPA In-Kind Amount	\$ 0	\$ 0	\$ 0
Unexpended Prior Year Balance	\$ 0	\$ 0	\$ 0
Other Federal Funds	\$ 0	\$ 0	\$ 0
Recipient Contribution	\$ 197,957	\$ 0	\$ 197,957
State Contribution	\$ 0	\$ 0	\$ 0
Local Contribution	\$ 0	\$ 0	\$ 0
Other Contribution	\$ 0	\$ 0	\$ 0
Allowable Project Cost	\$ 320,000	\$ 0	\$ 320,000

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.708 - Pollution Prevention Grant Program	Pollution Prevention Act of 1990: Sec. 6605	2 CFR 200, 2 CFR 1500, 40 CFR 33 and 40 CFR 35 Subpart A

Budget Summary Page

Table A - Object Class Category (Non-Construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$ 33,654
2. Fringe Benefits	\$ 11,274
3. Travel	\$ 8,800
4. Equipment	\$ 0
5. Supplies	\$ 12,000
6. Contractual	\$ 238,400
7. Construction	\$ 0
8. Other	\$ 0
9. Total Direct Charges	\$ 304,128
10. Indirect Costs: 33.50 % Base Personnel+Fringe	\$ 15,872
11. Total (Share: Recipient <u>61.86</u> % Federal <u>38.14</u> %)	\$ 320,000
12. Total Approved Assistance Amount	\$ 122,043
13. Program Income	\$ 0
14. Total EPA Amount Awarded This Action	\$ 0
15. Total EPA Amount Awarded To Date	\$ 122,043

Administrative Conditions

The Following Administrative Terms and Conditions have been revised.

The General Terms and Conditions of this agreement are updated in accordance with the link below. However, these updated conditions apply solely to the funds added with this amendment and any previously awarded funds not yet disbursed by the recipient as of the award date of this amendment. The General Terms and Conditions cited in the original award or prior funded amendments remain in effect for funds disbursed by the recipient prior to the award date of this amendment.

The recipient agrees to comply with the current EPA general terms and conditions available at: <https://www.epa.gov/grants/epa-general-terms-and-conditions-effective-october-1-2023-or-later>

These terms and conditions are in addition to the assurances and certifications made as a part of the award and the terms, conditions, or restrictions cited throughout the award.

The EPA repository for the general terms and conditions by year can be found at: <https://www.epa.gov/grants/grant-terms-and-conditions#general>.

A. Correspondence Condition

The terms and conditions of this agreement require the submittal of reports, specific requests for approval, or notifications to EPA. Unless otherwise noted, all such correspondence should be sent to the following email addresses:

- Federal Financial Reports (SF-425): rtpfc-grants@epa.gov and Jessica Hamrick, hamrick.jessica@epa.gov
- MBE/WBE reports (EPA Form 5700-52A): Jessica Hamrick, hamrick.jessica@epa.gov, 404-562-8889
- All other forms/certifications/assurances, Indirect Cost Rate Agreements, Requests for Extensions of the Budget and Project Period, Amendment Requests, Requests for other Prior Approvals, updates to recipient information (including email addresses, changes in contact information or changes in authorized representatives) and other notifications: Margaret Reynolds, reynolds.margaret@epa.gov, 404-562-8678
- Payment requests (if applicable): Margaret Reynolds, reynolds.margaret@epa.gov, 404-562-8678
- Quality Assurance documents, workplan revisions, equipment lists, programmatic reports and deliverables: Margaret Reynolds, reynolds.margaret@epa.gov, 404-562-8678

Programmatic Conditions

All Programmatic Conditions Remain the Same

Attachment E

Environmental Protection Agency

General Terms and Conditions

Effective October 1, 2023

Revision History:

The Environmental Protection Agency's General Terms and Conditions ***are published and become effective October 1st at the start of the federal fiscal year.*** Any additions, revisions, or changes to the terms and conditions after October 1 will be summarized below.

T&C Number	Effective Date	Description of Changes
#48	October 23, 2023	Implements new Office of Management and Budget (OMB) guidance on the Buy America preference for infrastructure projects.
#5	January 12, 2024	Removed the customer service line for Research Triangle Park Finance Center (RTPFC).
#8	May 21, 2024	Added clarifying guidance on Subawards to Federal Agencies.
#33	May 21, 2024	Updated in accordance with 40 CFR 26 and EPA Order 1000.17A for human subjects research.

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Preface

1. Introduction

- (a) The recipient and any sub-recipient must comply with the applicable EPA general terms and conditions outlined below. These terms and conditions are in addition to the assurances and certifications made as part of the award and terms, conditions, and restrictions reflected on the official assistance award document. Recipients **must** review their official award document for additional administrative and programmatic requirements. Failure to comply with the general terms and conditions outlined below and those directly reflected on the official assistance award document may result in enforcement actions as outlined in [2 CFR 200.339](#) and [2 CFR 200.340](#).
- (b) If the EPA General Terms and Conditions have been revised, EPA will update the terms and conditions when it provides additional funding (incremental or supplemental) prior to the end of the period of performance of this agreement. The recipient must comply with the revised terms and conditions after the effective date of the EPA action that leads to the revision. Revised terms and conditions do not apply to the recipient's expenditures of EPA funds or activities the recipient carries out prior to the effective date of the EPA action. EPA will inform the recipient of revised terms and conditions in the action adding additional funds.

2. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

This award is subject to the requirements of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards; Title [2 CFR Part 200](#) and [2 CFR Part 1500](#). 2 CFR 1500.2, Adoption of 2 CFR Part 200, states the Environmental Protection Agency adopts the Office of Management and Budget (OMB) guidance Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to Non-Federal Entities (subparts A through F of 2 CFR Part 200), as supplemented by 2 CFR Part 1500, as the Environmental Protection Agency (EPA) policies and procedures for financial assistance administration. 2 CFR Part 1500 satisfies the requirements of [2 CFR 200.110\(a\)](#) and gives regulatory effect to the OMB guidance as supplemented by 2 CFR Part 1500. This award is also subject to applicable requirements contained in EPA programmatic regulations located in 40 CFR Chapter 1 Subchapter B.

2.1 Effective Date and Incremental or Supplemental Funding. Consistent with the OMB Frequently Asked Questions at <https://cfo.gov/cofar> on Effective Date and Incremental Funding, any new funding through an amendment (supplemental or incremental) on or after December 26, 2014, and any unobligated balances (defined at 2 CFR 200.1) remaining on the award at the time of the amendment, will be subject to the requirements of the Uniform Administrative Requirements, Cost Principles and Audit Requirements (2 CFR Parts 200 and 1500).

3. Termination

Consistent with [2 CFR 200.340](#), EPA may unilaterally terminate this award in whole or in part:

- (a) If a recipient fails to comply with the terms and conditions of the award including statutory or regulatory requirements; or

- (b) If the award no longer effectuates the program goals or agency priorities. Situations in which EPA may terminate an award under this provision include when:
- i. EPA obtains evidence that was not considered in making the award that reveals that specific award objective(s) are ineffective at achieving program goals and EPA determines that it is in the government's interest to terminate the award;
 - ii. EPA obtains evidence that was not considered in making the award that causes EPA to significantly question the feasibility of the intended objective(s) of the award and EPA determines that it is in the government's interest to terminate the award;
 - iii. EPA determines that the objectives of the award are no longer consistent with funding priorities for achieving program goals.

Financial Information

4. Reimbursement Limitation

EPA's financial obligations to the recipient are limited by the amount of federal funding awarded to date as reflected on the award document. If the recipient incurs costs in anticipation of receiving additional funds from EPA, it does so at its own risk. See [2 CFR 1500.9](#).

5. Automated Standard Application Payments (ASAP) and Proper Payment Draw Down

Electronic Payments. Recipients must be enrolled or enroll in the Automated Standard Application for Payments (ASAP) system to receive payments under EPA financial assistance agreements unless:

- EPA grants a recipient-specific exception;
- The assistance program has received a waiver from this requirement;
- The recipient is exempt from this requirement under [31 CFR 208.4](#); or,
- The recipient is a fellowship recipient pursuant to [40 CFR Part 46](#).

EPA will not make payments to recipients until the ASAP enrollment requirement is met unless the recipients fall under one of the above categories. Recipients may request exceptions using the procedures below but only EPA programs may obtain waivers. To enroll in ASAP, complete the ASAP Initiate Enrollment Form located at: <https://www.epa.gov/financial/forms> and email it to rtpfc-grants@epa.gov or mail it to:

US Environmental Protection Agency
RTP-Finance Center (Mail Code AA216-01)
4930 Page Rd.
Durham, NC 27711

Under this payment mechanism, the recipient initiates an electronic payment request online via ASAP, which is approved or rejected based on the amount of available funds authorized by EPA in the recipient's ASAP account. Approved payments are credited to the account at the financial institution of the recipient organization set up by the recipient during the ASAP enrollment process. Additional information concerning ASAP and enrollment can be obtained by contacting the EPA

Research Triangle Park Finance Center (RTPFC), at rtpfc-grants@epa.gov, or by visiting: <https://www.fiscal.treasury.gov/asap/>.

EPA will grant exceptions to the ASAP enrollment requirement only in situations in which the recipient demonstrates to EPA that receiving payment via ASAP places an undue administrative or financial management burden on the recipient or EPA determines that granting the waiver is in the public interest. Recipients may request an exception to the requirement by following the procedures specified in [RAIN-2018-G06-R](#).

Proper Payment Drawdown (for recipients other than states)

- (a) As required by [2 CFR 200.305\(b\)](#), the recipient must draw funds from ASAP only for the minimum amounts needed for actual and immediate cash requirements to pay employees, contractors, subrecipients or to satisfy other obligations for allowable costs under this assistance agreement. The timing and amounts of the drawdowns must be as close as administratively feasible to actual disbursements of EPA funds. Disbursement within 5 business days of drawdown will comply with this requirement and the recipient agrees to meet this standard when performing this award.
- (b) Recipients may not retain more than 5% of the amount drawn down, or \$1,000 whichever is less, 5 business days after drawdown to materially comply with the standard. Any EPA funds subject to this paragraph that remain undisbursed after 5 business days must be fully disbursed within 15 business days of draw down or be returned to EPA.
- (c) If the recipient draws down EPA funds in excess of that allowed by paragraph b., the recipient must contact rtpfc-grants@epa.gov for instructions on whether to return the funds to EPA. Recipients must comply with the requirements at [2 CFR 200.305\(b\)\(8\) and \(9\)](#) regarding depositing advances of Federal funds in interest bearing accounts.
- (d) Returning Funds: [Pay.gov](#) is the preferred mechanism to return funds. It is free, secure, paperless, expedient, and does not require the recipient/vendor to create an account. Contact RTPFC-Grants at rtpfc-grants@epa.gov to obtain complete instructions. Additional information is available at the [Pay.gov website](#). Information on how to repay EPA via check is available at <https://www.epa.gov/financial/makepayment>. Instructions on how to return funds to EPA electronically via ASAP are available at <https://www.fiscal.treasury.gov/asap/>.
- (e) Failure on the part of the recipient to materially comply with this condition may, in addition to EPA recovery of the un-disbursed portions of the drawn down funds, lead to changing the payment method from advance payment to a reimbursable basis. EPA may also take other remedies for noncompliance under [2 CFR 200.208](#) and/or 2 CFR 200.339.
- (f) If the recipient believes that there are extraordinary circumstances that prevent it from complying with the 5-business day disbursement requirement throughout the performance period of this agreement, recipients may request an exception to the requirement by following the procedures specified in [RAIN-2018-G06-R](#). EPA will grant exceptions to the 5-business day disbursement requirement only if the recipient demonstrates that compliance places an undue

administrative or financial management burden or EPA determines that granting the exception is in the public interest.

Proper Payment Drawdown for State Recipients

In accordance with [2 CFR 200.305\(a\)](#), payments are governed by Treasury-State Cash Management Improvement Act (CMIA) agreements and default procedures codified [at 31 CFR Part 205, Subparts A and B](#) and [Treasury Financial Manual \(TFM\) 4A-2000, "Overall Disbursing Rules for All Federal Agencies"](#) unless a program specific regulation (e.g. 40 CFR 35.3160 or 40 CFR 35.3560) provides otherwise. Pursuant to 31 CFR Part 205, [Subpart A—Rules Applicable to Federal Assistance Programs Included in a Treasury-State Agreement](#), States follow their Treasury-State CMIA Agreement for major Federal programs listed in the agreement. For those programs not listed as major in the Treasury-State agreement, the State follows the default procedures in 31 CFR Part 205, [Subpart B—Rules Applicable to Federal Assistance Programs Not Included in a Treasury-State Agreement](#), which directs State recipients to draw-down and disburse Federal financial assistance funds in anticipation of immediate cash needs of the State for work under the award. States must comply with [2 CFR 200.302\(a\)](#) in reconciling costs incurred and charged to EPA financial assistance agreements at time of close out unless a program specific regulation provides otherwise.

Selected Items of Cost

6. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

This term and condition implements [2 CFR 200.216](#) and is effective for obligations and expenditures of EPA financial assistance funding on or after 8/13/2020.

As required by 2 CFR 200.216, EPA recipients and subrecipients, including borrowers under EPA funded revolving loan fund programs, are prohibited from obligating or expending loan or grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in [Public Law 115-232](#), section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

Recipients, subrecipients, and borrowers also may not use EPA funds to purchase:

- (a) 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).
- (b) Telecommunications or video surveillance services provided by such entities or using such equipment.

- (c) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the 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.

Consistent with [2 CFR 200.471](#), costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, and cloud servers are allowable except for the following circumstances:

- (a) Obligating or expending EPA funds for covered telecommunications and video surveillance services or equipment or services as described in 2 CFR 200.216 to:
 - (1) Procure or obtain, extend or renew a contract to procure or obtain;
 - (2) Enter into a contract (or extend or renew a contract) to procure; or
 - (3) Obtain the equipment, services, or systems.

Certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the [System for Award Management](#) exclusion list.

7. Consultant Cap

EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule, available at: <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>, to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices).

Information on how to calculate the maximum daily rate and the daily pay limitation is available at the Office Of Personnel Management's [Fact Sheet: How to Compute Rates of Pay](#) and [Fact Sheet: Expert and Consultant Pay](#). Specifically, to determine the maximum daily rate, follow these steps:

- (1) Divide the Level IV salary by 2087 to determine the hourly rate. Rates must be rounded to the nearest cent, counting one-half cent and over as the next higher cent (e.g., round \$18.845 to \$18.85).
- (2) Multiply the hourly rate by 8 hours. The product is the maximum daily rate.

Contracts and subcontracts with firms for services that are awarded using the procurement requirements in Subpart D of 2 CFR Part 200 are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See [2 CFR 1500.10](#).

8. Establishing and Managing Subawards

If the recipient chooses to pass funds from this assistance agreement to other entities, the recipient must comply with applicable provisions of 2 CFR Part 200 and the [EPA Subaward Policy](#).

Subawards to Federal Agencies – Clarity on Applicable EPA Terms and Conditions: If the subrecipient is federal agency, the only provisions of the EPA General Terms and Conditions implementing 2 CFR Part 200 on subawards that apply are: (1) the requirement for the federal agency to obtain a Unique Entity Identifier (UEI) in accordance with 2 CFR Part 25 as described in Item 3 below and (2) the requirement for the recipient to report on first-tier subawards as described in EPA General Term and Condition 15.1, “Reporting of first tier subawards.”

