



SCHOOL DISTRICT OF LANCASTER

REQUEST FOR PROPOSALS # 3708

for

Energy Performance Contracting Services

For the period commencing August 21, 2023 through and including June 30, 2024

Issued on January 24, 2024

Pre-Bid Conference:

There will be no pre-bid conference for this solicitation.

Proposal Submittal Deadline:

Thursday, February 15, 2024 at 2:00 PM EST

Section 1. INVITATION

The School District of Lancaster is engaging in a Request for Proposals (RFP) process for Energy Performance Contracting Services, according to the specifications contained in this document.

Please review this Request for Proposals (RFP) to learn about funding categories, guidelines, grantee requirements, submission instructions, proposal review and the funding process.

Interested parties are invited to submit an original and one electronic copy (USB drive is preferred) marked "RFP 3708: Energy Performance Contracting Services" to the address below on or before 2:00 PM EST on February 15, 2024. Should an event cause the District to close, we will accept proposals until 2:00 PM EST on the next operating day. Should you deliver or have a company deliver your RFP submission, the proposal shall be sealed in an envelope/package clearly marked with the title of the RFP, the due date and time, and delivered to:

Renee Ortiz
Office of Business & Operations
School District of Lancaster
251 S. Prince Street, 3rd Floor
Lancaster, PA 17603

This Request for Proposal is published on the School District of Lancaster and VSS website. Proposals will not be accepted at any other location. Any proposal received after the time designated above will be disqualified and unopened. Nothing herein is intended to exclude any responsible offeror or in any way restrain or restrict competition. All responsible offerors are encouraged to submit proposals. The School Board plans to select a qualified offeror based on the requirements set forth herein and pursuant to the regulations of the Commonwealth of Pennsylvania. The awarding authority for this contract is the School District of Lancaster School Board. The School Board reserves the right to reject any or all proposals submitted. All evaluation criteria are enclosed in the RFP, no other criteria will be used. Modifications, additions, or changes to the terms and conditions of this Request for Proposals may be cause for rejection of a proposal. Vendors are requested to submit all attached forms in the format provided.

Federal funds, including but not limited to Elementary and Secondary School Emergency Relief (ESSER) funds, may be used to satisfy the resulting contracts. While estimates are provided, vendors are encouraged to treat these as estimates in their proposal.

[END OF SECTION]

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Section 3. PURPOSE AND BACKGROUND

3.1 Background

The District seeks to maximize energy cost savings and related costs in order to pay for facility and infrastructure upgrades and services as authorized by Act 57 of 1998, 62 Pa. C.S. §3751-3757 ("ACT 57") as amended under Act 77 of 2004, Act 39 of 2010 and Act 163 of 2016.

Services and capital improvements will be financed through an energy performance contract which:

- Incurs no initial capital costs (with the option for the District to provide additional capital if desired)
- Achieves significant long-term cost savings
- Achieves a guarantee for cost savings
- Maintains consistent and reasonable levels of occupant comfort
- Maintains consistent levels of building functionality
- Captures additional benefits that may directly result from energy-related services and capital improvements, such as environmental protection, hazardous materials disposal or recycling, improved occupant comfort, reduced maintenance needs, improved indoor air quality and additional building and infrastructure improvements
- The final project will be evaluated based on a 20 year proforma and guarantee

The vendor selected will be expected to adhere to the District purchasing policies and procedures regarding the solicitation of bidders for equipment and/or work associated with capital improvements. In addition, the vendor and all subcontractors will comply with Pennsylvania's Prevailing Wage Law.

ESCO must have the technical capability to address a broad range of systems including but not limited to:

- Mechanical Systems – Heating, ventilating and air conditioning (HVAC) systems, energy management and control systems, domestic hot water systems, distribution systems, etc.
- Central Plants – Distribution systems, etc.
- Lighting Systems – Indoor and outdoor lighting systems, lighting controls, day-lighting strategies, etc.
- Building Envelope Systems – Windows, insulation, weatherization, etc.

3.2 Purpose

The School District of Lancaster ("the District") is requesting proposals based on qualifications pertaining to an energy savings and facilities improvement program from interested qualified energy services companies (ESCOs). The proposal is designed to identify a qualified company to implement capital improvements to reduce energy and operational costs in facilities and infrastructure such that annual cost savings are applied to annual payments for improvements. The project scope shall conform to the Act 57 of 1998, 61 Pa. C.S. §3751-3757 ("ACT 57") as amended under Act 77 of 2004, Act 39 of 2010 and Act 163 of 2016.

3.3 Profile of the School District

The School District of Lancaster ("the District" or "SDoL") is located in the center of Lancaster County in the southeastern corner of Pennsylvania. According to the United States Census Bureau, Lancaster County is the sixth most populous county in Pennsylvania, and the City of Lancaster is the eighth most populous of Pennsylvania's cities. The District encompasses an area of 13.5 square miles covering the City of Lancaster and Lancaster Township. The School District's boundaries are coterminous with Lancaster Township and the City of Lancaster. The City of Lancaster, located in the center of the School District is the county seat of Lancaster County and is located approximately forty-five miles south of Pennsylvania's Capital City of Harrisburg and seventy miles west of Philadelphia.

