

SUPPLEMENT 2 -- FEDERAL PROVISIONS

These Federal Provisions, per federal law, apply where **Jefferson County School District** (the "District") purchases goods, services, or both with federal funds.

1. DEFINITIONS.

Capitalized terms have the meaning given to them in the federal statute or regulation on which the provision containing the capitalized term is based. Additional definitions appear at the end of the Federal Provisions.

2. COMPLIANCE.

To the extent they apply to the Contractor in connection with the Contractor's performance under the Contract, the Contractor shall comply with the applicable provisions of the Transparency Act and its regulations, the applicable provisions of the Uniform Guidance, and the Federal Provisions. Any changes to the Transparency Act, the Uniform Guidance, and other federal laws governing the federal funding of the District's purchases of goods and services that occur after the date of the Contract become a part of these Federal Provisions when these changes become effective.

3. SYSTEM FOR AWARD MANAGEMENT (SAM) AND DATA UNIVERSAL NUMBERING SYSTEM (DUNS) REQUIREMENTS.

3.1. SAM. While the Contract is in effect, the Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information, and until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later.

3.2. DUNS. Contractor shall provide its DUNS number as required by law and shall update the Contractor's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor's information.

3.3. Total Compensation. The Contractor shall report on Total Compensation for each of its five most highly compensated Executives for the preceding fiscal year as required by federal law.

4. CONTRACT PROVISIONS.

The following provisions are incorporated into the Contract to the extent federal law so requires and as provided for in Appendix II.

4.1. **Equal Employment Opportunity**. – *Applicable to contracts meeting the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 and relevant subsequent Executive Orders. Appendix II, paragraph (C).*

During the performance of this Contract, the Contractor (referred her as "contractor") agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding,

hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

4.2. Davis-Bacon Act. – *When required by federal program legislation, applicable to prime construction contracts of more than \$2,000. Appendix II, paragraph (D).* Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148) and as supplemented by Department of Labor regulations (29 CFR Part 5--Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction) requires contractors to pay wages: (i) at a rate not less than the prevailing wages specified in a wage determination made by the U.S. Secretary of Labor; and (ii) not less than once a week. The law also requires contractors to require the same of their subcontractors.

4.3. Copeland "Anti-Kickback Act" -- *When required by federal program legislation, applicable to construction contracts of more than \$2,000. Appendix II, paragraph (D).* The Contractor shall comply with 18 U.S.C. 874 and 40 U.S.C. 3145 and the requirements of 29 C.F.R. pt. 3 as may be applicable. "). In accordance with the law, each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

4.4. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708) – *Applicable to contracts in excess of \$100,000 that involve the employment of mechanics or laborers. Appendix II, paragraph (E).* The Contractor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by U.S. Department of Labor regulations (29 C.F.R. Part 5. In accordance with the law, contractors are required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence

- 4.5. Rights to Inventions Made Under a Contract or Agreement.** --*Applicable where the federal award funding the contract meets the definition of "funding agreement" under 37 CFR §401.2(a). Appendix II, paragraph (F)* Where the Contractor wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the Contractor and its subcontractors must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.
- 4.6. Clean Air Act** (42 U.S.C. 7401-7671(q)) and **Federal Water Pollution Control Act** (33 U.S.C. 1251-1387). – *Applies to contracts and subgrants in excess of \$150,000. Appendix II, paragraph (G).* The Contractor complies with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act and the Federal Water Pollution Control Act as amended. Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).
- 4.7. Debarment and Suspension** (Executive Orders 12549 and 12689). *Appendix II, paragraph (H).* A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 4.8. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** *Applicable to contractors who apply or bid for an award of \$100,000 or more. Appendix II, paragraph (I).* Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-federal award.
- 4.9. Procurement of Recovered Materials and Solid Waste Disposal Act.** -- *Applicable where the purchase price of an item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000. Appendix II, paragraph (J).* §6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 4.10. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment** (2 CFR 200.216). *Appendix II, paragraph (K).* Federal loan or grant funds shall not be obligated or expended to:
- 4.10.1. Procure or obtain;
 - 4.10.2. Extend or renew a contract to procure or obtain; or
 - 4.10.3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. 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).