As provided within 2 CFR 200.101(a)(2), all other provisions of 2 CFR Part 200, Subparts A through E, do not apply to subawards with federal agencies. Transactions between the recipient and the federal agency subrecipient will be governed by the federal agency subrecipient’s cost reimbursement agreement with the recipient.

As a pass-through entity, the recipient agrees to:

- 1) Be responsible for selecting subrecipients and as appropriate conducting subaward competitions using a system for properly differentiating between subrecipients and procurement contractors under the standards at [2 CFR 200.331](#) and EPA’s supplemental guidance in [Appendix A](#) of the [EPA Subaward Policy](#).
 - (a) For-profit organizations and individual consultants, in almost all cases, are not eligible subrecipients under EPA financial assistance programs and the pass-through entity must obtain prior written approval from EPA’s Award Official for subawards to these entities unless the EPA- approved budget and work plan for this agreement contain a precise description of such subawards.
 - (b) Stipends and travel assistance for trainees (including interns) and similar individuals who are not are not employees of the pass-through entity must be classified as participant support costs rather than subawards as provided in [2 CFR 200.1 Participant support costs](#), [2 CFR 200.1 Subaward](#), and EPA’s [Guidance on Participant Support Costs](#).
 - (c) Subsidies, rebates and similar payments to participants in EPA funded programs to encourage environmental stewardship are also classified as *Participant support costs* as provided in 2 CFR 1500.1 and EPA’s [Guidance on Participant Support Costs](#).
- 2) Establish and follow a system that ensures all subaward agreements are in writing and contain all of the elements required by 2 CFR 200.332(a). EPA has developed a template for subaward agreements that is available in [Appendix D](#) of the [EPA Subaward Policy](#).
- 3) Prior to making subawards, ensure that each subrecipient has a “Unique Entity Identifier (UEI).” The UEI is required by [2 CFR Part 25](#) and [2 CFR 200.332\(a\)\(1\)](#). Subrecipients are not required to complete full System for Award Management (SAM) registration to obtain a UEI. Information regarding obtaining a UEI is available at the SAM Internet site: <https://www.sam.gov/SAM/> and

in EPA's General Term and Condition "**System for Award Management and Universal Identifier Requirements**" of the pass-through entity's agreement with the EPA.

- 4) Ensure that subrecipients are aware that they are subject to the same requirements as those that apply to the pass-through entity's EPA award as required by [2 CFR 200.332\(a\)\(2\)](#). These requirements include, among others:
 - (a) Title VI of the Civil Rights Act and other Federal statutes and regulations prohibiting discrimination in Federal financial assistance programs, as applicable.
 - (b) Reporting Subawards and Executive Compensation under Federal Funding Accountability and Transparency Act (FFATA) set forth in the General Condition pass-through entity's agreement with EPA entitled "**Reporting Subawards and Executive Compensation.**"
 - (c) Limitations on individual consultant fees as set forth in 2 CFR 1500.10 and the General Condition of the pass-through entity's agreement with EPA entitled "**Consultant Fee Cap.**"
 - (d) EPA's prohibition on paying management fees as set forth in General Condition of the pass-through entity's agreement with EPA entitled "**Management Fees.**"
 - (e) The Procurement Standards in [2 CFR Part 200](#) including those requiring competition when the subrecipient acquires goods and services from contractors (including consultants).

EPA provides general information on other statutes, regulations, and Executive Orders on the Grants internet site at <https://www.epa.gov/grants/epa-subaward-cross-cutter-requirements>. Many Federal requirements are agreement or program specific, and EPA encourages pass-through entities to review the terms of their assistance agreement carefully and consult with their EPA Project Officer for advice if necessary.

- 5) Ensure, for states and other public recipients, that subawards are not conditioned in a manner that would disadvantage applicants for subawards based on their religious character.
- 6) Establish and follow a system for evaluating subrecipient risks of noncompliance with Federal statutes, regulations and the terms and conditions of the subaward as required by [2 CFR 200.332\(b\)](#) and document the evaluation. Risk factors may include:
 - (a) Prior experience with same or similar subawards
 - (b) Results of previous audits;
 - (c) Whether new or substantially changed personnel or systems, and;
 - (d) Extent and results of Federal awarding agency or the pass-through entity's monitoring
- 7) Establish and follow a process for deciding whether to impose additional requirements on subrecipients based on risk factors as required by [2 CFR 200.332\(c\)](#). Examples of additional requirements authorized by 2 CFR 200.208 include:
 - (a) Requiring payments as reimbursements rather than advance payments;
 - (b) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;

- (c) Requiring additional, more detailed financial reports;
 - (d) Requiring additional project monitoring;
 - (e) Requiring the non-Federal entity to obtain technical or management assistance, and
 - (f) Establishing additional prior approvals
- 8) Establish and follow a system for monitoring subrecipient performance that includes the elements required by [2 CFR 200.332\(d\)](#) and report the results of the monitoring in performance reports as provided in the reporting terms and conditions of this agreement.
 - 9) Establish and maintain an accounting system which ensures compliance with the \$25,000 limitation at 2 CFR 200.1, Modified Total Direct Costs, if applicable, on including subaward costs in *Modified Total Direct Costs* for the purposes of distributing indirect costs. Recipients with Federally approved indirect cost rates that use a different basis for distributing indirect costs to subawards must comply with their Indirect Cost Rate Agreement.
 - 10) Work with EPA's Project Officer to obtain the written consent of EPA's Office of International and Tribal Affairs (OITA), prior to awarding a subaward to a foreign or international organization, or a subaward to be performed in a foreign country even if that subaward is described in a proposed scope of work.
 - 11) Obtain written approval from EPA's Award Official for any subawards that are not described in the approved work plan in accordance with [2 CFR 200.308](#).
 - 12) Obtain the written approval of EPA's Award Official prior to awarding a subaward to an individual if the EPA-approved scope of work does not include a description of subawards to individuals.
 - 13) Establish and follow written procedures under [2 CFR 200.302\(b\)\(7\)](#) for determining that subaward costs are allowable in accordance with [2 CFR Part 200, Subpart E](#) and the terms and conditions of this award. These procedures may provide for allowability determinations on a pre-award basis, through ongoing monitoring of costs that subrecipients incur, or a combination of both approaches provided the pass-through entity documents its determinations.
 - 14) Establish and maintain a system under [2 CFR 200.332\(d\)\(3\)](#) and [2 CFR 200.521](#) for issuing management decisions for audits of subrecipients that relate to Federal awards. However, the recipient remains accountable to EPA for ensuring that unallowable subaward costs initially paid by EPA are reimbursed or mitigated through offset with allowable costs whether the recipient recovers those costs from the subrecipient or not.
 - 15) As provided in [2 CFR 200.333](#), pass-through entities must obtain EPA approval to make fixed amount subawards. EPA is restricting the use of fixed amount subawards to a limited number of situations that are authorized in official EPA pilot projects. Recipients should consult with their EPA Project Officer regarding the status of these pilot projects.

By accepting this award, the recipient is certifying that it either has systems in place to comply with the requirements described in Items 1 through 14 above or will refrain from making subawards until the systems are designed and implemented.

9. Management Fees

Management Fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses; unforeseen liabilities; or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

10. Federal Employee Costs

The recipient understands that none of the funds for this project (including funds contributed by the recipient as cost sharing) may be used to pay for the travel of Federal employees or for other costs associated with Federal participation in this project unless a Federal agency will be providing services to the recipient as authorized by a Federal statute.

11. Foreign Travel

EPA policy requires that all foreign travel must be approved by its Office of International and Tribal Affairs. The recipient agrees to obtain prior EPA approval before using funds available under this agreement for international travel unless the trip(s) are already described in the EPA approved budget for this agreement. Foreign travel includes trips to Mexico and Canada but does not include trips to Puerto Rico, the U.S. Territories or possessions. Recipients that request post-award approval to travel frequently to Mexico and Canada by motor vehicle (e.g., for sampling or meetings) may describe their proposed travel in general terms in their request for EPA approval. Requests for prior approval must be submitted to the Project Officer for this agreement.

12. The Fly America Act and Foreign Travel

The recipient understands that all foreign travel **funded under this assistance agreement** must comply with the Fly America Act. All travel must be on U.S. air carriers certified under 49 U.S.C. Section 40118, to the extent that service by such carriers is available even if foreign air carrier costs are less than the American air carrier.

13. Union Organizing

Grant funds may not be used to support or oppose union organizing, whether directly or as an offset for other funds.

Reporting and Additional Post-Award Requirements

14. System for Award Management and Universal Identifier Requirements

- 14.1 Requirement for System for Award Management ([SAM](#))** Unless exempted from this requirement under [2 CFR 25.110](#), the recipient must maintain current information in the SAM. This includes information on the recipient's immediate and highest-level owner and subsidiaries, as well as on all the recipient's predecessors that have been

awarded a Federal contract or Federal financial assistance within the last three years, if applicable, until the submittal of the final financial report required under this award or receipt of the final payment, whichever is later. This requires that the recipient reviews and updates the information at least annually after the initial registration, and more frequently if required by changes in the information or another award term.

14.2 Requirement for Unique Entity Identifier. If the recipient is authorized to make subawards under this award, the recipient:

- a. Must notify potential subrecipients that no entity (see definition in paragraph 14.3 of this award term) may receive a subaward unless the entity has provided its Unique Entity Identifier.
- b. May not make a subaward to an entity unless the entity has provided its Unique Entity Identifier. Subrecipients are not required to obtain an active SAM registration but must obtain a Unique Entity Identifier.

14.3 Definitions. For the Purpose of this award term:

- a. **System for Award Management (SAM)** means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site: <https://www.sam.gov/SAM/>.
- b. **Unique Entity Identifier** means the identifier assigned by SAM to uniquely identify business entities
- c. **Entity** includes non-Federal entities as defined as 2 CFR 200.1 and also includes all of the following:
 - 14.3.c.1. A foreign organization;
 - 14.3.c.2. A foreign public entity;
 - 14.3.c.3. A domestic for-profit organization; and
 - 14.3.c.4. A domestic or foreign for-profit organization; and
 - 14.3.c.5. A Federal agency.
- d. **Subaward** is defined at 2 CFR 200.1
- e. **Subrecipient** is defined at 2 CFR 200.1

15. Reporting Subawards and Executive Compensation

15.1 Reporting of first tier subawards.

- a. **Applicability.** Unless the recipient is exempt as provided in paragraph 15.4. of this award term, the recipient must report each action that obligates \$30,000 or more in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph 15.5 of this award term).
- b. **Where and When to Report.** (1) The recipient must report each obligating action described in paragraph 15.1.a of this award term to www.fsrs.gov. (2) For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on any date during the month of November of a given year, the obligation must be reported by no later than December 31 of that year.)

- c. **What to Report.** The recipient must report the information about each obligating action as described in the submission instructions available at: <http://www.fsrs.gov>.

15.2 Reporting Total Compensation of Recipient Executives.

- a. **Applicability and What to Report.** The recipient must report total compensation for each of their five most highly compensated executives for the preceding completed fiscal year, if:
 - 15.2.a.1. The total Federal funding authorized to date under this award is \$30,000 or more;
 - 15.2.a.2. In the preceding fiscal year, the recipient received: (i.) 80 percent or more of their annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at [2 CFR 170.320](#) (and subawards); (ii.) and \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - 15.2.a.3. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at: <http://www.sec.gov/answers/execomp.htm>.)
- b. **Where and When to Report.** The recipient must report executive total compensation described in paragraph 15.2.a of this award term: (i.) As part of the registration System for Award Management profile available at <https://www.sam.gov/SAM/> (ii.) By the end of the month following the month in which this award is made, and annually thereafter.

15.3 Reporting Total Compensation of Subrecipient Executives.

- a. **Applicability and What to Report.** Unless exempt as provided in paragraph 15.4. of this award term, for each first-tier non-Federal entity subrecipient under this award, the recipient shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if:
 - 15.3.a.1. In the subrecipient's preceding fiscal year, the subrecipient received: (i.) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and (ii.) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

15.3.a.2. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at: [http:// www.sec.gov/answers/execomp.htm](http://www.sec.gov/answers/execomp.htm).)

b. Where and When to Report. The recipient must report subrecipient executive total compensation described in paragraph 15.3.a. of this award term:

15.3.b.1. To the recipient.

15.3.b.2. By the end of the month following the month during which the recipient makes the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), the recipient must report any required compensation information of the subrecipient by November 30 of that year.

15.4 Exemptions

a. If, in the previous tax year, the recipient had gross income, from all sources, under \$300,000, the recipient is exempt from the requirements to report:

15.4.a.1. (i) subawards, and (ii) the total compensation of the five most highly compensated executives of any subrecipient.

15.5 Definitions. For purposes of this award term:

a. Federal Agency means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C 552(f).

b. Non-Federal entity means all of the following, as defined in 2 CFR Part 25: (i.) A Governmental organization, which is a State, local government, or Indian tribe; (ii.) A foreign public entity; (iii.) A domestic or foreign nonprofit organization; and (iv.) A domestic or foreign for-profit organization.

c. Executive means officers, managing partners, or any other employees in management positions.

d. Subaward:

15.5.d.1. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

15.5.d.2. The term does not include procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.331).

15.5.d.3. A subaward may be provided through any legal agreement, including an agreement that the recipient or a subrecipient considers a contract.

e. Subrecipient means a non-Federal entity or Federal agency that:

15.5.e.1. Receives a subaward from the recipient under this award; and

15.5.e.2. Is accountable to the recipient for the use of the Federal funds provided by the subaward.

f. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see [17 CFR 229.402\(c\)\(2\)](#)):

15.5.f.1. Salary and bonus.

15.5.f.2. Awards of stock, stock options and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

15.5.f.3. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives and are available generally to all salaried employees.

15.5.f.4. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

15.5.f.5. Above-market earnings on deferred compensation which is not tax-qualified.

15.5.f.6. Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites, or property) for the executive exceeds \$10,000.

16. Recipient Integrity and Performance Matters – Reporting of Matters Related to Recipient Integrity and Performance

16.1 General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the responsibility/qualification information) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

16.2 Proceedings About Which You Must Report

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b. Reached its final disposition during the most recent five-year period; and
- c. Is one of the following:
 - 16.2.c.1.** A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
 - 16.2.c.2.** A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - 16.2.c.3.** An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
 - 16.2.c.4.** Any other criminal, civil, or administrative proceeding if:
 - 16.2.c.4.1.** It could have led to an outcome described in paragraph 16.2.c.1, 16.2.c.2, or 16.2.c.3 of this award term and condition;
 - 16.2.c.4.2.** It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
 - 16.2.c.4.3.** The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

16.3 Reporting Procedures

Enter in SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

16.4 Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 16.1 of this award term and condition, you must report proceedings information through SAM for the most recent five-year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

16.5 Definitions

For purposes of this award term and condition:

- a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.*, Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals

proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

- b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- c. Total value of currently active grants, cooperative agreements, and procurement contracts includes –
 - 16.5.c.1.** Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
 - 16.5.c.2.** The value of all expected funding increments under a Federal award and options, even if not yet exercised.