Established in 1836, it is the second-oldest inland school district in Pennsylvania. The district employs approximately 1,600 Administrative, Professional, and Support Staff. Our student population has decreased slightly to 10,400 students of whom 60% are Hispanic, 17% are African American, 13% are Caucasian and 10% are Asian and other ethnicities.

Our Mission Statement is "To ensure every child receives an excellent education." SDoL provides a comprehensive educational program for grades pre-kindergarten through twelve.

[END OF SECTION]

Section 4. CONTACTS AND RESPONSE INFORMATION

4.1 *Proposal Questions and Registration:*

Questions regarding this RFP should be directed to Renee Ortiz, Business & Operations Specialist, and received no later than 2:00 PM EST, February 2, 2024. Responses to questions will be provided on February 6, 2024, via addendum published to the [District's website](#). All questions must be submitted in writing; verbal inquiries will not be honored.

4.2 *Submission of Proposals:*

Proposals, including all required forms and documentation, shall be submitted electronically by email to rlortiz@sdlancaster.org, with "RFP 3708: Energy Performance Contracting Services" in the subject line.

Proposers, by their submission of a proposal, agree to conduct legally binding transactions by electronic means, within the meaning of the "Electronic Transactions Act," 73 P.S. 2260.101 et seq. ("ETA"). Electronic documents and records and electronic signatures shall be the equivalent of written documents and records and written signatures, pursuant to ETA. Neither the School District of Lancaster nor any of the participants make any representation or warranty concerning the reliability or security of any communication links, networks, or any data or information transmitted electronically, and neither the School District of Lancaster nor any of the participants shall be liable or responsible, in any manner, for any failure, interruption or breach of any communication link, network, or security measure.

If necessary, addenda to this RFP will be posted to the District's website (<https://sdlancaster.org/grow/bids-proposals/>). The District will make every effort to notify registered proposers when an addendum is posted; however, it is recommended that proposers check the District's website for all posted addenda prior to final submission. All proposers must confirm receipt of addenda by returning Attachment C, if addenda has been issued.

4.3 *Response Documentation:*

In addition to the proposal response, the following documentation must also be received:

- Form of Proposal (Attachment A)
- Non-Collusion Affidavit (notarization required) (Attachment B)
- Addendum Acknowledgement Form (if applicable) (Attachment C)
- Minority Business Enterprise Type (Attachment D)
- References (Attachment E)
- Pricing Summary (Attachment F)
- Federal Terms & Conditions for Grants (Attachment G)
- Item Spec Sheet (Appendix A)

4.4 *RFP Timeline:*

Deadline for Written Inquiries: February 2, 2024 at 2:00 PM EST

Response to Questions: February 6, 2024 by 5:00 PM EST

Proposal Submittal Deadline: February 15, 2024 at 2:00 PM EST

Anticipated Board Approval: March 19, 2024

[END OF SECTION]

Section 5. GENERAL TERMS & CONDITIONS

1. Ensure that your proposal complies with all requirements specified in this Request for Proposals. Attention to all clauses of these requirements is advised.
2. Complete all documents by printing neatly and legibly in pen or typing. Electronic documents must also be completed by typing into the appropriate spaces. Do not alter, delete or change any bid specifications or clauses in the bid documents.
3. Any variation in your proposal from the conditions and specifications as outlined in this Request for Proposal must be clearly stated, with the variation from specifications noted.
4. No rights shall accrue to any person submitting a proposal until such proposal has been accepted, contract awarded, and such contract finally and completely executed in writing.
5. The District reserves the right to retain all proposals regardless of selection.
6. No part of any work performed under this contract may be sub-contracted to other Contractors or individuals not included in the initial response to this RFP, without the prior written approval of the District.
7. The District is Tax-Exempt and a certificate will be provided to the successful proposer upon request.
8. It is understood that the Contractor is an independent contractor and not an officer, agent, or employee of the School District while complying with the terms and conditions of the Contract.
9. All data provided by the District to the successful proposer electronically or by other means are and remain the property of the School District of Lancaster. All data products generated by the successful proposer in executing the proposal as accepted by the Board of Directors shall become the property of the School District of Lancaster.
10. This is a Request for Proposal (RFP) and not a competitive bid. The use of the terms "bid", "bidding" or "bidder" herein shall not operate to require the District to award a contract to the lowest responsible and responsive respondent. To the contrary, the District retains the right to negotiate the price and other terms of the RFP with the respondent identified and chosen by the District.

[END OF SECTION]

Section 6. PROJECT SPECIFICATIONS & REQUIREMENTS

6.1 Project Specifications:

The RFP and contracting process has three phases:

- **RFP Phase:** Through this RFP, an ESCO will be identified based on written proposals; possible interviews with top ESCO candidates may be conducted along with a final reference check.
- **Construction/Implementation/Financing Phase:** An Energy Performance Contract will be developed to implement the negotiated and recommended projects, and signed by the District and the selected ESCO.
- **Commissioning/Guarantee/Monitoring Phase:** Upon completion of construction, the ESCO will offer a variety of services to ensure savings are met, such as a savings guarantee, staff training, and follow-up monitoring.

