

**WHATCOM COUNTY CONTRACT  
INFORMATION SHEET**

Whatcom County Contract No.  
202107010

Originating Department:	Executive
Division/Program: (i.e. Dept. Division and Program)	Non Departmental
Contract or Grant Administrator:	T. Schroeder/T.Helms
Contractor's / Agency Name:	Housing Authority of the City of Bellingham

Is this a New Contract?	If not, is this an Amendment or Renewal to an Existing Contract?	Yes <input type="checkbox"/>	No <input type="checkbox"/>
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If Amendment or Renewal, (per WCC 3.08.100 (a)) Original Contract #:	

Does contract require Council Approval?	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If No, include WCC:
Already approved? Council Approved Date:	(Exclusions see: Whatcom County Codes 3.06.010, 3.08.090 and 3.08.100)		

Is this a grant agreement?			CFDA#:	
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	If yes, grantor agency contract number(s):		
Is this contract grant funded?			ARPA Funding	
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	If yes, Whatcom County grant contract number(s):		

Is this contract the result of a RFP or Bid process?			Contract Cost Center:	138100
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	If yes, RFP and Bid number(s):		

Is this agreement excluded from E-Verify?	No <input type="checkbox"/>	Yes <input checked="" type="checkbox"/>
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If YES, indicate exclusion(s) below:

<input type="checkbox"/> Professional services agreement for certified/licensed professional.	
<input type="checkbox"/> Contract work is for less than \$100,000.	<input type="checkbox"/> Contract for Commercial off the shelf items (COTS).
<input type="checkbox"/> Contract work is for less than 120 days.	<input type="checkbox"/> Work related subcontract less than \$25,000.
<input checked="" type="checkbox"/> Interlocal Agreement (between Governments).	<input type="checkbox"/> Public Works - Local Agency/Federally Funded FHWA.

Contract Amount:(sum of original contract amount and any prior amendments):	Council approval required for; all property leases, contracts or bid awards <b>exceeding \$40,000</b> , and professional service contract amendments that have an increase greater than \$10,000 or 10% of contract amount, whichever is greater, <b>except when:</b>
\$ 525,000	
This Amendment Amount:	
\$	
Total Amended Amount:	
\$	1. Exercising an option contained in a contract previously approved by the council.
	2. Contract is for design, construction, r-o-w acquisition, prof. services, or other capital costs approved by council in a capital budget appropriation ordinance.
	3. Bid or award is for supplies.
	4. Equipment is included in Exhibit "B" of the Budget Ordinance
	5. Contract is for manufacturer's technical support and hardware maintenance of electronic systems and/or technical support and software maintenance from the developer of proprietary software currently used by Whatcom County.

Summary of Scope: This agreement provides funding for the development of affordable housing for low-income households in Whatcom County.

Term of Contract:	23 Months	Expiration Date:	06/30/2023
Contract Routing:	1. Prepared by:	M Caldwell	Date: 7/14/21
	2. Attorney signoff:		Date:
	3. AS Finance reviewed:		Date:
	4. IT reviewed (if IT related):		Date:
	5. Contractor approved:		Date:
	6. Submitted to Exec.:		Date:
	7. Council approved (if necessary):		Date: 8/10/2021
	8. Executive signed:		Date:
	9. Original to Council:		Date:

WHATCOM COUNTY  
EXECUTIVE'S



Satpal Singh Sidhu

OFFICE  
311 Grand Avenue, Suite 108  
Bellingham, WA 98225

County Executive

## MEMORANDUM

**TO:** Satpal Sidhu, County Executive

**FROM:** Tyler Schroeder, Deputy Executive

**RE:** Housing Authority of the City of Bellingham –  
Samish Way Redevelopment Project, Phase 3 Interlocal Agreement

**DATE:** August 17, 2021

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Attached is an interlocal agreement between Whatcom County and Housing Authority of the City of Bellingham for your review and signature.

▪ **Background and Purpose**

The insufficient supply of affordable housing in Whatcom County has created housing instability for low-income households. The Housing Authority of the City of Bellingham is the developer of Samish Commons, which provides apartments to low-income households in Whatcom County. Phase 3 of the development of Samish Commons includes the construction of 49 new apartments which will be offered to low-income households and create an opportunity for households to secure stable housing. These low-income housing units are located in a Qualified Census Tract in accordance with the American Rescue Plan Act. This Agreement provides funding for the completion of the project.

▪ **Funding Amount and Source**

Funding for this Agreement may not exceed \$525,000 and is provided by the American Rescue Plan Act. With the adoption of Ordinance 2021-043, these funds are now included in the 2021 budget. Council approval is required per RCW 39.34.030(2) for agreements between public agencies.