17. Federal Financial Reporting (FFR)

Pursuant to [2 CFR 200.328](#) and [2 CFR 200.344](#), EPA recipients must submit the Federal Financial Report (SF-425) at least annually and no more frequently than quarterly. EPA's standard reporting frequency is annual unless an EPA Region has included an additional term and condition specifying greater reporting frequency within this award document. EPA recipients must submit the SF-425 no later than 30 calendar days after the end of each specified reporting period for quarterly and semi-annual reports and 90 calendar days for annual reports. Final reports are due no later than 120 calendar days after the end date of the period of performance of the award. Extension of reporting due dates may be approved by EPA when requested and justified by the recipient. The FFR form is available on the internet at: <https://www.epa.gov/grants/sf-425-federal-financial-report>. All FFRs must be submitted to the Research Triangle Park Finance Center (RTPFC) via email at rtpfc-grants@epa.gov or mail it to:

US Environmental Protection Agency
RTP-Finance Center (Mail Code AA216-01)
4930 Page Rd.
Durham, NC 27703

The RTPFC will make adjustments as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement.

18. Indirect Cost Rate Agreements

This term and condition provides requirements for recipients using EPA funds for indirect costs and applies to all EPA assistance agreements unless there are [statutory or regulatory limits on IDCs](#). See also [EPA's Indirect Cost Policy for Recipients of EPA Assistance Agreements](#) (IDC Policy).

In order for the assistance agreement recipient to use EPA funding for indirect costs, the IDC category of the recipient's assistance agreement award budget must include an amount for IDCs and at least one of the following must apply:

- With the exception of “exempt” agencies and Institutions of Higher Education as noted below, all recipients must have one of the following current (not expired) IDC rates, including IDC rates that have been extended by the cognizant agency:
 - Provisional
 - Final
 - Fixed rate with carry-forward
 - Predetermined
 - 10% *de minimis* rate of modified total direct costs authorized by [2 CFR 200.414\(f\)](#)
 - EPA-approved use of an expired fixed rate with carry-forward on an exception basis, as detailed in section 6.4.a. of the IDC Policy
- “Exempt” state of local governmental departments or agencies are agencies that receive up to and including \$35,000,000 in Federal funding per the department or agency's fiscal year and must have an IDC rate proposal developed in accordance with 2 CFR Part 200, Appendix VII, with documentation maintained and available for audit.
- Institutions of Higher Education must use the IDC rate in place at the time of award for the life of the assistance agreement (unless the rate was provisional at time of award, in which case the rate will change once it becomes final). As provided by 2 CFR Part 200, Appendix III(C)(7), the term “life of the assistance agreement”, means each competitive segment of the project. Additional information is available in the regulation.

IDCs incurred during any period of the assistance agreement that are not covered by the provisions above are not allowable costs and must not be drawn down by the recipient. Recipients may budget for IDCs if they have submitted a proposed IDC rate to their cognizant Federal agency or requested an exception from EPA under subsection 6.4 of the IDC Policy. However, recipients may not draw down IDCs until their rate is approved, if applicable, or EPA grants an exception. IDC drawdowns must comply with the indirect rate corresponding to the period during which the costs were incurred.

This term and condition does not govern indirect rates for subrecipients or recipient procurement contractors under EPA assistance agreements. Pass-through entities are required to comply with 2 CFR 200.332(a)(4)(i) and (ii) when establishing indirect cost rates for subawards.

19. Audit Requirements

In accordance with [2 CFR 200.501\(a\)](#), the recipient hereby agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year for that year.

The recipient must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the recipient's fiscal year or 30 days after receiving the report from an independent

auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse's Internet Data Entry System available at: <https://facides.census.gov/>.

For complete information on how to accomplish the single audit submissions, the recipient will need to visit the Federal Audit Clearinghouse Web site: <https://facweb.census.gov/>

20. Closeout Requirements

Reports required for closeout of the assistance agreement must be submitted in accordance with this agreement. Submission requirements and frequently asked questions can also be found at: <https://www.epa.gov/grants/frequent-questions-about-closeouts>

21. Suspension and Debarment

Recipient shall fully comply with Subpart C of 2 C.F.R. Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business With Other Persons," as implemented and supplemented by [2 C.F.R. Part 1532](#). Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of [2 C.F.R. Part 180](#), entitled "Covered Transactions," and [2 C.F.R. § 1532.220](#), includes a term or condition requiring compliance with 2 C.F.R. Part 180, Subpart C. Recipient is responsible for further requiring the inclusion of a similar term and condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information required under [2 C.F.R. § 180.335](#) to the EPA office that is entering into the transaction with the recipient may result in the delay or negation of this assistance agreement, or pursuance of administrative remedies, including suspension and debarment. Recipients may access the System for Award Management (SAM) exclusion list at <https://sam.gov/SAM/> to determine whether an entity or individual is presently excluded or disqualified.

22. Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law

This award is subject to the provisions contained in an appropriations act(s) which prohibits the Federal Government from entering into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to any corporation having a delinquent Federal tax liability or a felony conviction under any Federal law, unless the agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government. A "corporation" is a legal entity that is separate and distinct from the entities that own, manage, or control it. It is organized and incorporated under the jurisdictional authority of a governmental body, such as a State or the District of Columbia. A corporation may be a for-profit or non-profit organization.

As required by the appropriations act(s) prohibitions, the Government will not enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee with any corporation that — (1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority

responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or (2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

By accepting this award, the recipient represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and it is not a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

Alternatively, by accepting this award, the recipient represents that it disclosed unpaid Federal tax liability information and/or Federal felony conviction information to the EPA. The recipient may accept this award if the EPA Suspension and Debarment Official has considered suspension or debarment of the corporation based on tax liabilities and/or Federal felony convictions and determined that suspension or debarment is not necessary to protect the Government's interests.

If the recipient fails to comply with this term and condition, EPA will annul this agreement and may recover any funds the recipient has expended in violation of the appropriations act(s) prohibition(s). The EPA may also pursue other administrative remedies as outlined in 2 CFR 200.339 and 2 CFR 200.340 and may also pursue suspension and debarment.

23. Disclosing Conflict of Interest

23.1 For Award to Non-Federal Entities and Individuals (other than states and fellowship recipients under 40 CFR Part 46)

As required by [2 CFR 200.112](#), EPA has established a policy (COI Policy) for disclosure of conflicts of interest (COI) that may affect EPA financial assistance awards. EPA's COI Policy is posted at <https://www.epa.gov/grants/epas-financial-assistance-conflict-interest-policy>. The posted version of EPA's COI Policy is applicable to new funding (initial awards, supplemental and incremental funding) awarded on or after October 1, 2015.

For competitive awards, recipients must disclose any competition related COI described in section 4.0(a) of the COI Policy that are discovered after award to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of discovery of the COI. The Grants Specialist will respond to any such disclosure within 30 calendar days.

EPA's COI Policy requires that recipients have systems in place to address, resolve and disclose to EPA COIs described in sections 4.0(b), (c) and/or (d) of the COI Policy that affect any contract or subaward regardless of amount funded under this award. The recipient's COI Point of Contact for the award must disclose any COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of the discovery of the potential COI and their approach for resolving the COI.

EPA's COI Policy requires that subrecipients have systems in place to address, resolve and disclose COI's described in section 4.0(b)(c) and (d) of the COI Policy regardless of the amount of the transaction. Recipients who are pass-through entities as defined at 2 CFR 200.1 must require that subrecipients being considered for or receiving subawards disclose COI to the pass-through entities in a manner that, at a minimum, is in accordance with sections 5.0(d) and 7.0(c) of EPA's COI Policy. Pass-through entities must disclose the subrecipient COI along with the approach for resolving the COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of receiving notification of the COI by the subrecipient.

EPA only requires that recipients and subrecipients disclose COI's that are discovered under their systems for addressing and resolving COI. If recipients or subrecipients do not discover a COI, they do not need to advise EPA or the pass-through entity of the absence of a COI.

Upon notice from the recipient of a potential COI and the approach for resolving it, the Agency will then make a determination regarding the effectiveness of these measures within 30 days of receipt of the recipient's notice unless a longer period is necessary due to the complexity of the matter. Recipients may not request payment from EPA for costs for transactions subject to the COI pending notification of EPA's determination. Failure to disclose a COI may result in cost disallowances.

Disclosure of potential COI will not necessarily result in EPA disallowing costs, with the exception of procurement contracts that the Agency determines violate [2 CFR 200.318\(c\)\(1\) or \(2\)](#), provided the recipient notifies EPA of measures the recipient or subrecipient has taken to eliminate, neutralize or mitigate the conflict of interest when making the disclosure.

23.2 For Awards to States Including State Universities that are State Agencies or Instrumentalities

As required by 2 CFR 200.112, EPA has established a policy (COI Policy) for disclosure of conflicts of interest (COI) that may affect EPA financial assistance awards. EPA's COI Policy is posted at: <https://www.epa.gov/grants/epas-financial-assistance-conflict-interest-policy>. The posted version of EPA's COI Policy is applicable to new funding

(initial awards, supplemental, incremental funding) awarded on or after October 1, 2015.

For competitive awards, recipients must disclose any competition related COI described in section 4.0(a) of the COI Policy that are discovered after award to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of discovery of the COI. The Grants Specialist will respond to any such disclosure within 30 calendar days.

States including state universities that are state agencies and instrumentalities receiving funding from EPA are only required to disclose subrecipient COI as a pass-through entity as defined by 2 CFR 200.1. Any other COI are subject to state laws, regulations, and policies. EPA's COI Policy requires that subrecipients have systems in place to address, resolve and disclose COIs described in section 4.0(b)(c) and (d) of the COI Policy that arise after EPA made the award regardless of the amount of the transaction. States who are pass-through entities as defined at 2 CFR 200.1 must require that subrecipients being considered for or receiving subawards disclose COI to the state in a manner that, as a minimum, in accordance with sections 5.0(d) and 7.0(c) of EPA's COI Policy. States must disclose the subrecipient COI along with the approach for resolving the COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of receiving notification of the COI by the subrecipient.

EPA only requires that subrecipients disclose COI's to state pass-through entities that are discovered under their systems for addressing, resolving, and disclosing COI. If subrecipients do not discover a COI, they do not need to advise state pass-through entities of the absence of a COI.

Upon receiving notice of a potential COI and the approach for resolving it, the Agency will make a determination regarding the effectiveness of these measures within 30 days of receipt of the state's notice of a subrecipient COI unless a longer period is necessary due to the complexity of the matter. States may not request payment from EPA for costs for transactions subject to the COI pending notification of EPA's determination. A subrecipient's failure to disclose a COI to the state and EPA may result in cost disallowances.

Disclosure of potential subrecipient COI will not necessarily result in EPA disallowing costs, with the exception of procurement contracts that the Agency determines violate 2 CFR 200.318(c)(1) or (2), provided the subrecipient has taken measures that EPA and the state agree eliminate, neutralize or mitigate the conflict of interest.

24. Transfer of Funds

24.1 Transfer of Funds

Applicable to all assistance agreements other than Continuing Environmental Program Grants subject to 40 CFR 35.114 and 40 CFR 35.514 when EPA's share of the total project costs exceeds the Simplified Acquisition Threshold. Simplified Acquisition Threshold is defined at 2 CFR 200.1 and is currently set at \$250,000 but the amount is subject to adjustment.

- (1) As provided at [2 CFR 200.308\(f\)](#), the recipient must obtain prior approval from EPA's Grants Management Officer if the cumulative amount of funding transfers among direct budget categories or programs, functions and activities exceeds 10% of the total budget. Recipients must submit requests for prior approval to the Grant Specialist and Grants Management Officer with a copy to the Project Officer for this agreement.
- (2) Recipients must notify EPA's Grant Specialist and Project Officer of cumulative funding transfers among direct budget categories or programs, functions and activities that do not exceed 10% of the total budget for the agreement. Prior approval by EPA's Grant Management Officer is required if the transfer involves any of the items listed in [2 CFR 200.407](#) that EPA did not previously approve at time of award or in response to a previous post-award request by the recipient.

24.2 Post-Award Changes for Continuing Environmental Program Grants

Applicable to Continuing Environmental Program Grants subject to 40 CFR 35.114 and 40 CFR 35.514 when EPA's share of the total project costs exceeds the Simplified Acquisition Threshold. Simplified Acquisition Threshold is defined at 2 CFR 200.1 and is currently set at \$250,000 but the amount is subject to adjustment.

To determine if a post-award change in work plan commitments is significant and requires prior written approval for the purposes of [40 CFR §35.114\(a\)](#) or [40 CFR §35.514\(a\)](#), the recipient agrees to consult the EPA Project Officer (PO) before making the change. The term work plan commitments is defined at [40 CFR §35.102](#). If the PO determines the change is significant, the recipient cannot make the change without prior written approval by the EPA Award Official or Grants Management Officer.

The recipient must obtain written approval from the EPA Award Official prior to transferring funds from one budget category to another if the EPA Award Official determines that such transfer significantly changes work plan commitment(s). All transfers must be reported in required performance reports. In addition, unless approved with the budget at the time of award, Continuing Environmental Program (CEP) recipients must also obtain prior written approval from the EPA Award Official or Grants Management Officer to use EPA funds for directly charging compensation for administrative and clerical personnel under [2 CFR 200.413\(c\)](#) and the General Provisions for Selected Items of Cost allowability at [2 CFR 200.420](#) through [2 CFR 200.476](#) as supplemented by [EPA's Guidance on Selected Items of Cost](#). The recipient is not required to obtain prior written approval from the EPA Award Official for other items requiring prior EPA approval listed in [2 CFR §§ 200.407](#).

25. Electronic/Digital Signatures on Financial Assistance Agreement Form(s)/Document(s)

Throughout the life of this assistance agreement, the recipient agrees to ensure that any form(s)/document(s) required to be signed by the recipient and submitted to EPA through any means including but not limited to hard copy via U.S. mail or express mail, hand delivery or through electronic means such as e-mail are: (1) signed by the individual identified on the form/document, and (2) the signer has the authority to sign the form/document for the recipient. Submission of any signed form(s)/document(s) is subject to any provisions of law on making false statements (e.g., 18 U.S.C. 1001).

26. Extension of Project/Budget Period Expiration Date

EPA has not exercised the waiver option to allow automatic one-time extensions for non-research grants under [2 CFR 200.308\(e\)\(2\)](#). Therefore, if a no-cost time extension is necessary to extend the period of availability of funds, the recipient must submit a written request to the EPA prior to the budget/project period expiration dates. **The written request must include:** a justification describing the need for additional time, an estimated date of completion, and a revised schedule for project completion including updated milestone target dates for the approved workplan activities. In addition, if there are overdue reports required by the general, administrative, and/or programmatic terms and conditions of this assistance agreement, the recipient must ensure that they are submitted along with or prior to submitting the no-cost time extension request.

27. Utilization of Disadvantaged Business Enterprises

General Compliance, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in [40 CFR, Part 33](#).

The following text provides updates to 40 CFR, Part 33 based upon the associated class exception or highlights a requirement.

1) EPA MBE/WBE CERTIFICATION, 40 CFR, Part 33, Subpart B

EPA no longer certifies entities as Minority-Owned Business Entities (MBEs) or Women-Owned Business Entities (WBEs) pursuant to a class exception issued in October 2019. The class exception was authorized pursuant to the authority in [2 CFR, Section 1500.4\(b\)](#).

2) SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to [40 CFR Section 33.301](#), the recipient agrees to make good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained. The specific six good faith efforts can be found at: [40 CFR Section 33.301 \(a\)-\(f\)](#).

However, in EPA assistance agreements that are for the benefit of Native Americans, the recipient must solicit and recruit Native American organizations and Native American-owned

economic enterprises and give them preference in the award process prior to undertaking the six good faith efforts ([40 CFR Section 33.304](#)). If recruiting efforts are unsuccessful, the recipient must follow the six good faith efforts.

3) CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of [40 CFR Section 33.302](#) (a)-(d) and (i).

4) BIDDERS LIST, 40 CFR Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see [40 CFR Section 33.501 \(b\) and \(c\)](#) for specific requirements and exemptions.

5) FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

In June 2023, EPA reinstated the requirements under 40 CFR, Part 33, Subpart D. Unless the recipient is exempted from these requirements as outlined in [40 CFR 33.411](#), the recipient agrees to submit fair share objectives for EPA approval within 120 days of acceptance of this award, and, once approved, apply them to procurements under this award in accordance with Subpart D. See [RAIN-2023-G02](#) for information on EPA's reinstatement of the fair share objectives.

6) MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E

When required, the recipient agrees to complete and submit a "MBE/WBE Utilization Under Federal Grants and Cooperative Agreements" report (EPA Form 5700-52A) on an annual basis. The current EPA Form 5700-52A can be found at the EPA Grantee Forms Page at https://www.epa.gov/system/files/documents/2021-08/epa_form_5700_52a.pdf.

Reporting is required for assistance agreements where funds are budgeted for procuring construction, equipment, services and supplies (including funds budgeted for direct procurement by the recipient or procurement under subawards or loans in the "Other" category) with a cumulative total that exceed the Simplified Acquisition Threshold (SAT) (currently, \$250,000 however the threshold will be automatically revised whenever the SAT is adjusted; See 2 CFR Section 200.1), including amendments and/or modifications. When reporting is required, all procurement actions are reportable, not just the portion which exceeds the SAT.

Annual reports are due by October 30th of each year. Final reports are due 120 days after the end of the project period.

This provision represents an approved exception from the MBE/WBE reporting requirements as described in [40 CFR Section 33.502](#).

7) MBE/WBE RECORDKEEPING, 40 CFR, Part 33, Subpart E

The recipient agrees to comply with all recordkeeping requirements as stipulated [in 40 CFR Part 33, Subpart E](#) including creating and maintain a bidders list, when required. Any document created as a record to demonstrate compliance with any requirements of 40 CFR Part 33 must be maintained pursuant to the requirements stated in this Subpart.

Programmatic General Terms and Conditions

28. Sufficient Progress

EPA will measure sufficient progress by examining the performance required under the workplan in conjunction with the milestone schedule, the time remaining for performance within the project period and/or the availability of funds necessary to complete the project. EPA may terminate the assistance agreement for failure to ensure reasonable completion of the project within the project period.

29. Copyrighted Material and Data

In accordance with [2 CFR 200.315](#), EPA has the right to reproduce, publish, use and authorize others to reproduce, publish and use copyrighted works or other data developed under this assistance agreement for Federal purposes.

Examples of a Federal purpose include but are not limited to: (1) Use by EPA and other Federal employees for official Government purposes; (2) Use by Federal contractors performing specific tasks for [i.e., authorized by] the Government; (3) Publication in EPA documents provided the document does not disclose trade secrets (e.g. software codes) and the work is properly attributed to the recipient through citation or otherwise; (4) Reproduction of documents for inclusion in Federal depositories; (5) Use by State, tribal and local governments that carry out delegated Federal environmental programs as “co-regulators” or act as official partners with EPA to carry out a national environmental program within their jurisdiction and; (6) Limited use by other grantees to carry out Federal grants provided the use is consistent with the terms of EPA’s authorization to the other grantee to use the copyrighted works or other data.

Under Item 6, the grantee acknowledges that EPA may authorize another grantee(s) to use the copyrighted works or other data developed under this grant as a result of:

- The selection of another grantee by EPA to perform a project that will involve the use of the copyrighted works or other data, or
- Termination or expiration of this agreement.

In addition, EPA may authorize another grantee to use copyrighted works or other data developed with Agency funds provided under this grant to perform another grant when such use promotes efficient and effective use of Federal grant funds.

30. Patents and Inventions

Rights to inventions made under this assistance agreement are subject to federal patent and licensing regulations, which are codified at Title [37 CFR Part 401](#) and Title 35 USC Sections 200-212.

Pursuant to the Bayh-Dole Act (set forth in 35 USC 200-212), EPA retains the right to a worldwide, nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention owned by the assistance agreement holder, as defined in the Act. To streamline the invention reporting process and to facilitate compliance with the Bayh-Dole Act, the recipient must utilize the Interagency Edison extramural invention reporting system at <https://www.nist.gov/iedison>. Annual utilization reports must be submitted through the system. The recipient is required to notify the Project Officer identified on the award document when an invention report, patent report, or utilization report is filed at <https://www.nist.gov/iedison>. EPA elects not to require the recipient to provide a report prior to the close-out of a funding agreement listing all subject inventions or stating that there were none.

In accordance with Executive Order 12591, as amended, government owned and operated laboratories can enter into cooperative research and development agreements with other federal laboratories, state and local governments, universities, and the private sector, and license, assign, or waive rights to intellectual property “developed by the laboratory either under such cooperative research or development agreements and from within individual laboratories.”

31. Acknowledgement Requirements for Non-ORD Assistance Agreements

The recipient agrees that any reports, documents, publications, or other materials developed for public distribution supported by this assistance agreement shall contain the following statement: “This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient). The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the EPA endorse trade names or recommend the use of commercial products mentioned in this document.”

Recipients of EPA Office of Research Development (ORD) research awards must follow the acknowledgement requirements outlined in the research T&Cs available at: <https://www.nsf.gov/awards/managing/rtc.jsp>. In accordance with the [Research Terms and Conditions Overlay to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards \(Uniform Guidance\), 2 CFR §200](#), recipients of EPA ORD research must abide by the research T&Cs.

32. Electronic and Information Technology Accessibility

Recipients are subject to the program accessibility provisions of Section 504 of the Rehabilitation Act, codified in [40 CFR Part 7](#), which includes an obligation to provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology (“EIT”). In compliance with Section 504, EIT systems or products funded by this award must be designed to meet the diverse needs of users (e.g., U.S. public, recipient personnel) without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology.

At this time, the EPA will consider a recipient's websites, interactive tools, and other EIT as being in compliance with Section 504 if such technologies meet standards established under Section 508 of the Rehabilitation Act, codified at [36 CFR Part 1194](#). While Section 508 does not apply directly to grant recipients, we encourage recipients to follow either the 508 guidelines or other comparable guidelines that concern accessibility to EIT for individuals with disabilities.

Recipients may wish to consult the latest Section 508 guidelines issued by the U.S. Access Board or W3C's Web Content Accessibility Guidelines (WCAG) 2.0 (see <https://www.access-board.gov/about/policy/accessibility.html>).

33. Human Subjects

Human subjects research is any activity that meets the regulatory definitions of both research AND human subject. Research is a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge. Human subject means a living individual about whom an investigator (whether professional or student) conducting research: (i) Obtains information or biospecimens through intervention or interaction with the individual, and uses, studies, or analyzes the information or biospecimens; or (ii) Obtains, uses, studies, analyzes, or generates identifiable private information or identifiable biospecimens [40 CFR 26.102\(e\)\(l\)](#).

No research involving human subjects shall be conducted under this agreement without prior written approval of the EPA Human Subject Research Review Official (HSRRO) to proceed with that research. If engaged in human subjects' research as part of this agreement, the recipient agrees to comply with all applicable provisions of EPA Regulation 40 CFR 26 (Protection of Human Subjects). This includes, at Subpart A, the Basic Federal Policy for the Protection of Human Research Subjects, also known as the Common Rule. It also includes, at Subparts B, C, and D, prohibitions and additional protections for children, nursing women, pregnant women, and fetuses in research conducted or supported by EPA.

The recipient further agrees to comply with EPA's procedures for oversight of the recipient's compliance with 40 CFR 26, as given in EPA Order 1000.17A (Policy and Procedures on Protection of Human Research Subjects in EPA Conducted or Supported Research). As per this order, no human subject may be involved in any research conducted under this assistance agreement, including recruitment, until the research has been approved or determined to be exempt by the EPA HSRRO after review of the approval or exemption determination of the Institutional Review Board(s) (IRB(s)) with jurisdiction over the research under 40 CFR 26.

For HSRRO approval, the recipient must forward to the Project Officer: (1) copies of all documents upon which the IRB(s) with jurisdiction based their approval(s) or exemption determination(s), (2) copies of the IRB approval or exemption determination letter(s), (3) copy of the IRB-approved consent forms and subject recruitment materials, if applicable, and (4) copies of all supplementary IRB correspondence.

Following the initial approvals indicated above, the recipient must, as part of the annual report(s), provide evidence of continuing review and approval of the research by the IRB(s) with jurisdiction, as required by [40 CFR 26.109\(e\)](#). Materials submitted to the IRB(s) for their continuing review and approval are to be provided to the EPA HSRRO via the Project Officer upon IRB approval. During the course of the research, investigators must promptly report any unanticipated problems involving risk to subjects or others according to requirements set forth by the IRB. In addition, any event that is significant enough to result in the removal of the subject from the study should also be reported to the EPA HSRRO via the Project Officer, even if the event is not reportable to the IRB of record.

34. Animal Subjects

The recipient agrees to comply with the Animal Welfare Act of 1966 (P.L. 89-544), as amended, 7 USC 2131- 2156. Recipient also agrees to abide by the “U.S. Government Principles for the Utilization and Care of Vertebrate Animals used in Testing, Research, and Training.” (Federal Register 50(97): 20864-20865. May 20,1985). The nine principles can be viewed at <https://olaw.nih.gov/policies-laws/phs-policy.htm>. For additional information about the Principles, the recipient should consult the [Guide for the Care and Use of Laboratory Animals](#), prepared by the Institute of Laboratory Animal Resources, National Research Council.

35. Light Refreshments and/or Meals

(a) APPLICABLE TO ALL AGREEMENTS EXCEPT STATE CONTINUING ENVIRONMENTAL PROGRAMS (AS DESCRIBED BELOW):

Unless the event(s) and all of its components are described in the approved workplan, the recipient agrees to obtain prior approval from EPA for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops and outreach activities (events). The recipient must send requests for approval to the EPA Project Officer and include:

- (1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s)
- (2) A description of the purpose, agenda, location, length, and timing for the event, and
- (3) An estimated number of participants in the event and a description of their roles

Costs for light refreshments and meals for recipient staff meetings and similar day-to-day activities are not allowable under EPA assistance agreements.

Recipients may address questions about whether costs for light refreshments, and meals for events may be allowable to the recipient’s EPA Project Officer; however, the Agency Award Official or Grant Management Officer will make final determinations on allowability. Agency policy prohibits the use of EPA funds for receptions, banquets and similar activities that take place after normal business hours unless the recipient has provided a justification that has been expressly approved by EPA's Award Official or Grants Management Officer.

EPA funding for meals, light refreshments, and space rental may not be used for any portion of an event where alcohol is served, purchased, or otherwise available as part of the event or meeting, even if EPA funds are not used to purchase the alcohol.

Note: U.S. General Services Administration regulations define light refreshments for morning, afternoon, or evening breaks to include, but not be limited to, coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips, or muffins. ([41 CFR 301-74.7](#))

(b) FOR STATE CONTINUING ENVIRONMENTAL PROGRAM GRANT RECIPIENTS EXCLUDING STATE UNIVERSITIES:

If the state maintains systems capable of complying with federal grant regulations at [2 CFR 200.432](#) and [2 CFR 200.438](#), EPA has waived the prior approval requirements for the use of EPA funds for light refreshments and/or meals served at meetings, conferences, and training, as described above. The state may follow its own procedures without requesting prior approval from EPA. However, notwithstanding state policies, EPA funds may not be used for (1) evening receptions, or (2) other evening events (with the exception of working meetings). Examples of working meetings include those evening events in which small groups discuss technical subjects on the basis of a structured agenda or there are presentations being conducted by experts. EPA funds for meals, light refreshments, and space rental may not be used for any portion of an event (including evening working meetings) where alcohol is served, purchased, or otherwise available as part of the event or meeting, even if EPA funds are not used to purchase the alcohol.

By accepting this award, the state is certifying that it has systems in place (including internal controls) to comply with the requirements described above.

36. Tangible Personal Property

36.1 Reporting pursuant to [2 CFR 200.312](#) and [2 CFR 200.314](#), property reports, if applicable, are required for Federally-owned property in the custody of a non-Federal entity upon completion of the Federal award or when the property is no longer needed. Additionally, upon termination or completion of the project, residual unused supplies with a total aggregate fair market value exceeding \$5,000 not needed for any other Federally-sponsored programs or projects must be reported. For Superfund awards under Subpart O, refer to [40 CFR 35.6340](#) and [40 CFR 35.6660](#) for property reporting requirements. Recipients should utilize the Tangible Personal Property Report form series (SF-428) to report tangible personal property.

36.2 Disposition

36.2.1. Most Recipients. Consistent with [2 CFR 200.313](#), unless instructed otherwise on the official award document, this award term, or at closeout, the recipient may keep the equipment and continue to use it on the project originally funded through this assistance agreement or on other federally funded projects whether or not the project or program continues to be supported by Federal funds.

36.2.2. State Agencies. Per 2 CFR 200.313(b), state agencies may manage and dispose of equipment acquired under this assistance agreement in accordance with state laws and procedures.

36.2.3. Superfund Recipients. Equipment purchased under Superfund projects is subject to specific disposal options in accordance with [40 CFR Part 35.6345](#).

37. Dual Use Research of Concern (DURC)

The recipient agrees to conduct all life science research* in compliance with [EPA's Order on the Policy and Procedures for Managing Dual Use Research of Concern](#) (EPA DURC Order) and [United States Government Policy for Institutional Oversight of Life Sciences Dual Use Research of Concern \(iDURC Policy\)](#). If the recipient is an institution within the United States that receives funding through this agreement, or from any other source, the recipient agrees to comply with the iDURC Policy if they conduct or sponsor research involving any of the agents or toxins identified in Section 6.2.1 of the iDURC Policy. If the institution is outside the United States and receives funding through this agreement to conduct or sponsor research involving any of those same agents or toxins, the recipient agrees to comply with the iDURC Policy. The recipient agrees to provide any additional information that may be requested by EPA regarding DURC and iDURC. The recipient agrees to immediately notify the EPA Project Officer should the project use or introduce use of any of the agents or toxins identified in the iDURC Policy. The recipient's Institution/Organization must also comply with USG iDURC policy and EPA DURC Order and will inform the appropriate government agency if funded by such agency of research with the agents or toxins identified in Section 6.2.1 of the iDURC Policy. If privately funded the recipient agrees to notify the National Institutes of Health at DURC@od.nih.gov.