PHASE ONE: RFP

Review of Written Qualifications

Qualifications must be submitted as described in this RFP. An evaluation team will review the qualifications and select one ESCO that the District, in its sole discretion, determines best meets the needs of the District. The evaluation team will use the criteria listed in Section 6.3 - Evaluation Criteria. The District reserves the right to reject any or all proposals.

Final Selection

Final reference checks will be conducted with the apparent awardee (top-ranked ESCO) prior to making the final selection. The selected ESCO will be notified.

PHASE TWO: Construction/Implementation/Financing

Energy Performance Contract

Following successful completion of the technical audit, an Energy Performance Contract will be negotiated to implement the projects, and must be signed by the District and the ESCO. The contract must contain language allowing the District to terminate the contract if, in any fiscal year during the term of this contract, the District does not receive sufficient funds in its annual appropriations to make any payments required under the contract.

Sample Contract Documents

The successful ESCO shall be required to provide payment and performance bonds in the amount of one hundred percent (100%) of the total contract amount and will comply with all provisions of the Pennsylvania Prevailing Wage Act.

Equipment Compatibility or Standardization

All equipment installed that is comparable to similar equipment at the facilities shall offer compatibility with existing systems, and/or be of the same manufacturer for standardization of equipment District-wide, unless excepted by the District.

PHASE THREE: Commissioning/Guarantee/Monitoring

Savings Guarantee

The ESCO will guarantee the savings associated with the performance contract.

Staff Training

Training of building occupants and maintenance workers in energy conservation awareness is required.

Follow-Up Monitoring

The ESCO will provide annual energy audits that are based on the approved measurement and verification plan.

Excess Savings

One hundred percent (100%) of all energy and operational savings shall be retained by the District over the life of the contract.

6.2 Proposal Requirements:

ESCO Profile and Approach to Project

- Answer all questions or state “N/A” if not applicable
- Please number and re-state each subheading or question, followed by your response. This improves clarity and makes it much easier to evaluate your proposal.
- Number all pages.

1. Qualifications and Capability

a. General Firm Information

- Type of Firm (Corporation, partnership, sole proprietorship, joint venture)
- Year Firm Established – Number of years has your been in business under its present business name
- Other Firm Names – Indicate all other names by which your organization has been known and the length of time known by each name.
- Parent Company – If applicable, state name, address, former name it applicable, tax identification number
- Participating Division or Branch Offices – State division or branch offices that will participate in the development of the proposal, in its evaluation process, and/or in the conduct of any services provided (office name, and address).

b. Experience of Firm

- Years in Energy Business – State the number of years your firm has been involved in the energy-efficiency-related business. State the number of years your firm has offered performance contracting services.
- Number and Value of Contracts – Indicate the number of energy savings performance contracts at public sector facilities in Pennsylvania actually implemented by your firm, each year for the past 5 years. Indicate the associated dollar value.
- Full-Time Personnel – Indicate the number of full-time personnel employed by your firm.
- NAESCO Accreditation and other Pre-Qualifiers – Is your firm accredited by NAESCO (National Association of Energy Service Companies)?

c. Scope of Services

- Types of Services – Summarize the scope of services (auditing, design, construction, monitoring, operations, maintenance, training, financing, etc.) available from your firm.
- Expertise in Systems – Describe your ability to offer services to upgrade HVAC, controls, lighting, renewable, and other systems.
- Provision of Insurance – Generally describe your capability to secure insurance policies.

d. Financial Qualifications

- Financial Statement – Attach your firm’s most recent financial statement or annual report for each of the last three years. (Annual Report is exempt from the 30-page limit)

2. Experience and Expertise

a. Project History

- Briefly describe the number of energy savings performance contracts at public sector facilities in Pennsylvania actually implemented by your firm within the last five (5) years.
- Include the following information on each project (no preferred format):
 - Project Identification – Name of the project owner, type of project (K-12 School District, University, Community College, etc.), location (city, state)
 - Project Size – Total square footage and total contract amount.
 - List of Improvements – Type of retrofits and operational improvements related to energy, water, and other cost savings.
 - Savings – Summary of savings realized
 - Comments – Comment on any special features, services, and/or conditions, etc.
 - References – Names and contact information of owner representatives who can serve as references

b. Personnel Information

- Qualifications and Experience – Describe the number and quality of staff you currently have to conduct technical analysis, engineering design, construction management, construction,

training, and post-contract monitoring. If needed, refer to resumes in the “Site Specific Project Information” section.