- 4.10.4. 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).
- 4.10.5. Telecommunications or video surveillance services provided by such entities or using such equipment.
- 4.10.6. 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.
- 4.11. **Domestic Preferences for Procurement.** (2 CFR 200.322). *Appendix II, paragraph (L)*. As appropriate and to the extent consistent with law, the Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).
- 4.12. **Energy Efficiency.** (Pub. L 94-163, 89 Stat. 871). The Contractor shall comply with all mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.
- 4.13. **Access to Records.** – *Applies to all negotiated contracts except those for less than the small purchase threshold.* The Contractor shall permit the District, auditors, and the federal government to have access to its records and financial statements as necessary for the District to meet the requirements of §200.331 (Requirements for pass-through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).
- 4.14. **Never Contract with the Enemy** (2 CFR 200.215; 2 CFR Part 183). –*Applies to Contracts that are expected to exceed \$50,000; are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.* The Contractor shall comply with the regulations in 2 CFR Part 183.
- 4.15. **Health Insurance Portability & Accountability Act of 1996 (HIPAA)** – *Applicable to medical information.* Pursuant to federal law and regulations governing the privacy of certain health information, the Contractor, to the extent applicable, shall comply with the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d-1320d-8 and its implementing regulations promulgated by the U.S. Department of Health and Human Services, 45 C.F.R. Parts 160 and 164 (the “Privacy Rule”) and other applicable laws, as amended.
- 4.16. **Cost-Reimbursement in Food Contracts.** (7 CFR §210.21). -- *Applicable to food service cost-reimbursable contracts subject to contracts.* The provisions concerning cost reimbursements set forth in 7 CFR §210.21 (f) are hereby incorporated herein. This includes these requirements:
- 4.16.1. The District will pay allowable costs net of all discounts, rebates, and other applicable credits accruing to or received by the Contractor or any assignee under the Contract to the extent those credits are allocable to the allowable portion of the costs billed to the District.
- 4.16.2. The Contractor must separately identify for each cost submitted for payment to the District the amount of that cost that is allowable (can be paid from the District food service account) and the amount that is unallowable (cannot be paid from the District food service account); or that the Contractor must exclude all unallowable costs from its billing documents and certify that only allowable costs are submitted for payment and records have been established that maintain the visibility of unallowable costs, including directly associated costs in a manner suitable for contract cost determination and verification.

- 4.16.3. The Contractor must identify the amount of each discount, rebate, and other applicable credit on bills and invoices presented to the school food authority for payment and individually identify the amount as a discount, rebate, or in the case of other applicable credits, the nature of the credit.
- 4.16.4. The Contractor must identify the method by which it will report discounts, rebates and other applicable credits allocable to the Contract that are not reported prior to conclusion of the contract.
- 4.16.5. The Contractor must maintain documentation of costs and discounts, rebates and other applicable credits, and must furnish such documentation upon request to the District or the State agency or the federal department having jurisdiction over or funding the Contract.
- 4.17. **Federal Emergency Management Agency (FEMA) Provisions.** -- If the Contract is funded, wholly or in part, with money from or otherwise governed by or subject to FEMA, the following provisions also apply:
- 4.17.1. The cost of any change, modification, change order, or constructive change shall be allowable, allocable, within the scope of the Contract, and reasonable for the completion of the project scope.
- 4.17.2. The Contractor shall not use the Department of Homeland Security or FEMA logos, crests, or reproductions of flags or likenesses without specific FEMA pre-approval.
- 4.17.3. The Contractor acknowledges that FEMA financial assistance will be used to fund all or a portion of the Contract. The Contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures and Directives.
- 4.17.4. The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the non-federal entity, contractor, or any other person pertaining to any matter resulting from the Contract.
- 4.17.5. The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this Contract.
- 4.18. **Compliance with other Federal and State Laws.**
The Contractor, while performing under the Contract, shall comply with, and require its Subcontractors to comply with, the following:
- 4.18.1 Age Discrimination Act of 1975, as amended 42 U.S.C. 6101, et seq.
- 4.18.2 Age Discrimination in Employment Act of 1967 29 U.S.C., 621-634.
- 4.18.3 Americans with Disabilities Act of 1990 (ADA) 42 U.S.C. 12101, et seq.
- 4.18.4 Equal Pay Act of 1963 29 U.S.C. 206(d).
- 4.18.5 Federal Water Pollution Control Act, as amended 33 U.S.C. 1251, et seq.
- 4.18.6 Immigration Reform and Control Act of 1986 8 U.S.C. 1324b.
- 4.18.7 Section 504 of the Rehabilitation Act of 1973 as amended 29 U.S.C. 794.
- 4.18.8 Title VI of the Civil Rights Act of 1964, as amended 42 U.S.C. 2000d, et seq.
- 4.18.9 Title VII of the Civil Rights Act of 1964 42 U.S.C. 2000e.
- 4.18.10 Title IX of the Education Amendments of 1972 as amended 20 U.S.C. 1681.
- 4.18.11 State Laws and Regulations of the Civil Rights Division Section 24-34-301, CRS, et seq.
- 4.19. **Personal Identifiable Information.** The Contractor shall protect the confidentiality of all records and other materials containing personally identifying information that Contractor collects or maintains in accordance with the Contract. Except as provided by law, the Contractor shall not disclose any information about any individual in the Contractor's possession in a form including identifying information without the prior written consent of the individual, or, if the individual is a minor, the individual minor's parent, or guardian. The Contractor shall have written policies governing this requirement.