* "Life Sciences Research," for purposes of the EPA DURC Order, and based on the definition of research in [40 CFR §26.102\(d\)](#), is a systematic investigation designed to develop or contribute to generalizable knowledge involving living organisms (e.g., microbes, human beings, animals, and plants) and their products. EPA does not consider the following activities to be research: routine product testing, quality control, mapping, collection of general-purpose statistics, routine monitoring and evaluation of an operational program, observational studies, and the training of scientific and technical personnel. [Note: This is consistent with Office of Management and Budget Circular A-11.]

38. Research Misconduct

In accordance with [2 CFR 200.329](#), the recipient agrees to notify the EPA Project Officer in writing about research misconduct involving research activities that are supported in whole or in part with EPA funds under this project. EPA defines research misconduct as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results [65 FR 76262. I], or ordering, advising or suggesting that subordinates engage in research misconduct. The recipient agrees to:

- (1) Immediately notify the EPA Project Officer who will then inform the EPA Office of Inspector General (OIG) if, at any time, an allegation of research misconduct falls into one of the categories listed below:
 - A. Public health or safety is at risk
 - B. Agency resources or interests are threatened
 - C. Circumstances where research activities should be suspended
 - D. There is a reasonable indication of possible violations of civil or criminal law
 - E. Federal action is required to protect the interests of those involved in the investigation
 - F. The research entity believes that the inquiry or investigation may be made public prematurely so that appropriate steps can be taken to safeguard evidence and protect the rights of those involved
 - G. Circumstances where the research community or public should be informed. [65 FR 76263.III]
- (2) Report other allegations to the OIG when they have conducted an inquiry and determined that there is sufficient evidence to proceed with an investigation. [65 FR 76263. III]

39. Scientific Integrity Terms and Conditions

The recipient agrees to comply with [EPA's Scientific Integrity Policy](#) when conducting, supervising, and communicating science and when using or applying the results of science. For purposes of this award condition scientific activities include, but are not limited to, computer modelling, economic analysis, field sampling, laboratory experimentation, demonstrating new technology, statistical analysis, and writing a review article on a scientific issue. The recipient agrees to:

39.1 Scientific Products

- 39.1.1.** Produce scientific products of the highest quality, rigor, and objectivity, by adhering to applicable EPA [information quality guidelines, quality policy](#), and peer review policy.
- 39.1.2.** Prohibit all recipient employees, contractors, and program participants, including scientists, managers, and other recipient leadership, from suppressing, altering, or otherwise impeding the timely release of scientific findings or conclusions.
- 39.1.3.** Adhere to [EPA's Peer Review Handbook, 4th Edition](#), for the peer review of scientific and technical work products generated through EPA grants or cooperative agreements which, by definition, are not primarily for EPA's direct use or benefit.

39.2 Scientific Findings

- 39.2.1.** Require that reviews regarding the content of a scientific product that are conducted by the project manager and other recipient managers and the broader management chain be based only on scientific quality considerations, e.g., the methods used are clear and appropriate, the presentation of results and conclusions is impartial.
- 39.2.2.** Ensure scientific findings are generated and disseminated in a timely and transparent manner, including scientific research performed by employees, contractors, and program participants, who assist with developing or applying the results of scientific activities.
- 39.2.3.** Include, when communicating scientific findings, an explication of underlying assumptions, accurate contextualization of uncertainties, and a description of the probabilities associated with both optimistic and pessimistic projections, if applicable.

39.2.4. Document the use of independent validation of scientific methods.

39.2.5. Document any independent review of the recipient's scientific facilities and testing activities, as occurs with accreditation by a nationally or internationally recognized sanctioning body.

39.2.6. Make scientific information available online in open formats in a timely manner, including access to data and non-proprietary models.

39.3 Scientific Misconduct

39.3.1. Prohibit intimidation or coercion of scientists to alter scientific data, findings, or professional opinions or non-scientific influence of scientific advisory boards. In addition, recipient employees, contractors, and program participants, including scientists, managers, and other leadership, shall not knowingly misrepresent, exaggerate, or downplay areas of scientific uncertainty.

39.3.2. Prohibit retaliation or other punitive actions toward recipient employees who uncover or report allegations of scientific and research misconduct, or who express a differing scientific opinion. Employees who have allegedly engaged in scientific or research misconduct shall be afforded the due process protections provided by law, regulation, and applicable collective bargaining agreements, prior to any action. Recipients shall ensure that all employees and contractors of the recipient shall be familiar with these protections and avoid the appearance of retaliatory actions.

39.3.3. Require all recipient employees, contractors, and program participants to act honestly and refrain from acts of research misconduct, including publication or reporting, as described in [EPA's Policy and Procedures for Addressing Research Misconduct](#), Section 9.C. Research misconduct does not include honest error or differences of opinion. While EPA retains the ultimate oversight authority for EPA-supported research, grant recipients conducting research bear primary responsibility for prevention and detection of research misconduct and for the inquiry, investigation, and adjudication of research misconduct alleged to have occurred in association with their own institution.

39.3.4. Take the actions required on the part of the recipient described in EPA's Policy and Procedures for Addressing Research Misconduct, Sections 6 through 9, when research misconduct is suspected or found.

39.4 Additional Resources

For more information about the Scientific Integrity Policy, an introductory video can be accessed at: <https://youtu.be/FQJCy8BXXq8>. A training video is available at: <https://youtu.be/Zc0T7foot8>.

40. Post-Award Disclosure of Current and Pending Support on Research Grants

The recipient is required to notify EPA if there has been a change in support for the principal investigator and/or major co-investigators listed on EPA Key Contacts Form, EPA Form 5700-54, since submission of its application or the last reporting period in the performance report. If there has been a change, the recipient must report the change within 30 calendar days to the EPA Project Officer. The information should also be included in the next due performance report. EPA may consult with the Principal Investigator and the Authorized Representative, to determine the impact

of the new information on the EPA-funded research grant and, where necessary, take appropriate action.

If the recipient discovers that an investigator on an active EPA research grant failed to disclose current and pending support information or provided inaccurate information as part of the proposal submission process, it must provide the revised current and pending support information to the EPA Project Officer within 30 calendar days of the identification of the undisclosed or inaccurate current and pending support information.

Public Policy Requirements

41. Civil Rights Obligations

This term and condition incorporates by reference the signed assurance provided by the recipient's authorized representative on: 1) EPA Form 4700-4, "Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance"; and 2) Certifications and Representations in Sam.gov or Standard Form 424D, as applicable.

These assurances and this term and condition obligate the recipient to comply fully with applicable civil rights statutes and implementing federal and EPA regulations.

(a) Statutory Requirements

- i. In carrying out this agreement, the recipient must comply with:
 - 1) Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP), by entities receiving Federal financial assistance.
 - 2) Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities by entities receiving Federal financial assistance; and
 - 3) The Age Discrimination Act of 1975, which prohibits age discrimination by entities receiving Federal financial assistance.
- ii. If the recipient is an education program or activity (e.g., school, college, or university) or if the recipient is conducting an education program or activity under this agreement, it must also comply with:
 - 1) Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities operated by entities receiving Federal financial assistance. For further information about your compliance obligations regarding Title IX, see [40 CFR Part 5](#) and <https://www.justice.gov/crt/title-ix>
- iii. If this agreement is funded with financial assistance under the Clean Water Act (CWA), the recipient must also comply with:
 - 1) Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex in CWA-funded programs or activities.

(b) Regulatory Requirements

- i. The recipient agrees to comply with all applicable EPA civil rights regulations, including:

- 1) For Title IX obligations, 40 C.F.R. Part 5; and
- 2) For Title VI, Section 504, Age Discrimination Act, and Section 13 obligations, [40 CFR Part 7](#).
- 3) For statutory and national policy requirements, including those prohibiting discrimination and those described in Executive Order 13798 promoting free speech and religious freedom, [2 CFR 200.300](#).
- 4) As noted on the EPA Form 4700-4 signed by the recipient's authorized representative, these regulations establish specific requirements including maintaining compliance information, establishing grievance procedures, designating a Civil Rights Coordinator, and providing notices of non-discrimination.

(c) TITLE VI – LEP, Public Participation and Affirmative Compliance Obligation

- i. As a recipient of EPA financial assistance, you are required by Title VI of the Civil Rights Act to provide meaningful access to LEP individuals. In implementing that requirement, the recipient agrees to use as a guide the Office of Civil Rights (OCR) document entitled "Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons." The guidance can be found at: <https://www.federalregister.gov/documents/2004/06/25/04-14464/guidance-to-environmental-protection-agency-financial-assistance-recipients-regarding-title-vi>.
- ii. If the recipient is administering permitting programs under this agreement, the recipient agrees to use as a guide OCR's Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs. The Guidance can be found at: <https://www.govinfo.gov/content/pkg/FR-2006-03-21/pdf/06-2691.pdf>.
- iii. In accepting this assistance agreement, the recipient acknowledges it has an affirmative obligation to implement effective Title VI compliance programs and ensure that its actions do not involve discriminatory treatment and do not have discriminatory effects even when facially neutral. The recipient must be prepared to demonstrate to EPA that such compliance programs exist and are being implemented or to otherwise demonstrate how it is meeting its Title VI obligations.

42. Drug-Free Workplace

The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title [2 CFR Part 1536 Subpart B](#). Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provisions set forth in Title [2 CFR Part 1536 Subpart C](#).

The consequences for violating this condition are detailed under Title [2 CFR Part 1536 Subpart E](#). Recipients can access the Code of Federal Regulations (CFR) Title 2 Part 1536 at www.ecfr.gov/.

43. Hotel-Motel Fire Safety

Pursuant to USC 2225a, the recipient agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <https://apps.usfa.fema.gov/hotel/> to see if a property is in compliance, or to find other information about the Act.

44. Lobbying Restrictions

a) This assistance agreement is subject to lobbying restrictions as described below. Applicable to all assistance agreements:

- i. The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the U.S. unless authorized under existing law. The recipient shall abide by the Cost Principles available at 2 CFR Part 200 which generally prohibits the use of federal grant funds for litigation against the U.S. or for lobbying or other political activities.
- ii. The recipient agrees to comply with Title [40 CFR Part 34](#), New Restrictions on Lobbying. The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000 and require that subrecipients submit certification and disclosure forms accordingly.
- iii. In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
- iv. Contracts awarded by a recipient shall contain, when applicable, the anti-lobbying provision as stipulated in the Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.
- v. By accepting this award, the recipient affirms that it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986 as required by Section 18 of the Lobbying Disclosure Act; or that it is a nonprofit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act. Nonprofit organizations exempt from taxation under section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are ineligible for EPA subawards.

b) Applicable to assistance agreements when the amount of the award is over \$100,000:

- i. By accepting this award, the recipient certifies, to the best of its knowledge and belief that:
 - 1) No Federal appropriated funds have been or will be paid, by or on behalf of the recipient, 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 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, or any employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the recipient shall complete and submit the linked [Standard Form -- LLL, "Disclosure Form to Report Lobbying,"](#) in accordance with its instructions.
- 3) The recipient shall require that the language of this certification be included in the award documents for all subawards exceeding \$100,000 at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
 - ii. 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 failure.

45. Recycled Paper

When directed to provide paper documents, the recipient agrees to use recycled paper and double-sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA.

46. Resource Conservation and Recovery Act

Consistent with goals of section 6002 of RCRA (42 U.S.C. 6962), State and local institutions of higher education, hospitals and non-profit organization recipients agree to give preference in procurement programs to the purchase of specific products containing recycled materials, as identified in [40 CFR Part 247](#).

Consistent with section 6002 of RCRA (42 U.S.C. 6962) and [2 CFR 200.323](#), State agencies or agencies of a political subdivision of a State and its contractors are required to purchase certain items made from recycled materials, as identified in 40 CFR Part 247, when the purchase price exceeds \$10,000 during the course of a fiscal year or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. Pursuant to 40 CFR 247.2 (d), the recipient may decide not to procure such items if they are not reasonably available in a reasonable period of time; fail to meet reasonable performance standards; or are only available at an unreasonable price.

47. Trafficking in Persons

a) Provisions applicable to a recipient that is a private entity.

- i. The recipient, the recipient's employees, subrecipients under this award, and subrecipients' employees may not –

- 1) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - 2) Procure a commercial sex act during the period of time that the award is an effect; or
 - 3) Use forced labor in performance of the award or subawards under the award.
- ii. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if the recipient or a subrecipient that is a private entity –
- 1) Is determined to have violated a prohibition in paragraph a of this award term; or
 - 2) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a of this award term through conduct that is either –
 - a. Associated with performance under this award; or
 - b. Imputed to the recipient or subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in [2 CFR Part 180](#), “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non- procurement),” as implemented by our Agency at [2 CFR Part 1532](#).
- b) Provision applicable to a recipient other than a private entity.** EPA may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity –
- i. Is determined to have violated an applicable prohibition in paragraph a. of this award term; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a of this award term through conduct that is either
 - 1) Associated with performance under this award; or
 - 2) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by EPA at 2 CFR Part 1532.
- c) Provisions applicable to any recipient**
- i. The recipient must inform the EPA immediately of any information received from any source alleging a violation of a prohibition in paragraph a of this award term.
 - ii. Our right to terminate unilaterally that is described in paragraph a and b:
 - 1) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - 2) Is in addition to all other remedies for noncompliance that are available to us under this award.
 - iii. The recipient must include the requirements of paragraph a of this award term in any subaward made to a private entity.
- d) Definitions.** For purposes of this award term:
- i. “Employee” means either:

- 1) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
- 2) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
- ii. “Forced Labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- iii. “Private Entity”
 - 1) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in [2 CFR 175.25](#).
 - 2) Includes:
 - a. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
 - b. A for-profit organization
- iv. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

48. Build America, Buy America – Required Use of American Iron, Steel, Manufactured Products, and Construction Materials (effective October 23, 2023, and forward)

Buy America Preference. Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for an infrastructure project unless:

- (1) All iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- (2) All manufactured products used in the project are produced in the United States— this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product; and
- (3) All construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The construction material standards are listed below.

Incorporation into an infrastructure project. The Buy America Preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America Preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

Categorization of articles, materials, and supplies. An article, material, or supply should only be classified into one of the following categories: (i) Iron or steel products; (ii) Manufactured products; (iii) Construction materials; or (iv) Section 70917(c) materials. An article, material, or supply should not be considered to fall into multiple categories. In some cases, an article, material, or supply may not fall under any of the categories listed in this paragraph. The classification of an article, material, or supply as falling into one of the categories listed in this paragraph must be made based on its status at the time it is brought to the work site for incorporation into an infrastructure project. In general, the work site is the location of the infrastructure project at which the iron, steel, manufactured products, and construction materials will be incorporated.

Application of the Buy America Preference by category. An article, material, or supply incorporated into an infrastructure project must meet the Buy America Preference for only the single category in which it is classified.

Determining the cost of components for manufactured products. In determining whether the cost of components for manufactured products is greater than 55 percent of the total cost of all components, use the following instructions:

- (a) For components purchased by the manufacturer, the acquisition cost, including transportation costs to the place of incorporation into the manufactured product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or
- (b) For components manufactured by the manufacturer, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (a), plus allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the manufactured product.