3. Technical Approach

a. Design/Construction

- i. Engineering Design – Describe your firm’s approach to the technical design of this project
- ii. Standards of Comfort – Describe standards of comfort and functionality that are generally used for light levels, space temperature, ventilation rates, etc. in the intended facilities.

b. Engineering Analysis

- i. Baseline Calculation Methodology – Describe in detail the methodology your firm normally uses to compute the baseline of energy and water use as well as performance.
- ii. Adjustment to Baseline Methodology – Describe the method(s) used to adjust the energy, water, and O&M baseline due to such factors as weather and facility use changes. Describe factors that would necessitate adjustment. Address issues regarding buildings projected to have substantial changes in use.
- iii. Savings Calculations – List all procedures, formulas, and methodologies including special metering or equipment, which your firm will use to calculate energy, water, and O&M savings. Include assumptions made in the calculations.
- iv. Dollar Savings Calculations – Describe the procedure to assign dollar values to the savings. Include energy savings as well as maintenance, material, and operational savings.
- v. Cost Savings Guarantee Calculations – Describe your firm’s procedures and schedule for measuring the financial performance of projects. Describe how the guarantee provisions work in the event that project results vary from projections. Also, describe how excess savings can be documented.
- vi. Billing and Invoices – Describe your standard billing procedures and attach a sample invoice.

4. Performance Contracting Approach

a. Approach

- i. Differentiation of Your Firm – Describe particular characteristics of how your firm approaches performance contracting.
- ii. Management – Briefly describe your firm’s approach to project management.

b. Other Services

- i. Monitoring and Verification – Describe the methodology proposed for ongoing monitoring and savings verification of each recommended project’s performance, including the frequency of such efforts and preferred industry benchmarks.
- ii. Project Financing – Describe your firm’s preferred approach to providing or arranging financing for the proposed project. Describe the mechanics of the financing arrangement, including equipment ownership, responsibilities/liabilities of each party, security interest required and any special terms and conditions that may be associated with the financing of this project.

5. Site Specific Approach

a. Project Scope

- i. Types of Services – Summarize the firm’s methodology of scope of services (auditing, design, construction, monitoring, operations, maintenance, training, financing, etc.) offered for this project.
- ii. Benefits – Describe the specific benefits your firm is offering as part of this proposal.

b. Project Management

- i. Management Approach – Briefly describe your firm’s approach to managing this project.
- ii. Qualifications and Experience of Staff Assigned to this Project – Identify the individual(s) who will have primary responsibility for each task and phase of the project. List name, title, intended role, and responsibilities for the duration of the contract, educational background, specific qualifications related to role and responsibilities, past relevant experience, number of years of relevant experience, supervisory responsibilities if relevant, list of projects individual was associated with during the last five (5) years including type of project, project cost, résumé and home office location. Tasks and phases to address include technical analysis, engineering design, construction management, construction, training and post-contract monitoring. Indicate the percent of time each person is available to work on this

project. Include only those individuals who have direct responsibilities and roles in this project.

c. Technical and Construction Issues

- i. Construction Management – Describe how your firm will work with current building management and maintenance personnel in order to coordinate construction and avoid conflicts with the building’s operation and use. Describe your flexibility and/or any limitations regarding possible District activities such as: management of additional energy and water projects, monitoring of installation and performance of ESCO projects, integration of other identified capital needs with ESCO projects which may or may not contain energy and water saving opportunities.
- ii. Project Schedule – Propose a typical project schedule.

6. Cost and Pricing

a. Costs

- i. Describe other costs such as maintenance and monitoring agreements and describe how they may be applied. Also, point out if these are annual costs and if they are required each year of the contract.

b. Best Value

- i. Describe how your approach to performance contracting delivers best value for the investment. This is an opportunity to point out how your company may be able to deliver a more cost-effective overall project due to corporate structure, relationships with vendors, depth of experience and expertise, local relationships and experience, experience in similar types of facilities, knowledge of particular retrofits, etc.

6.3 Evaluation Criteria:

The criteria listed below, and any others identified in this RFP are deemed appropriate by the District, will be used to evaluate qualifications and possible subsequent interviews.

These criteria will be applied and interpreted solely at the discretion of the District. Qualifications should include all necessary information that is pertinent to these evaluation criteria. Additional information required for proper assessment of proposals may be requested from the ESCO at the discretion of the District.

The District makes no representations of any kind that an award will be made as a result of this RFP. The District reserves the right to accept or reject any or all Responses, waive any formalities or minor technical inconsistencies, or delete any items/requirements from this RFP when deemed to be in the District’s best interest.

The criteria are not ranked in order of importance.

1. Qualifications and Capability

- a. General Firm Information
- b. Experience of Firm
 - i. General experience in energy-related and performance contracting services.
- c. Scope of Services
 - i. Comprehensiveness of management, maintenance and monitoring service offered.
- d. Financial Qualifications
 - i. Financial soundness and stability of the ESCO. Completeness and strength (financial viability) of most recent annual financial statements.

2. Experience and Expertise

- a. Project History
 - i. Quality of past projects completed with respect to scope and documented savings. The Qualified Provider must have completed Energy Savings Performance Contracts at public sector facilities in Pennsylvania to be considered.
- b. Personnel Information
 - i. Qualifications and relevant experience of the staff in engineering, project management and other areas of importance.