- 4.20. **No Conflicts of Interest.** 2 CFR 200.318 (c)(1). The Contractor must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No Contractor employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the Contractor may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, the Contractor may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.
- 4.21. **No Organizational Conflicts of Interest.** 2 CFR 200.318 (c)(2). If the Contractor has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the Contractor entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the Contractor is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.
- 4.22. **Compliance with 2 CFR 200.318.** The Contractor shall comply with all other requirements of 2 CFR 200.318, which concerns general procurement standards.

5. EVENT OF DEFAULT AND CONTRACT TERMINATION.

- 5.1. Failure to comply with these Federal Provisions is an event of default under the Contract.
- 5.2. Termination by District – No Default. The District may terminate the Contract at any time, if the District determines this to be in its best interest. To terminate under this provision, the District shall provide at least 20 calendar days prior written notice to the Contractor. The District will pay the Contractor any sums earned and not yet paid up to the date of termination. The District will not pay for the loss of anticipated profits.
- 5.3. Termination as the Result of Party Default. If a Party defaults under the Contract, the other Party may terminate the Contract in accordance with the provisions of the Contract section labeled **Default and Remedies.**
- 5.4. Termination (2 CFR 200.340). In addition, the Federal Award may be terminated in whole or in part by the Federal Awarding Agency in accordance with federal law, the termination provisions included in the Federal Award, or both.
- 5.5. In the event of a conflict between the termination provisions of the Contract and the termination provisions in the Federal Provisions, the latter control.

6. ADDITIONAL DEFINITIONS.

In addition to the terms defined in the Contract and the terms defined in 2 CFR 200.1, as amended from time to time, the following terms have the following meaning:

- 6.1. *“Award”* means that as which the term is defined in the Uniform Guidance and the Transparency Act.
- 6.2. *“Appendix II”* means APPENDIX II to the Uniform Guidance, 2 C.F.R. II to Part 200.
- 6.3. *“Contract”* means the contract, purchase order, or other agreement that documents the federally funded purchase to which these Federal Provisions apply.
- 6.4. *“Contractor”* means the party or parties to the Contract other than the District. For purposes of Transparency Act reporting, Contractor does not include Vendors, as that term is defined by that Act.
- 6.5. *“District”* means the Jefferson County School District R-1, Golden, Colorado.
- 6.6. *“Data Universal Numbering System (DUNS) Number”* means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: <http://fedgov.dnb.com/webform>.

6.7. "Federal Provisions" means this Supplement 2 – Federal Provisions.

6.8. "OMB" means the federal Office of Management and Budget.

6.9. "SAM" means System for Award Management at <http://www.sam.gov>.

6.10. "Transparency Act," or "FFATA," means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.

6.11. "Uniform Guidance" means the OMB Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR §200 *et seq.*

7. CERTIFICATION.

By signing and performing under the Contract, the Contractor certifies that, to the best of the Contractor's knowledge and belief, the Contractor, its principals, and its subcontractors are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency (see, System for Award Management (SAM) at <https://www.sam.gov/>).