Construction material standards. The Buy America Preference applies to the following construction materials incorporated into infrastructure projects. Each construction material is followed by a standard for the material to be considered “produced in the United States.” Except as specifically provided, only a single standard should be applied to a single construction material.

- (1) Non-ferrous metals.** All manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.
- (2) Plastic and polymer-based products.** All manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.
- (3) Glass.** All manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.
- (4) Fiber optic cable (including drop cable).** All manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.
- (5) Optical fiber.** All manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.
- (6) Lumber.** All manufacturing processes, from initial debarking through treatment and planing, occurred in the United States.
- (7) Drywall.** All manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.
- (8) Engineered wood.** All manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.

Waivers. When supported by rationale provided in IJA §70914, the recipient may submit a waiver request in writing to EPA. Recipients should request guidance on the submission instructions of an EPA waiver request from the EPA Project Officer for this agreement. A list of approved EPA waivers (general applicability and project specific) is available on the [EPA Build America, Buy America website](#).

EPA may waive the application of the Buy America Preference when it has determined that one of the following exceptions applies:

- (1)** applying the Buy America Preference would be inconsistent with the public interest;
- (2)** the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (3)** the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

For questions regarding the Build America, Buy America Act requirements for this assistance agreement or to determine if there is an approved waiver in place, please contact the EPA Project Officer for this agreement.

Definitions. For legal definitions and sourcing requirements, the recipient must consult the [EPA Build America, Buy America website](#), [2 CFR Part 184](#), and the [Office of Management and Budget's \(OMB\)](#)

49. Required Certifications and Consequences of Fraud

Per [2 CFR 200.415\(a\)](#) Required Certifications, to assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the financial reports or vouchers requesting payment under the agreement will include a certification that must be signed by an official who is authorized to legally bind the recipient which reads as follows:

“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).”

50. Reporting Waste, Fraud and Abuse

Consistent [2 CFR 200.113](#), the recipient and any subrecipients must report, in a timely manner, any violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting this award to the EPA Project Officer and the [EPA Office of Inspector General \(OIG\) Hotline](#). The methods to contact the OIG hotline are (1) online submission via the [EPA OIG Hotline Complaint Form](#); (2) email to OIG_Hotline@epa.gov; (3) phone 1-888-546-8740; or (4) mail directed to Environmental Protection Agency, Office of Inspector General, 1200 Pennsylvania Avenue, N.W. (2410T), Washington, DC 20460.

To support awareness of the OIG hotline, recipients and/or subrecipients receiving an EPA award or subaward of \$1,000,000 or more must display EPA OIG Hotline posters in facilities where the work is performed under the grant. EPA OIG Hotline posters may be [downloaded or printed](#) or may be obtained by contacting the OIG at 1- 888-546-8740. Recipients and subrecipients need not comply with this requirement if they have established a mechanism, such as a hotline, by which employees may report suspected instances of improper conduct and have provided instructions that encourage employees to make such reports.

51. Whistleblower Protections

This award is subject to whistleblower protections, including the protections established at 41 U.S.C. 4712 providing that an employee of the recipient or a subrecipient may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a covered person or body information that the employee reasonably believes is evidence of gross mismanagement of a Federal grant or subaward, a gross waste of Federal funds, an abuse of authority relating to a Federal grant or subaward, a substantial and specific danger to public health or safety, or a violation

of law, rule, or regulation related to a Federal grant or subaward. These covered persons or bodies include:

- a. A member of Congress or representative of a committee of Congress.
- b. An Inspector General.
- c. The Government Accountability Office.
- d. A Federal employee responsible for contract or grant oversight or management at the relevant agency.
- e. An authorized official of the Department of Justice or other law enforcement agency.
- f. A court of grand jury.
- g. A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

Consistent with 41 U.S.C. 4712(d), the recipient and subrecipients shall inform their employees in writing, in the predominant language of the workforce or organization, of employee whistleblower rights and protections under 41 U.S.C. 4712. Additional information about whistleblower protections, including protections for such employees may be found at the [EPA Office of Inspector General's Whistleblower Protection page](#).

52. Access to Records

In accordance with [2 CFR 200.337](#), EPA and the EPA Office of Inspector General (OIG) have the right to access any documents, papers, or other records, including electronic records, of the recipient and subrecipient which are pertinent to this award in order to make audits, examinations, excerpts, and transcripts. This right of access also includes timely and reasonable access to the recipient and subrecipient's personnel for the purpose of interview and discussion related to such documents. This right of access shall continue as long as the records are retained.

Attachment F

**FY 2020 – FY 2021 Pollution Prevention Grant Program
Funding Opportunity No. EPA-HQ-OPPT-2020-001**

**“Pollution Prevention Training, Technical Assistance,
Outreach, and Recognition for Mississippi”**

EPA Region IV

National Emphasis Areas Supported Through the Project

Focus Areas:

NEA#3: Automotive Manufacturing and Maintenance

NEA #5: Metal Manufacturing and Fabrication

General Support:

NEA #1: Food and Beverage Manufacturing and Processing

NEA #2: Chemical Manufacturing, Processing and Formulation

NEA #4: Aerospace Product and Parts Manufacturing and Maintenance

The proposed project will provide waste reduction and pollution prevention assistance and training to state industries and businesses. The MDEQ P2 program uses the E3 (Economy-Energy-Environment) technical assistance framework to assess operations and identify opportunities to reduce solid/hazardous wastes, energy/water consumption and discharges to air/water. The work will be conducted through workshops, on-site technical assistance and web-based tools with a focus on automotive manufacturing and metal manufacturing. MDEQ also sponsors the enHance Program which recognizes environmental leaders in the state.

Total Project Funding: \$320,000

Requested Funding: \$160,000

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DUNS #809399876

System for Award Management Registration Date: September 12, 2013

**FY 2020 – FY 2021 Pollution Prevention Grant Program
Funding Opportunity No. EPA-HQ-OPPT-2020-001**

**Pollution Prevention Training, Technical Assistance, Outreach, and Recognition for Mississippi
Narrative Proposal Work Plan**

A. Project Summary/Approach

i. Detailed project summary

The objective of this proposed program is to provide Mississippi's manufacturers, businesses and communities with information and exposure to pollution prevention concepts and opportunities. The proposed programs will include various training opportunities presenting appropriate information for the audience, on-site technical assistance to foster greener business models and sustainable practices, and an environmental stewardship recognition program for those regulated and nonregulated entities that go above and beyond standard compliance requirements to improve Mississippi's environment. The primary focus of the work plan is the reduction of hazardous substances, pollutants or contaminants in Mississippi's air, land and water. Through the program, MDEQ will provide training and technical assistance to encourage industries, commercial businesses and other institutions to reduce wastes, reduce energy usage, reduce air emissions and water discharges and save money by utilizing the E3 (Economy, Energy and Environment) framework to implement lean and green best practices.

Our proposal is designed to address all five of the National Emphasis Areas (NEAs) identified in the RFA with targeted emphasis on NEA #3 Automotive Manufacturing and Maintenance and NEA #5 Metal Manufacturing and Fabrication. However, the provisions of the work plan for on-site and off-site technical assistance, general workshops and training opportunities, recognition program, and community outreach efforts will be open to industries and business in all of the five National Emphasis Areas (NEA's) which also include: NEA#1 Food and Beverage Manufacturing and Process (an important industry sector for Mississippi), NEA#2 Chemical Manufacturing, Processing and Formulation, and NEA #4 Aerospace Product and Parts Manufacturing and Maintenance.

The primary approach of the work plan to address NEA #3: Automotive Manufacturing and Maintenance and NEA#5 Metal Manufacturing and Fabrication will be targeted education and outreach. This education and outreach will be accomplished through targeted technical workshops, technical assistance and focused community education events. On-site technical assistance will be provided to eligible industries in all of the five National Emphasis Areas (NEA's); however, because of the prominence of industries in the Food and Beverage Manufacturing and Processing sector, this sector will be given special emphasis for both the onsite technical assistance (E3) and the environmental stewardship recognition programs (*enHance*). E3 assessments will be conducted, and opportunities for water conservation, energy use reduction and pollution prevention identified.

The MDEQ P2 Program and the Agency's environmental stewardship program, *enHance*, will promote pollution prevention through information and awareness in Mississippi in all five National Emphasis Areas: This will be accomplished through: a). Outreach and training on P2 and E3 principles, techniques and best practices; b). On-site assistance through E3 assessments to identify opportunities for improvement that will improve economic and environmental operations; and c). Recognition of environmental leaders that successfully implement P2 strategies and/or environmental management systems.

Training and outreach will include the following at a minimum. Each of these is described in more detail in the following section ("Description of the associated work products").

- 1) 3 workshops annually (a total 6 workshops for the 2-year project cycle)
- 2) 3 Community Educational Events annually involving presentations or promotions to communities,

municipalities and public entities such as schools, hospitals, or other government agencies (a total of 6 events over the 2-year project cycle)

- 3) Website resources with educational presentations and assistance documents (ongoing effort); and
- 4) Participation and Technical Presentations at State Organizational Conferences (ongoing effort)

The work plan proposes to conduct 6 total workshops (3 workshops annually). The workshops planned for the 2-year project period include the following events:

- 1) 2020 enHance Fall Leadership Roundtable Workshop (See part a below)
- 2) 2021 enHance Environmental Stewardship Workshop (see b below)
- 3) 2021 Automotive Manufacturing Sustainability Workshop (see c below)
- 4) 2021 enHance Fall Leadership Roundtable Workshop (see a below)
- 5) 2022 enHance Environmental Stewardship Workshop (see b below)
- 6) 2022 Metal Manufacturing and Fabrication Workshop (see d below)

MDEQ will continue to evaluate additional opportunities for technical P2 training and workshops where the need and the resources exist. These opportunities would include the possibility to partner on regional workshops at enHance member facilities. Such partnerships with our environmental leaders help foster the opportunities for these leaders to mentor other businesses and industries in the state but also provides workshop attendees with the opportunity to view real world examples of P2 practices in an industrial setting.

Project Task Schedule: The following table provides the planned schedule for the various project tasks.

TASK/MONTH	FY 2021												FY 2022											
	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S
A) Training																								
1) Workshops																								
a) enHance Fall Leadership Roundtable																								
Agenda development	x											x	x											
Invitations and promote	x	x											x	x										
Conduct workshop		x													x									
Follow-up			x	x												x	x							
b) enHance Stewardship Workshop																								
Agenda Development/Speakers			x	x	x	x									x	x	x	x						
Market Workshop/Admin. Reqts.					x	x	x										x	x	x					
Conduct Workshop – April							x												x					
c&d) Targeted workshops																								
c) Automotive Manufacturing																								
Research sector P2/E3 opportunities		x	x	x										x	x	x								
Develop agenda/schedule speakers					x	x											x	x						
Develop related training materials						x	x	x	x									x	x	x	x			
Marketing of workshop									x	x												x	x	
Hold Workshop - July										x													x	
Conduct follow-up surveys											x	x											x	x
d) Metal Mfg and Fabrication																								
3) Community Education Events																								
Meet with community education partners	x					x					x						x				x			x
Work to identify target community groups		x	x											x	x									
Develop community education curriculum and workshop materials		x	x	x										x	x	x								
Conduct P2/E3 Community Ed Series					x		x		x								x		x		x			
4) Website Resources																								
Maintain website as resource tool	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
B) On-site E3 Assessments																								
Outreach to facilities for on-site services	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x	x
Conduct pre-assessments	x				x				x				x				x				x			

- c) The third workshop will be designed to address specific E3 opportunities for the Automotive manufacturing sector, the P2 programs' targeted industrial sector in the state and a National emphasis area sector. Previous focus industrial sectors have included the furniture and food processing industrial sectors, which are key industrial sectors in the state. Manufacturing in Mississippi continues to be one of the largest contributors to the state's economic profile and a significant source of jobs for Mississippians. The proposed sector of automotive manufacturing is an important industry within Mississippi manufacturing. According to the Mississippi Department of Employment Security automotive manufacturing represents 41 percent of manufacturing employment with annual revenues of over \$3.3 billion for reporting units. The automotive sector is well-represented and active in MDEQ's enHance environmental stewardship program. While automotive manufacturing leads the state in sustainable practices, there is still a strong need to promote pollution prevention awareness in the industry. In addition, the automotive sector continues to grow in the State of Mississippi. Sean McCarty, a Senior Environmental Specialist with Toyota Motor Mfg of MS, Inc. recently provided input into the plan with this statement: *"With two major automotive manufacturers, various Tier1 and Tier2 suppliers and dealerships containing repair shops, the need to develop pollution prevention practices is critical and will have a significant impact within the state and on the environment. Case studies aimed at P2 practices can be showcased to this sector to highlight opportunities to reduce waste, energy, water and emissions. A workshop can serve as a great forum to communicate these activities all throughout the State. Toyota is excited to partner with MDEQ on this opportunity."* For this workshop, MDEQ intends to collaborate with enHance members, and aims to assist automotive industries (manufacturers, Tier 1, and Tier 2 suppliers) identify P2 opportunities and adopt sustainable practices resulting in waste reduction. The workshop may be held at an enHance member's training facility and could include an onsite tour. The focus of the workshop will be on building a waste reduction mindset and on sustaining environmental compliance. Through a mixture of waste reduction presentations, on-site observations of sustainable practices, and practical exercises, attendees will be exposed to pollution prevention principles adaptable to their own facilities. The workshop will feature energy efficiency, water conservation, lean manufacturing techniques, environmental regulations, and behavior practices. In conjunction to the workshop, guidance documents will be developed and provided to attendees.
- d) The final workshop will provide training to a target audience of the metals manufacturing and fabrication sector (NEA#5). This industrial sector is closely related to the automotive industry as well as the aerospace industry in many ways. The metals manufacturing and fabrication industrial sector in Mississippi includes approximately 250 companies, employing 10,000 workers and has been experiencing substantial growth. Achieving and maintaining environmental compliance will be a focus of this workshop with industry specific operational and equipment opportunities to conserve energy, water, and other resources while minimizing the generation of solid and hazardous wastes. The workshop will address sustainability opportunities including energy efficiency, lean techniques and reduction of wastes and contaminants in the environment. Preparations for the workshop may also explore and include the development of fact sheets, FAQ documents and other guidance documents targeted at common compliance and waste generation issues in the metals manufacturing and fabrication industry.

Community Education Events: The Community Education Events in the work plan involve possible partnership efforts with MDEQ's Recycling program and MDEQ's Community Engagement/Small Business Assistance Program. An opportunity that the project will explore is to partner with the MDEQ Recycling Program on teacher and school staff workshops. The Recycling Program conducts teacher workshops on implementing successful recycling programs in schools and also participates in conservation days around the state to emphasize the importance of recycling. The P2 program can use this partnership opportunity to also teach and introduce waste reduction, pollution prevention, and energy consumption best practices for schools. In addition, a separate community outreach series is in the process of development with the MDEQ Community Engagement/Small Business Assistance group targeted at public organizations

such as municipalities, community colleges and universities, schools, state and local agencies, and non-profit organizations. In addition, the P2 Program is considering a partnership with local communities in the state and will include local lighting and energy service providers to emphasize energy efficiency to the general public. The plan contemplates potentially providing energy efficiency information and options in tandem with an energy efficient light bulb that members of the public can test for life, performance and energy usage. The expectation is that with education and trial use by the public our P2 program can promote better all-around energy efficiency to our citizens. These community outreach efforts are important to the success of P2 efforts in the state.