- 3. Technical Approach**
 - a. Design/Construction
 - i. Overall engineering design approach and standards of comfort used.
 - b. Engineering Analysis
 - i. Methods used for baseline calculations, adjustments to baseline calculations, savings calculations, dollar savings calculations, cost savings guarantee calculations, and billing and invoices.
- 4. Performance Contracting Approach**
 - a. Approach
 - i. Differentiate your firm's approach to performance contracting and describe your firm's approach to project management.
 - b. Other Services
 - i. Overall monitoring and verification methods and preferred approach to financing.
- 5. Site-Specific Approach**
 - a. Project Scope
 - i. Types of services offered; opportunities available (energy, water, and operation and maintenance) including renewable technologies; and detail specific benefits your firm offers.
 - b. Project Management
 - i. Management approach and relevant qualifications of key personnel assigned to the project involved in technical auditing and design, project management and construction, with respect to the size, scope and building type of this project.
 - c. Technical and Construction Issues
 - i. Construction management, scheduling, operation and maintenance approach, approach to compatibility/openness/standardization of equipment, and standards of comfort.
- 6. Cost and Pricing**
 - a. Costs
 - i. Describe other costs that may be applied.
 - b. Best Value
 - i. Describe how your firm's approach to performance contracting delivers the best value for the investment.

The District reserves the right to reject any or all of the proposals in whole or in part and to accept the proposal, in whole or in part, that it, in its sole discretion, determines best serves the interest of the District.

[END OF SECTION]

Section 7. PROPOSAL AND CONTRACT REQUIREMENTS

1. **Submission of Proposals:** Proposals, including all required, documentation, shall be submitted as outlined in Section 4. All proposals will be accepted electronically on, or before, 2:00 PM EST, February 15, 2024.
2. **Preparation of Proposals:** Any response that alters the documented specification must be indicated on a separate piece of paper and attached to the bid response packet. All signatures must be in blue ink.
3. **Conflicts or Discrepancies:** Should a proposer find conflicts or discrepancies in the RFP documents, or should there be uncertainty as to the meaning or intent of any part thereof, or should there be conflicts between the RFP documents or specifications and any applicable laws or regulations, the bidder must, not later than seven (7) days prior to the submission deadline, request clarification in writing from the District. Failure to request clarification shall constitute a waiver of any claim by the proposer for expense or damages incurred as a result of a later interpretation of the RFP documents or specifications by the District.
4. **References:** Contractor is required to submit a minimum of three (3) references with locations and point of contacts for which a scope of work, similar in nature, was performed. Contractor is required to submit with its proposal, any third party participants/sub-contractors that will be performing on their behalf. Please note that insurance provisions will be applicable to any third-party participants/sub-contractors.
5. **Selection or Rejection of Proposals:** The District reserves the right to accept or reject any or all proposals or portion thereof and to waive informalities permitted by law. False, incomplete or unresponsive statements in connection with a proposal may be sufficient cause for its rejection. The District will consider the Applicant's prior experience, including past performance; personnel qualifications, including technical excellence; and management capability, including compliance with all state and statutory guidelines.
6. **Award Contract:** If any proposal is accepted, the contract(s) shall consist of this Request for Proposal, including all sections and attachments, the awarded vendor's completed proposal and response documentation, and all other completed attachments, along with any revisions, clarifications, error correction notices, and explanatory notes issued via addendum prior to submission deadline. Additionally, the District's Master Agreement for Services (Appendix A) will be required by the awarded agency. In the case of differing or contradictory contract language, the language providing the greatest benefit to the District shall take precedence. The District reserves the right to accept or reject any bid in whole or in part and/or to select one or more items from any bid. The contract shall be interpreted, construed and given effect in all respects according to the laws of the Commonwealth of Pennsylvania, without regard to conflicts of law principles.
7. **Term of Contract:** The initial term of the contract will commence upon execution of a signed contract and end on June 30, 2029. The contract may be renewed for successive one-year terms, beginning July 1, 2029, upon written agreement of both parties.
8. **Insurance Requirements:** Contractor (and any subcontractor) shall obtain and maintain insurance as follows, unless waived in writing by the District:
 - 8.1. **Automobile Liability:** Automobile Liability Insurance covering all owned, hired and non-owned vehicles in the amount of \$1,000,000 per occurrence with not more than \$1,000 per occurrence deductible or self-insurance retention.
 - 8.2. **Workers Compensation:** Workers Compensation Insurance, disability benefit and other social insurance as may be required by law.
 - 8.3. **Comprehensive General Liability:** Comprehensive General Liability insurance in the amount of \$1,000,000 per occurrence with not more than \$1,000 per occurrence deductible or self-insurance retention.
 - 8.4. **Excess (Umbrella) Liability:** Excess Liability coverage of \$1,000,000, unless waived by District.
 - 8.4.1. Except for Workers Compensation Insurance, District shall be named as certificate holder and a primary, non-contributory additional insured under such insurance coverage.
 - 8.4.2. Contractor shall submit insurance certificates ("Certificates") to School District evidencing required insurance coverage at the time of submission of this Agreement and at any other time(s) upon School District's reasonable request(s). Certificates evidencing the required insurance shall stipulate that School District shall receive thirty (30) days prior written notice of any change or cancellation in coverage. If

Contractor or any subcontractor fails to carry any insurance required by this Section, Contractor shall protect, indemnify and hold harmless School District in the same manner as if Contractor and/or such subcontractor had in full force and effect coverage in accordance with this Section.