Whatcom County Contract No.  
202107010

## Qualified Census Tract Low-Income Housing Interlocal Agreement

### I PARTIES

This Agreement is made by and between **Whatcom County** (hereinafter referred to as **the County**), and **the Housing Authority of the City of Bellingham** (hereinafter referred to as **the BHA**).

### II TERM

This Agreement takes effect on July 28, 2021 and shall continue in full force and effect until June 30, 2023, unless extended by mutual written agreement of both Parties or terminated in accordance with Section VIII of this Agreement.

### III PURPOSE

The purpose of this Agreement is to provide funding support for the Samish Way Redevelopment Project, Phase 3 (hereinafter referred to as **the Project**) using American Rescue Plan Act funds designated for such infrastructure development in Qualified Census Tracts. These funds will be used to complete the Project which will provide newly-constructed apartments for low-income households in Whatcom County.

### IV RECITALS

The Parties make this Agreement based on and in recognition of certain relevant facts and circumstances including:

A. The County has received American Rescue Plan Act (ARPA) funding. One of the goals of the ARPA is to serve the hardest-hit communities and families. One of the vehicles to do so is to invest in housing and neighborhoods through affordable housing development in Qualified Census Tracts (low-income areas as designated by the Department of Housing and Urban Development).

B. **BHA's** Samish Commons Project is located in a Qualified Census Tract (QCT) within the city limits of Bellingham and will provide 49 units of low-income housing upon completion.

C. Samish Way Family Housing LLLP, a Washington limited liability limited partnership will construct the Project (the Partnership). BHA is the general partner of the Partnership and the developer of the Project. The Project will be partially funded by a **\$525,000 grant to BHA from the County's ARPA Fund**, and the balance of the Project will be funded by BHA, the City of Bellingham, private equity and other sources. The Project improvements, when complete, will be owned and maintained by the Partnership.

D. RCW 82.14.540 defines affordable housing to include units that cost no more than 30% of gross household income for households earning no more than

60% of the area median income.

E. The County has designated the Whatcom County Housing Advisory Committee to be the committee that makes recommendations regarding use of County housing funds as part of the local response to challenges relating to homelessness and affordable housing.

F. The Whatcom County Housing Advisory Committee reviewed the project as presented at the June 10, 2021 meeting and voted unanimously to recommend supporting the project.

G. The Whatcom County Housing Advisory Committee has reviewed and recommended this project be supported with a grant in the amount of \$525,000.

H. The Whatcom County Council reviewed the recommendation and approved a grant to the **BHA** from the ARPA Fund in the amount of \$525,000.

## **V MUTUAL CONSIDERATION**

The parties do not intend to create any new or separate legal or administrative entity by this Agreement but intend for this mutual Agreement to govern the County's financial support for the Project. The terms and conditions contained herein reflect the voluntary participation of the parties.

A. **BHA RESPONSIBILITIES:** The BHA hereby agrees as follows:

- (i) If after the award of the construction contract, the scope of the Project or the Project budget has materially changed, the **BHA** shall provide the County the following updated documents: 1) a detailed description of the Project ; 2) a Project budget itemizing major improvements together with the estimated cost of the improvements; and 3) a schedule showing sources and uses of funding for the Project, if any of the aforementioned documents materially varies from those that were submitted with the **BHA's** application for funding.
- (ii) The **BHA** shall be responsible for all aspects of the design and construction of the Project.
- (iii) The **BHA** shall be responsible for all aspects of construction contract administration, which shall include, but not be limited to, advertising, bidding, and awarding the contract. The **BHA** will comply with all applicable laws, rules and regulations relating to bidding the Project. The County shall have no responsibility for the Project other than the funding set forth herein.
- (iv) The **BHA** shall provide the County with a final report showing the actual cost of the Project and the actual sources and uses of funding for the Project.
- (v) **BHA** shall comply with all terms and conditions of the American Rescue Plan Act as presented in Exhibit A.

- B. WHATCOM COUNTY'S RESPONSIBILITIES: The County hereby agrees as follows:
- (i) COUNTY GRANT—The County shall issue a grant to BHA for up to Five Hundred Twenty-Five Thousand Dollars and Zero Cents (\$525,000) for the Project described herein. This grant shall be reimbursed by County warrant drawn on the American Rescue Plan Act Fund and payable to the **BHA** upon approval of this agreement by the Whatcom County Council and the **BHA**, and pursuant to the terms contained in (ii), Payout of Grant Funding, below.
  - (ii) PAYOUT OF GRANT FUNDING—The County shall pay out the grant funding to the **BHA** up to a maximum of Five Hundred Twenty-Five Thousand Dollars and Zero Cents (\$525,000) of the total Project costs. This amount shall be paid in accordance with Exhibit B. Disbursements of grant funding shall be made contingent upon and subject to the continued commitment of the other Project funding sources, which may be subject to the adjustment at the approval of the County, such approval to not be unreasonably withheld.
  - (iii) Unless the parties to this agreement mutually agree in writing to modify the consideration, the funding identified herein is all the County is obligated to pay towards this Project from this funding source.