In addition to the opportunities above, MDEQ intends to reach out to various other local and state level organizations. The work plan proposes that presentations, exhibits and other outreach efforts will be provided to local and state organizations such as industrial/economic development groups, civic leaders, workforce councils at community colleges, and industrial representatives in different communities each year for a total of at least six different communities receiving the information during the two-year performance period (FY19-FY20). Successful outcomes from the *enHance* and ME3 programs will be used to demonstrate opportunities that exist for public and private sector entities. Currently there are several municipal/county members in the *enHance* stewardship program, and MDEQ will work with these groups to structure the program outreach and identify target communities. The community approach is a key component of the national E3 strategy as well. Results from these communities can be showcased and transferred to other communities.

Some of these events could also be conducted as webinars which would allow for a larger geographical audience to attend. Webinars can also enable transfer of knowledge from other parts of the country and even around the world by connecting subject matter experts to the local communities and industries. More specific plans for webinar opportunities will develop as communities are engaged and specific needs are identified.

Website Resources: Through the MDEQ P2 webpage and *enHance* resources website, MDEQ will continue to disseminate information on pollution prevention and waste reduction to Mississippi industries, government, institutions and other organizations. Information on the website may include fact sheets on best practices and waste reduction opportunities, tools/calculators for use in analyzing P2 opportunities as well as E3 case studies from industries that have participated with the ME3 on-site assessments. In addition, Webinar recordings and workshop presentations are also made available on the website to ensure transferability of information beyond the original attendees of events. The website will also include links to partners' websites to increase visibility and access to industry specific P2 information and success stories. The grant request includes proposed expenses for resources needed to maintain this web-based information.

Participation and Presentations at State Organizational Conferences and Meetings: As part of ongoing outreach and training efforts, MDEQ will also continue to represent the P2 program, the *enHance* recognition program and the Mississippi E3 program components at state conferences and association meetings such as the Mississippi Manufacturers Association (MMA) Environmental and Safety Conference, the Mississippi Energy Coordinators Association (MECA), the Workforce Environmental Safety Association (WESA), the Mississippi Municipal League, and other various public, private and state associations or stakeholder groups. Included in the grant funding request are proposed costs for personnel, travel, material supplies, and facility use associated with providing pollution prevention training through other state conferences and meetings.

On-site Technical Assistance through E3 assessments: On-site technical assistance will be provided through the Mississippi E3 program (ME3) to manufacturers. The ME3 onsite assessments will be coordinated through MDEQ in partnership with the state manufacturing extension partnership (MMA-MEP), which is a part of the Mississippi Manufacturers Association. MMA-MEP is part of a nation-wide network of 51 Manufacturing Extension Partnership centers. This partnership provides MEP access to

technical assistance, training, and knowledge of best practices from other MEP centers across the country. As part of the MEP, MMA-MEP conducts quarter client surveys (through an independent 3rd party) to assess the impacts of its project work, including ME3 projects. MMA-MEP utilizes its strategic partners, including Mississippi State University CAVS Extension, Itawamba Community College, Mississippi Gulf Coast Community College, and the Mississippi Polymer Institute at the University of Southern Mississippi to provide technical assistance in connection with ME3 assessments. ME3 has also utilized the Alabama Industrial Assessment Center for energy audits, and anticipates engaging the IAC at Louisiana State University, whose service area covers portions of Mississippi.

Three ME3 on-site training and assessments will be conducted each year and will include the following:

- Completion of a pre-assessment survey detailing environmental and energy data
- Review of operations by an E3 team to identify opportunities and prioritize efforts
- Formation of a cross-functional internal company team responsible for ongoing E3 efforts
- Detailed energy and environmental audits
- An optional safety and health audit for a given facility
- A summary report outlining findings, recommendations, and an implementation plan proposal,
- A follow-up meeting approximately one month after the assessment visit to review findings,
- Follow-on engagements with the company for additional technical assistance and implementation,
- Potential recruitment or retention of enHance members.

Results from previous ME3 projects have shown that energy and environmental wastes can often be addressed in an expedient manner, while lean manufacturing changes require a longer-term approach. The ME3 assessments will customize E3 recommendations based on the specific opportunities, needs, and resources of the participating small and medium-sized manufacturers. A safety component may be added as needed. Grant funds will be used to pay personnel costs, travel, and supply costs associated with these assessments.

Recognition of P2 Efforts: In addition to the proposed training and technical assistance outreach, MDEQ will continue to manage the additional requirements of the enHance Stewardship program, which will include recruitment and mentoring of new manufacturing and commercial members and recognition of those members to promote best practices in operations throughout the state. The enHance Steering Committee, composed of representatives from enHance members and other state agencies and associations will provide guidance for directing sustainability efforts. The enHance program encourages members to develop complete environmental management systems, a requirement for the top level of membership. Mentoring on environmental management systems will be provided for facilities requesting assistance through current program members thus furthering transfer of knowledge. EnHance program members provide an annual report of pollution prevention activity results. Environmental reporting processes are reviewed and expanded to fully document air, water, waste reductions as well as cost savings through the use of EPA calculators/tools.

iii. Explanation of project benefits

The benefits of the proposed project will be realized primarily through reduced air and water discharges, reductions in hazardous and solid waste, reduced energy and water consumption, and ultimately in reduced environmental compliance costs and other operating costs. In addition, MDEQ believes that the reductions realized by the direct training and outreach efforts can have ripple effects through mentorships to companies developing a culture of sustainability and to sister facilities of these companies that see the pollution prevention benefits. Another opportunity we see to pass along the benefits of building that pollution prevention culture are to those communities that host manufacturers, industries and businesses that are participants in MDEQ P2 outreach efforts. These host communities often benefit from direct environmental projects initiated by the manufacturer, by spinoff benefits of employees and staff that bring home the

pollution prevention principles to their residence and community organizations and by the benefits realized on the local environment from reduced discharges to the environment.

The benefits of the P2 efforts overall will help manufacturers, businesses, municipalities, institutions and other organizations prevent pollution and operate more sustainably. More sustainable business operations help the state to retain jobs (through increased competitiveness), gain the reinvestment of environmental cost savings back to the state in other forms, and mitigate the impact of manufacturing and other business activities on the environment.

iv. Description of roles of the applicant and partners

MDEQ Personnel and Roles: The key personnel involved in MDEQ's P2 program efforts are experienced in various aspects of environmental engineering and in the implementation of pollution prevention activities. A combination of MDEQ staff and contractors will be used to execute the proposal. The project work will be coordinated through the MDEQ P2 program. The key MDEQ staff include the following:

Mr. Khairy Abu-Salah, MDEQ P2 Program Coordinator, holds a Bachelor of Science degree in Civil Engineering from the University of Alabama and Master of Science degree in Environmental Engineering from the University of Mississippi. He is a registered Professional Engineer and a Diplomat in the American Academy of Environmental Engineers. Mr. Abu-Salah has worked on environmental issues for more than 27 years including 25 years with the MDEQ P2 Program. As part of his P2 responsibilities, he has served on numerous agency, state, regional, and national committees, lending his expertise and providing a P2 perspective on relevant environmental issues.

Mr. Christopher Messemore, the MDEQ Environmental Permit Division's Water Technical Program Leader, holds a Bachelor of Science degree in Chemical Engineering from Mississippi State University and is a registered Professional Engineer with an environmental focus. He has been a Board Certified Environmental Engineer since 2014. Mr. Messemore has worked in the environmental field for 10 years, having spent the past several years directly overseeing the P2 program. He will remain involved as a key agency advisor to the MDEQ P2 efforts.

Mr. Mark Williams, Chief of the MDEQ Waste Division holds a Bachelor of Science degree in Industrial Engineering from Mississippi State University, is a registered Professional Engineer with the State of Mississippi and is also a Board Certified Environmental Engineer with the American Academy of Environmental Engineers with emphasis in solid waste management. Mr. Williams has worked in the environmental field for over 32 years. In his role as Waste Division chief, Mr. Williams currently oversees the Solid and Hazardous waste programs, Recycling and Waste Reduction programs, Underground Injection Control Program, Pollution Prevention Program and various grant and financial assistance programs for the State of Mississippi. If awarded, Mr. Williams will serve as the P2 Program Director for the grant.

Other MDEQ staff participating in an advisory role or a technical assistance role to the P2 and the enHance programs include: Mr. Elliott Bickerstaff, P.E., Air Quality Division; Mr. William Stacy, EEIT, Environmental Permits Division; Ms. Jennifer Milner, State Recycling Coordinator; Ms. Melissa McGee-Collier, Director Office of Community Engagement and Ombudsman Small Business Environmental Assistance Program; Ms. Tracye Moore-Thomas, Technical Assistance Coordinator, Small Business Environmental Assistance Program; and Mr. Robbie Wilbur, Public Information Director.

Partners: Through its P2 outreach, MDEQ has developed working relationships with numerous groups throughout the state and will work with these partners to implement the proposed activities. Under this proposal, MDEQ will work with a variety of non-profit organizations, academic institutions and other state agencies to deliver services to public and private sector entities. A key partner with whom we have been

working for several years is MMA-MEP, a part of the Mississippi Manufacturers Association (MMA) and a NIST MEP (Manufacturing Extension Partnership) center. MMA-MEP has field offices located at Itawamba Community College, Pearl River Community College, Northeast Community College, Mississippi State University's Center for Advanced Vehicular Systems Extension (CAVSE), and the Mississippi Polymer Institute (MPI) at the University of Southern Mississippi. Other in-state partners include the Mississippi Development Authority Energy and Natural Resources Division, the Mississippi Public Service Commission, Mississippi Energy Coordinators Association (MECA), Mississippi Manufacturers Association (MMA), Mississippi Poultry Association (MPA), and the Mississippi State University Center for Continuing Education Industrial Safety and Health Program. Out-of-state collaborators that we may engage as partners for ME3 assessments include the DOE Industrial Assessment Centers (IACs) based at the University of Alabama and Louisiana State University.

The MDEQ P2 staff have successfully coordinated the agency's P2 and sustainability efforts for almost 28 years. While MDEQ and its contractors provide direct technical assistance and technology transfer to state industries, businesses, municipalities and the public, MDEQ partners with other state agencies, universities, industries, regional organizations, and local governments to effectively utilize existing resources. MDEQ also participates in the National Pollution Prevention Results Data System and the National Pollution Prevention Roundtable, reporting results of its pollution prevention activities. Contractors providing the program with expertise and assistance in implementation will continue to be selected in compliance with procurement standards. A list of contractors supporting the current P2 grant is provided in the following table.

No.	Name (alphabetical)	Title (Area of expertise)	Affiliation
1	Davern Jones, CSP	Program Manager, Sr. Industrial Hygienist (Health & Safety, OSHA)	Mississippi State University Center for Cont.Ed., Industrial Health/Safety
2	Yolonda Boone	Consultant (Workforce and Project Management)	Mississippi Manufacturers Assoc. (MMA-MEP subcontractor)
3	Wally Majors, CEM, CEA	Consultant (energy)	Utility Analysts, Inc. (MMA-MEP sub-contractor)
4	Carolyn Miller	Assistant Director (business operations)	Mississippi Manufacturers Association MMA-MEP
5	Ty Posey	Technical Service/Workforce Dev. Leader (Lean production, 6 Sigma)	Mississippi Polymer Institute – University of Southern Mississippi
6	James Williams	Executive Director (manufacturing)	Mississippi Manufacturers Association MMA-MEP

In addition to the contractual staff listed above, MDEQ has a number of engineering firms under indefinite delivery order (IDO) contracts. Where needed and appropriate, MDEQ has the potential opportunity to employ the staff of an IDO engineering firm to provide the project with specific technical assistance, to conduct specific pollution prevention assessments or to conduct other engineering services needed to meet the goals of the project.

B. Environmental Results – Outcomes, Outputs and Performance Measures

Projected or Anticipated Outcomes

Outcome	FY2021 Savings	FY2022 Savings
<u>Training</u>		
Hazardous Waste (lbs.)	20,000	20,000
Electrical Power (KWH)	12,500,000	12,500,000
CO2e (tons)	875	875
Cost Savings (\$)	\$112,500	\$112,500

<u>On-site Assessments</u>		
Hazardous Waste (lbs.)	TBD	TBD
Water usage reduction (gal)	TBD	TBD
Electrical Power (KWH)	597,630	597,630
Other/Combined Energy (MMBTU)	4,458	4,458
VOC (tons)	TBD	TBD
PM (tons)	TBD	TBD
CO2e (tons)	484	484
Cost Savings	\$92,235	\$92,235

<u>Recognition/Leadership Program</u>		
Retained and New Members	13	17

Outreach and Training (6 workshops/12 Community Education Events/Website Resources/Conference Participation): Outcomes from Community Education Events, Website Resources, and other outreach is inherently difficult to measure, but vital to the success of the other portions of the Mississippi P2 Program. Through increased awareness of P2, we develop better participation in the more measurable activities of program (workshops, leadership program participation, and onsite assistance). Training will focus on increasing pollution prevention awareness and developing better waste reduction strategies. Historically, completed post-workshop surveys have indicated that at least 50% of respondents will make changes to operations based on what was learned at the workshops. (April 2015 survey = 57%)

If an average of 20 different facilities per year participate in the workshops, it is anticipated that approximately 10 facilities per year will use ideas to implement savings measures. For electrical power savings, CO₂e, and cost savings, we used past performance numbers to calculate projected savings. For hazardous waste reduction, we used case studies similar to industries we intend to target in the upcoming work plan. Anticipated results are shown in the following table.

	Anticipated Savings 2021	Anticipated Savings 2022
Hazardous Waste (lbs.)	20,000	20,000
Electrical Power (KWH)	12,500,000	12,500,000
CO ₂ e (tons)	875	875
Cost savings (\$)	\$112,500	\$112,500

On-site Technical Assistance through E3: Mississippi's P2 Program has conducted 12 on-site technical assistance events and currently has follow up information on 9 of these visits. From the previous work, we can calculate the average savings per assessment and use this past performance to estimate savings for the 7 onsite technical assessments for the 2021-2022 work plan. Anticipated results are shown in the following table.

	Anticipated Savings 2021	Anticipated Savings 2022
Hazardous Waste (lbs.)	TBD	TBD
Water usage reduction (gal)	TBD	TBD
Electrical Power (KWH)	597,630	597,630
Other/Combined Energy (MMBTU)	4,458	4,458
VOC (tons)	TBD	TBD
PM (tons)	TBD	TBD
CO ₂ e (tons)	484	484
Cost savings (\$)	\$92,235	\$92,235

Recognition/Leadership Program: Currently the enHance Leadership program has 36 members actively undertaking P2 related projects. In the next 2-year grant funding cycle, we anticipate growing the program by 15 active members (3 new members in 2021/3 new members in 2022), and 17 renewing members (12 members in 2021/10 members in 2022). From previous years' project reports from the inception to 2017, we can calculate the annual median saving per facility. Anticipated results are shown in the following table.