8.4.3. Contractor shall comply with, and shall cause all subcontractors to comply with, all conditions of each insurance contract and all requirements of this Section.

9. **Indemnification:** In addition to the insurance requirements included as part of the specifications, the contractor shall also defend, indemnify and hold harmless the School District of Lancaster and its Boards of School Directors from and against any and all claims, suits judgments, and demands whatsoever, including without limitation to costs, litigation expenses, counsel fees, and liabilities with respect to injury to, or death of, any person or persons whatsoever, or damage to property of any kind by whosoever owned, arising out of or caused or claimed to have been caused in whole or in part by the acts or omissions of the contractor, its agents or employees, in the performance of the contract and further agrees to indemnify the District against any such claims allegedly caused in whole or in part, whether or not it be the fact, by reason or negligent instructions or directions given or purportedly given by any of the District representatives with respect to the performance of the contract.
10. **Termination:** The District may terminate or cancel any awarded contract(s) at any time, with or without cause, by providing seven (7) days advance written notice to the awarded vendor(s). If the awarded contract(s) is terminated in accordance with this paragraph, the awarded vendor(s) shall only be entitled to payment for goods or services delivered prior to the termination and not otherwise returned in accordance with the return policy of the awarded vendor(s). If the awarded vendor(s) was paid for goods not yet provided as of the date of termination, the awarded vendor(s) shall immediately refund such payment(s). If the District terminates any awarded contract(s) in accordance with this paragraph, the District shall retain all rights and remedies allowed by law.
11. **Default/Recourse:** In the event the successful Contractor fails or refuses to perform the work or services required, or any part thereof as provided in these specifications or to replace any which are rejected, then the Board of School Directors is authorized to immediately contract for the work or services in conformity with the contract from such party or parties in such quantities and in such manner as it shall select at the expense of the successful Contractor, or to immediately cancel the contract, reserving to itself nevertheless all rights for damages which may be incurred by the School District.
11. **Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms: The awarded vendor(s)** shall comply with the requirements of 2 C.F.R. § 200.321, addressing contracting with small and minority businesses, women's business enterprises, and labor surplus area firms. To that end, the awarded vendor(s) shall (i) place qualified small and minority businesses and women's business enterprises on solicitation lists; (ii) assure that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources; (iii) divide total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises; (iv) establish delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; (v) use the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and (vi) require that, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (i) through (v) of this Section 28.
12. **Debarment and Suspension:** Debarment and Suspension (Executive Orders 12549 and 12689). A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management ("SAM"), in accordance with the Office of Management and Budget, more commonly known as "OMB," guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1966 Comp. p. 189) and 12689 (3 CFR Part 1989 Comp. p. 235), "Debarment and Suspension." SAM exclusions contain 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. Bidder certifies that bidder is not currently listed on the government-wide exclusions in SAM, is not debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549. Awarded vendor(s) further agrees to notify the District immediately with pending purchases or seeking to purchase from awarded vendor(s) if awarded vendor(s) is later listed on the government-wide exclusions in SAM, or is debarred, suspended, or otherwise excluded by agencies or declared ineligible under statutory or regulatory authority other than Executive Order 12549.
13. **Byrd Anti-Lobbying Amendment:** Byrd Anti-Lobbying Amendment (31 USC 1352). Vendors 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 USC 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. As applicable, all bidders and awarded vendor(s) agree to file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 USC 1352).

14. **Right to Inventions Made Under a Contract or Agreement:** If District's federal award meets the definition of "funding agreement" under 37 CFR 401.2(a) and the recipient or sub recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance or experimental, developmental, or research work under that "funding agreement," the recipient or sub recipient 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. The awarded vendor(s) agrees to comply with the above requirements when applicable.
15. **Non-Discrimination Provision:** The contractor agrees to comply with the provisions of the Pennsylvania Human Relations Act in providing equal employment opportunities to those the contractor hires in connection with all work performed on behalf of the District. The contractor will not discriminate nor permit discrimination by its agents or employees against any employee or applicant for employment because of race, color, religion, age, or natural origin. The contractor will supply all compliance reports required by the Pennsylvania Human Relations Commission. Failure to comply with all requirements of the Governor's Code of Fair Practice (June 6, 1983) and the regulations of the Pennsylvania Human Relations Commission shall constitute a substantial breach of this contract and provide reason for termination upon written notice to the contractor.
16. **Standard Contract Conditions**
 - 16.1. The contract shall be governed in all respects as to validity, the construction, capacity, performance, or otherwise by the laws of the Commonwealth of Pennsylvania. Exclusive venue and jurisdiction for resolution of any disputes shall be by non-jury trial in the Lancaster County, Pennsylvania, Court of Common Pleas.
 - 16.2. Awarded Vendors providing services under a contract herewith assure District that they conform to the provisions of the Civil Rights Act of 1964, as amended.
 - 16.3. District is tax-exempt. State Sales and Use Tax Certificate of Exemption form will be issued upon request.
 - 16.4. Deliveries under the contract must be free of excise or transportation fees and taxes, except when such a fee or tax is included in the bid price and participants are not exempt from such levies.
 - 16.5. The awarded vendor shall comply with all applicable federal, state and local laws and regulations pertaining to wages, hours and conditions of employment. In connection with awarded vendor's performance of work under the contract, awarded vendor agrees not to discriminate against any employee(s) or applicant(s) for employment because of age, race, religious creed, sex, national origin, or handicap. Additionally, all applicable federal, state and local laws and regulations shall be deemed part of the contract and specifications, and the awarded vendor shall be responsible for compliance therewith.
 - 16.6. Product Protection Guarantees. School districts have "automatic" product protection recourse against suppliers for product safety. According to federal regulations, the supplier whose name and address appear on the package is the responsible party. Awarded vendors are expected to take immediate action to correct any situation in which product integrity is violated.
 - 16.7. Coupons. The awarded vendor(s) shall ensure all applicable coupons and rebate opportunities are made available to SDoL during the course of the contract term.
17. **Assignment:** The awarded vendor shall not assign the performance of the contract nor any portion thereof to any other person without written consent from the District.

[END OF SECTION]

ATTACHMENT A. FORM OF PROPOSAL

To: School District of Lancaster
Attn: Business Office
251 S. Prince Street, 3rd Floor
Lancaster, PA 17603

We, the undersigned, herewith propose and agree to furnish to the participants any item or items at the quoted price.

This proposal is subject to all the terms of the Request for Proposals, including all sections and attachments, and any revisions, clarifications, error correction notices, and explanatory notes issued via addendum prior to proposal opening, and we hereby agree to enter into a written contract to furnish such item(s), as may be awarded to us.

We understand that the School District of Lancaster reserves the right to reject any or all proposals or any portion thereof not deemed satisfactory, or to select single items from any bids.

The undersigned certifies to having read the Request for Proposal, including all sections and attachments, and any revisions, clarifications, error correction notices, and explanatory notes issued via addendum prior to bid opening and offers to furnish supplies and/or materials as specified to the District in exact accordance with these specifications and conditions at the prices stated on the attached forms and/or electronic proposal submission.

Date: _____

Name of Company: _____

Name & Title of authorized Bidder (printed):

Address: _____

Telephone: _____ Fax: _____

Email: _____

Authorized Signature: _____

ATTACHMENT B. NON-COLLUSION AFFIDAVIT

Bid/RFP Number: _____

State of: _____

County of: _____

I state that I am _____ (title) of _____ (Name of Firm) and that I am authorized to make this affidavit on behalf of my firm, and its owners, directors, and officers. I am the person responsible in my firm for the price(s) and the amount of this bid.

I state that:

1. The price(s) and amount of this bid have been arrived at independently and without consultation, communication or agreement with any other contractor, bidder or potential bidder.
2. Neither the price(s) nor the amount of this bid, and neither the approximate price(s) nor approximate amount of this bid, have been disclosed to any other firm or person who is a bidder or potential bidder, and they will not be disclosed before bid opening.
3. No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit a bid higher than this bid, or to submit any intentionally high or noncompetitive bid or other form of complementary bid.
4. The bid of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive bid.
5. _____ (Name of Firm), its affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not in the last three years been convicted or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as follows:

I state that _____ (Name of Firm) understands and acknowledges that the above representations are material and important, and will be relied on by School District of Lancaster in awarding the contract(s) for which this bid is submitted. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from School District of Lancaster of the true facts relating to the submission of bids for this contract.

Signature: _____

Name and Title: _____

SWORN TO AND SUBSCRIBED BEFORE ME

THIS _____ DAY OF _____, 20_____

Notary Public

My Commission Expires: _____

ATTACHMENT C. ADDENDUM ACKNOWLEDGEMENT FORM

Indicate below your confirmation of all addendums received for the above aforementioned bid. This document will become part of the bid documents and will need to be submitted with the balance of bid documentation.

We hereby confirm receipt of all addendums indicated below in response to RFP 3708: Energy Performance Contracting Services

ADDENDUM #1

Date_____

Signature_____

ADDENDUM #2

Date_____

Signature_____

ADDENDUM #3

Date_____

Signature_____

ATTACHMENT D. MINORITY BUSINESS ENTERPRISE TYPE

Indicate below if your organization is considered a minority business enterprise (MBE), as classified in Federal 2 C.F. R. 200.321. Additionally, indicate the MBE status of any suppliers or subcontractors which may be utilized in this proposal. This document will become part of the bid documents and will need to be submitted with the balance of bid documentation.