	Anticipated Savings 2021	Anticipated Savings 2022
Hazardous Waste (lbs.)	39,000	26,000
Water usage reduction (gal)	9,990,000	6,660,000
Electrical Power (KWH)	4,242,024	5,547,262
Other/Combined Energy (MMBTU)	36,866	24,578
VOC (tons)	8	5
PM (tons)	243	162
CO2e (tons)	29,726	19,817
Operating cost savings (\$)	\$736,500	\$491,000

Basis for Savings Calculations

Training: Training will focus on reducing energy usage through improved energy efficiency practices and equipment. It is projected that facilities will utilize concepts presented at the workshops to reduce energy consumption. Historically, completed post-workshop surveys have indicated that at least 50% of respondents will make changes to operations based on what was learned at the workshops. (April 2015 survey = 57%) If 30 different facilities participate in the workshops, it is anticipated that approximately 15 facilities will use ideas to implement savings measures. At a projected savings of \$11,250 per facility, a \$168,750 cost savings is projected. (Note: In a sample of 37 energy assessments at manufacturers, an average of \$105,500 in savings was identified per facility with \$29,000 implemented).

Projected annual kWh saved per facility = 125,000 kWh x 15 x 3.412 kBtu/kWh = 6.4 MM kBtu

Projected annual savings = 125,000 kWh x \$0.9/kWh = \$11,250 x 15 facilities = \$168,750/year

GHG

Per EPA GHG Equivalencies Calculator, 1kWh reduction = .0007 MtCO2E reduction. Projected savings = 125,000 kWh x 15 x 0.0007 = 1313 Mt CO2e

On-Site Assessments – E3 Assistance: Reductions in waste and emissions and cost savings are based on a conservative estimate of results realized from pilot assessments previously conducted.

Energy: Projected annual kWh saved = 200,000 kWh x 3 x 3.412 kBtu/kWh = 2.05 MM kBtu.

GHG Emissions: Projected annual reduction = 200,000 kWh x 3 x .0007 Mt CO2e/kWh = 420 Mt CO2e per year

Cost Savings: Projected annual \$ savings = 200,000 kWh x 3 = \$54,000 per year (@ \$0.09/kWh)

A large amount of water is used for cleaning, contributing significant BOD, TSS and phosphorus loads to wastewater discharges. Historical case studies have demonstrated that millions of gallons of water can be reduced per facility, with results ranging from 3 million to 31 million gallons per facility. Modifications to processing procedures, equipment, and housekeeping can reduce water amounts and pollutant discharges.

Data Collection & Verification Methods: Outcomes are documented for training and on-site assessments. Surveys are conducted with workshop participants to determine the number that will implement changes based on new information learned. Additional savings from enHance members (industrial and municipal) will also be realized. All enHance members are required to document actual annual savings, which will be

reported but is not included in this projection. E3 savings will be documented through pre-assessment and post-assessment data collection at facilities.

C. Programmatic Capability and Past Performance

The MDEQ has implemented a multi-media Pollution Prevention Program for nearly 30 years, following adoption of the Mississippi Comprehensive Multimedia Waste Minimization Act of 1990. Over this period, the program has established working relationships with numerous public and private organizations to promote the State's P2 efforts and effectively facilitate P2 outreach. MDEQ currently implements effective environmental regulatory programs with the assistance of EPA grant funding. The Mississippi P2 Program has successfully completed its work plans under prior-year EPA competitive grants related to pollution prevention, ME3, recycling, program administration, paperwork reduction, and efficiencies. Historically, the agency has successfully been awarded and completed our commitment for Region 4 P2 grants. The MDEQ has successfully attained and completed varying types of grants with multiple federal partners including, but not limited to, Statemap grants through USGS, Oil Restoration grants through RESTORE and NFWF, CDBG grants through HUD, Cooperating Technical Partner grants and Dam Safety grants through FEMA, as well as a number of environmental grants through EPA. Each grant had designated outcomes and reporting requirements which were successfully achieved.

MDEQ recently completed the 11th year of implementing the *enHance* environmental stewardship recognition program. At the 10 year anniversary of the *enHance* program, MDEQ conducted a review of the results of the program. This review included compilation of the total benefits realized by the *enHance* members, as reflected in their annual reports. The table below summarizes the substantial benefits that we have been able to document through the program:

Total members since inception	52
Current membership (April 2019)	36
Hazardous Waste Reduction (lbs.)	321,560
Solid Waste (diverted from landfill):	
• Recycle (tons)	631,536
• Reuse (tons)	39,108
• Reduce (tons)	773,540
Total solid waste (tons)	1,462,669
Water usage reduction (gal)	301,442,744
Electrical Power (KWH)	5,982,769,641
Other/Combined Energy (MMBTU)	20,341,417
Total Energy (MMBtu)	20,341,417
Reductions in air emissions:	
NO _x (tons)	504
TRS (tons)	397
VOC (tons)	47
PM (tons)	198
CO ₂ e (tons)	7,089,768
Total air emission reductions (tons)	7,090,911
Cost savings (\$)	\$ 10,276,354

APPENDIX A - BUDGET DETAILS AND ADDITIONAL SUPPORT

FY2021 Budget

Item	Description	EPA	MDEQ	Total
Training				
Contractual	Support for 3 workshops, Community Ed. series, State Conferences, Web Resources	\$ 22,000	\$ 27,200	\$ 49,200
Personnel	Support for 3 workshops: Roundtable, Stewardship, Automotive Mfrs, Community Ed Series, and Web Resources	\$ 3,200	\$ 5,200	\$ 8,400
Supplies	Printing, Certificates, Curriculum, Fees for Workshops, Webinar, Website Maintenance	\$ 1,500	\$ 3,500	\$ 5,000
Travel		\$ 250	\$ 1,750	\$ 2,000
Total Training				\$ 64,600
On-site Tech Asst.				
Contractual	Pre-assessment visits, on-site audit, Follow-up	\$ 20,000	\$ 30,000	\$ 50,000
Supplies		\$ 0	\$ 600	\$ 600
Travel		\$ 0	\$ 900	\$ 900
Total ME3 On-Site				\$ 51,500
Env'l Program Mgt.				
Contractual	Support for enHance Stewardship Program Assistance with E3 audits and outreach efforts	\$ 5,685	\$ 11,115	\$ 16,800
Personnel		\$ 4,500	\$ 14,500	\$ 19,000
Travel		\$ 750	\$ 750	\$ 1,500
Supplies		\$ 0	\$ 400	\$ 400
Total EPM				\$ 37,700
Administrative				
Contractual	Admin. Actions to provide grant reporting data	\$ 1,000	\$ 2,200	\$ 3,200
Personnel		\$ 1,200	\$ 1,800	\$ 3,000
Total Admin.				\$ 6,200
TOTAL FY 2021		\$ 60,085	\$ 99,915	\$ 160,000

FY2022 Budget

Item	Description	EPA	MDEQ	Total
Training				
Contractual	3 workshops, Community Series, Conf., Web Support for 3 workshops: Roundtable, Stewardship, Metal Mfrs and Fabricators, Community Ed. Series, and Web Resources	\$ 22,000	\$ 27,200	\$ 49,200
Personnel		\$ 3,200	\$ 5,200	\$ 8,400
Supplies	Printing, Certificates, Curriculum, Fees for Workshops, Webinar, Website Maintenance	\$ 1,500	\$ 3,500	\$ 5,000
Travel		\$ 250	\$ 1,750	\$ 2,000
Total Training				\$ 64,600
On-site Tech Asst				
Contractual	Pre-assessment visits, on-site audit, Follow-up	\$ 20,000	\$ 30,000	\$ 50,000
Supplies		\$ 0	\$ 600	\$ 600
Travel		\$ 0	\$ 900	\$ 900
Total ME3 On-Site				\$ 51,500
Program Mgt.				
Contractual	Support for enHance Stewardship Program Assistance with E3 audits and outreach efforts	\$ 5,685	\$ 11,115	\$ 16,800
Personnel		\$ 6,373	\$ 12,627	\$ 19,000
Travel		\$ 750	\$ 750	\$ 1,500
Supplies		\$ 0	\$ 400	\$ 400

Total EPM				\$ 37,700
Administrative				
Contractual	Admin actions to provide grant reporting data	\$ 1,000	\$ 2,200	\$ 3,200
Personnel		\$ 1,200	\$ 1,800	\$ 3,000
Total Admin.				\$ 6,200
TOTAL FY 2022		\$ 61,958	\$ 98,042	\$ 160,000

Additional State P2 Program Support: MDEQ utilizes a combination of contractual services and agency staff to execute its P2 program. For the P2 Grant Project, EPA funds will be matched at least dollar for dollar by MDEQ. In addition to the State match, MDEQ will provide additional state resources that includes salaries and designated expenses associated with implementing our overall State P2 program and with administration and oversight of this grant. The Staff that are integrally involved in the P2 Program include the P2 Program Coordinator (100% FTE), the Waste Division Chief (0.08 FTE) and Water Permitting technical expert (0.05 FTE) to aid in program implementation and administration. In addition to the resources listed below that MDEQ supports in the State's P2 Program, MDEQ also allocates funding annually to MDEQ's Small Business Assistance Program to conduct P2 assistance efforts for small businesses. This program has contractual support through the Mississippi State University Extension Service to assist small businesses with a variety of waste reduction and pollution prevention efforts. This funding effort for small businesses is not reflected in this grant proposal but bears mention to confirm the agency's commitment to supporting pollution prevention practices in Mississippi.

FY2021

Additional State Matching Resources:

Salary and Fringe (EEII)	\$ 90,966	(0.813 FTE)
Salary and Fringe (EEIV)	\$ 5,152	(0.05 FTE)
Salary and Fringe (EE ADMIN)	\$ 10,137	(0.08 FTE)
Indirect	\$ 54,100	
Travel	\$ 3,000	
Supplies	\$ 3,000	
Equipment	\$ 1,500	
TOTAL (FY2021)	\$ 167,855	

FY2022

Additional State Matching Resources:

Salary and Fringe (EEII)	\$ 90,966	(0.813 FTE)
Salary and Fringe (EEIV)	\$ 5,152	(0.05 FTE)
Salary and Fringe (EE ADMIN)	\$ 10,137	(0.08 FTE)
Indirect	\$ 54,100	
Travel	\$ 3,000	
Supplies	\$ 3,000	
TOTAL (FY2022)	\$ 166,355	

TOTAL \$ 334,210

Attachment G

Revised Work Plan and Timeline in Conjunction with the No-Cost Time Extension Request Grant # NP01D16020 from MDEQ to EPA.

MDEQ is requesting a “No-Cost Time Extension and a budget category change” from EPA in the attached cover letter for the Mississippi Pollution Prevention (P2G) Grant project entitled: “Pollution Prevention Training, Technical Assistance, Outreach, and Recognition Programs for Mississippi.” As we communicated in the cover letter, we are requesting the extension due to the conditions of the extenuating circumstances of our contracting issues at MDEQ with our P2 technical assistance contractor. Because of the resulting delays, we have not been able to utilize all budgeted funds and conduct many of our program activities and events. Because of these ongoing conditions, we were not able to meet our obligations for the summer workshop for Automotive Manufacturing Sustainability Workshop and the Metal Manufacturing and Fabrication workshop. We also have not been able to conduct the standard level of ME3 assessment visits and the ME3 outreach activities and community outreach work planned for the Summer of 2023.

According to our Administrative staff report, as of April 30, 2024, MDEQ has a budget project balance of \$97,119.20 associated with the grant. Based on the Federal percentage of the grant (38.14%), the remaining Federal contribution to the grant is \$37,041 and the remaining State contribution (61.86%) to the grant is \$60,078.

MDEQ is offering a revised work plan and schedule. The revised training, assistance, and outreach activities for the no-cost extension period will include the following plans:

- 1) Developing and conducting our pollution prevention workshops, training sessions, or virtual alternatives to the workshops where appropriate and available.
- 2) Conducting the Mississippi E3 Environmental Assessments at manufacturing facilities in the state.
- 3) Conducting work to follow-up with manufacturers that have hosted past ME3 assessments to assist these facilities with implementing ME3 P2 recommendations.
- 4) Developing and conducting alternative and additional means of recognizing the new and renewing members of the enHance Stewardship program for 2025;
- 5) Conducting work to collect and summarize the financial and environmental savings from enhance members to measure the continued success of the P2 program;
- 6) Conducting additional work efforts to assist industries and other partners with implementation of P2 technologies;
- 7) Conducting public outreach efforts on pollution prevention and ME3 in partnership with enHance members, local community groups, and other organizations;
- 8) Continued availability of website resources with educational presentations and assistance documents (ongoing effort). These resources may also include recorded virtual workshops and webinars for persons who are unable to participate in real-time; and
- 9) Continued promotion and assessment of applicants for membership in the MDEQ enHance environmental stewardship recognition program for manufacturers, municipalities and other organization;

MDEQ will continue to evaluate additional opportunities for technical P2 training and workshops where the need and the resources exist. These opportunities would include the possibility to partner with an enHance member, with the Mississippi Manufacturing Association, or with other organizations to offer or participate in virtual workshops where we can conduct P2 assistance activities. Such partnerships with our environmental leaders and partners help foster opportunities for mentorship of other businesses and industries in the state. If opportunities arise for MDEQ to conduct, offer, supplement, or assist with a community outreach effort, MDEQ will work such plans into program offerings and will report to EPA on such events and any measured results realized from these activities.

Project Task Schedule: The following table provides the planned schedule for the various project tasks.

TASK/MONTH	FY 2025											
	O	N	D	J	F	M	A	M	J	J	A	S
A) Training												
1) Workshops												
a) enHance Fall Leadership Roundtable												
Agenda development	X											
Invitations and promote	X	X										
Conduct workshop		X										
Follow-up			X	X								
b) enHance Stewardship Workshop												
Agenda Development/Speakers			X	X	X	X						
Market Workshop/Admin. Reqts.					X	X	X					
Conduct Workshop – April							X					
c&d) Targeted workshops	c) Metal Mfg and Fabrication											
Research sector P2/E3 opportunities		X	X	X								
Develop agenda/schedule speakers					X	X						
Develop related training materials						X	X	X	X			
Marketing of workshop									X	X		
Hold Workshop - July										X		
Conduct follow-up surveys											X	X
2) Community Education Events												
Meet with community education partners					X				X			X
Work to identify target community groups		X	X									
Develop community education curriculum and workshop materials		X	X	X								
Conduct P2/E3 Community Ed Series					X		X		X			
3) Website Resources												
Maintain website as resource tool	X	X	X	X	X	X	X	X	X	X	X	X
4) On-site E3 Assessments												
Outreach to facilities for on-site services	X	X	X	X	X	X	X	X	X	X	X	X
Conduct pre-assessments	X				X				X			
Conduct on-site assessments		X				X				X		
Develop opportunities, write report			X	X			X	X			X	X
Follow-up meeting (webinar)				X				X				X
5) Stewardship Recognition												
On-going recruitment of membership; mentoring management	X	X	X	X	X	X	X	X	X	X	X	X
Direct Steering Committee Meetings		X										
Process applications/on-site audits		X	X									X
Process/Summarize Annual Reports										X	X	

MDEQ will continue to evaluate other opportunities for outreach, training, and technical assistance. As previously stated, MDEQ appreciates EPA’s consideration in the revisions to the work plan for the grant agreement and we look forward to our continued partnership in our efforts to reduce wastes, prevent pollution, increase efficiencies, and improve the quality of life for Mississippians.