Vendor Name: _____

- ____ Minority-Owned
- ____ Women-Owned
- ____ Small Business
- ____ Section 8A
- ____ Disabled Veteran
- ____ HUB
- ____ Not Applicable

Supplier or Subcontractor _____

- ____ Minority-Owned
- ____ Women-Owned
- ____ Small Business
- ____ Section 8A
- ____ Disabled Veteran
- ____ HUB
- ____ Not Applicable

Supplier or Subcontractor _____

- ____ Minority-Owned
- ____ Women-Owned
- ____ Small Business
- ____ Section 8A
- ____ Disabled Veteran
- ____ HUB
- ____ Not Applicable

Date _____

Signature _____

ATTACHMENT E. REFERENCES

Provide three (3) recent references of similar size and requirements. Please include the following for each reference:

Reference 1	
Client Name:	
Contact Name:	
Contact Title:	
Contact Phone Number:	
Contact e-mail address:	
Contract Date:	
Description:	

Reference 2	
Client Name:	
Contact Name:	
Contact Title:	
Contact Phone Number:	
Contact e-mail address:	
Contract Date:	
Description:	

Reference 3	
Client Name:	
Contact Name:	
Contact Title:	
Contact Phone Number:	
Contact e-mail address:	
Contract Date:	
Description:	

ATTACHMENT F. FEDERAL TERMS & CONDITIONS FOR GRANTS

The following two (2) pages contain the rider for purchases funded, in whole or in part, by Federal funds.

The undersigned party submitting this proposal hereby accepts all of the Federal Terms & Conditions for Grants provided in Attachment G.

Name of Party Submitting Proposal: _____

Signature: _____

Name: _____

Title: _____

Date: _____

RIDER FOR PURCHASES FUNDED, IN WHOLE OR IN PART, BY FEDERAL FUNDS

The provisions set forth in this Rider apply to all purchases funded, in whole or in part, by Federal funds as required by 2 CFR 200.317.

I. PROCUREMENT OF RECOVERED MATERIALS

To the extent that the scope of work or specifications in the contract requires the contractor to provide any of the following items, this Section 7.1 of the Standard Terms and Conditions modifies the terms of the scope of work or specification.

Pursuant to 2 CFR 200.322, the contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6962. 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.

- A. Designated items are those set forth in 40 CFR 247 subpart B, as may be amended from time to time, including:
1. Paper and paper products listed in 40 C.F.R. 247.10;
 2. Certain vehicular products as listed in 40 CFR 247.11;
 3. Certain construction products listed in 40 C.F.R. 247.12;
 4. Certain transportation products listed in 40 C.F.R. 247.13;
 5. Certain park and recreation products, 40 C.F.R. 247.14;
 6. Certain landscaping products listed in 40 C.F.R. 247.15;
 7. Certain non-paper office products listed in 40 C.F.R. 247.16; and
 8. Other miscellaneous products listed in 40 C.F.R. 247.17.
- B. As defined in 40 CFR 247.3, "recovered material" means:
1. waste materials and byproducts which have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process; and
 2. for purposes of purchasing paper and paper products, means waste material and byproducts that have been recovered or diverted from solid waste, but such term does not include those materials and byproducts generated from, and commonly reused within, an original manufacturing process. In the case of paper and paper products, the term recovered materials includes:
 - a. Postconsumer materials such as -
 - i. Paper, paperboard, and fibrous wastes from retail stores, office buildings, homes, and so forth, after they have passed through their end-usage as a consumer item, including: used corrugated boxes; old newspapers; old magazines; mixed waste paper; tabulating cards; and used cordage; and
 - ii. All paper, paperboard, and fibrous wastes that enter and are collected from municipal solid waste, and
 - b. Manufacturing, forest residues, and other wastes such as -
 - i. Dry paper and paperboard waste generated after completion of the papermaking process (that is, those manufacturing operations up to and including the cutting and trimming of the paper machine reel in smaller rolls of rough sheets) including: envelope cuttings, bindery trimmings, and other paper and paperboard waste, resulting from printing, cutting, forming, and other converting operations; bag, box, and carton manufacturing wastes; and butt rolls, mill wrappers, and rejected unused stock; and
 - ii. Finished paper and paperboard from obsolete inventories of paper and paperboard manufacturers, merchants, wholesalers, dealers, printers, converters, or others;
 - iii. Fibrous byproducts of harvesting, manufacturing, extractive, or wood-cutting processes, flax, straw, linters, bagasse, slash, and other forest residues;
 - iv. Wastes generated by the conversion of goods made from fibrous material (that is, waste rope from cordage manufacture, textile mill waste, and cuttings); and
 - v. Fibers recovered from waste water which otherwise would enter the waste stream.

- C. For contracts in an amount greater than \$ 100,000, at the beginning of each contract year, contractor shall provide the State estimates of the total percentage of recovered material utilized in the performance of its contract for each of the categories listed in subsection (A). For all contracts subject to this Section 7.1 of the Standard Terms and Conditions, at the conclusion of each contract year, contractor shall certify to the State the minimum recovered material content actually utilized in the prior contract year.

II. EQUAL EMPLOYMENT OPPORTUNITY

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

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

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he/she 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/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said

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

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

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

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

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

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

III. DAVIS-BACON ACT, 40 U.S.C. 3141-3148, AS AMENDED

When required by Federal program legislation, all prime construction contracts in excess of \$ 2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the

Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

IV. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT, 40 U.S.C. 3701-3708

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

V. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

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

VI. CLEAN AIR ACT, 42 U.S.C. 7401-7671q, AND THE FEDERAL WATER POLLUTION CONTROL ACT, 33 U.S.C. 1251-1387, AS AMENDED

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

VII. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689)

A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the 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.

VIII. BYRD ANTI-LOBBYING AMENDMENT, 31 U.S.C. 1352

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