## VI RECORDS, REPORTS AND AUDITS

The **BHA** agrees to maintain such records, make such reports and follow such procedures pertaining to this Agreement as may be reasonably required by the County and as are typically maintained and made by the **BHA** in the undertaking of a project of this nature. All **BHA** records pertaining to this Agreement and the Project work shall be retained by the **BHA** for a period of five (5) years after final audit unless a longer period is required to resolve audit findings or litigation. The County and other authorized representatives of the State government shall have access to any books, documents, papers, and records of the **BHA** which pertain to this Agreement or the Project work for the purpose of making audit, examination, excerpts, and transcriptions.

## VII RELATIONSHIP OF PARTIES AND AGENTS

Neither the **BHA** nor the County shall have authority to execute contracts or to make commitments on behalf of the other, and nothing contained herein shall be deemed to create the relationship of employer and employee or principal and agent between the County and the **BHA**. This agreement does not create, either implicitly or explicitly, any right, duty or obligation that is not expressly provided for herein.

The **BHA** represents that it has or will secure at its own expense all personnel, contractors, and/or subcontractors required in order to perform the Project work. Such personnel shall not be employees of, or contractors with the County for purposes of the project described herein. All such personnel, contractors, and/or subcontractors shall be fully qualified (as determined by the **BHA** in its sole discretion) and authorized/permitted under State and/or local law to perform such services.

## **VIII TERMINATION**

If the **BHA** fails to comply with the terms and conditions of this Agreement, the County may pursue such remedies as are legally available, including, but not limited to, the termination or closeout of this Agreement in the manner specified herein:

- A. **TERMINATION FOR CAUSE**— If the **BHA** fails to comply with the terms and conditions of this Agreement, the County will give notice to the **BHA, the Partnership, and the Partnership's limited partners** in writing of its failure to comply. The **BHA, the Partnership, and the Partnership's limited partners** will be given thirty (30) days from date of notice to comply with the terms of the Agreement or submit a plan acceptable to the County to bring the **BHA** into compliance with the Agreement within a time period reasonably acceptable to the County. Failure to comply with the terms and conditions of this Agreement by either party shall constitute an event of default. In the event of default by the **BHA** and a failure by the **BHA or Partnership's limited partner** to cure as provided for herein, the County may take such remedial actions under the law as are available to cure the default, including the imposition of the reasonable costs of collection. In the event of default by the County, the **BHA, the Partnership, or Partnership's limited partner** may take such remedial actions under the law as are available to cure the default, including specific performance. A cure pursued by the Partnership's limited partner shall be accepted or rejected on the same basis as a cure by the Partnership or BHA.
- B. **TERMINATION FOR OTHER GROUNDS**—This Agreement may be terminated in whole or in part by mutual consent and written agreement between the parties, duly authorized and executed, setting forth the conditions of termination, including effective date and, in case of termination in part, that portion to be terminated.

## **IX COMPLIANCE WITH LAWS**

The County and the **BHA** shall comply with all applicable laws, ordinances, and codes of the Federal, State and local governments with regard to the performance of this Agreement.

## **X INTEREST OF MEMBERS OF THE COUNTY AND THE BHA**

No member of the governing body of either party and no other officer, employee, or agent of either party who exercises any functions or responsibilities in connection with the planning or carrying out of the Project shall have any personal financial interest, direct or indirect, in this Agreement.

**XI HOLD HARMLESS AND INDEMNITY**

To the extent permitted by law and with the exception of events arising from the gross negligence or willful misconduct of the county, the **BHA** shall indemnify and hold harmless the County, its officers, agents, and employees, from all liability, loss or damage, including costs of defense they may suffer as a result of third-party claims, demands, actions or judgments which result from the activities to be performed by the **BHA**, its agents, employees, or subcontractors pursuant to this Agreement.

**XII ASSIGNABILITY**

The BHA shall not assign any interest in this Agreement and shall not transfer any interest in this Agreement (whether by assignment or novation) without prior written consent of the County thereto, provided, however, that claims for money by the BHA from the County under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the County by the BHA.

**XIII NON-WAIVER**

The failure of either party to insist upon strict performance of any provision of this Agreement or to exercise any right based upon a breach thereof or the acceptance of any performance during such breach shall not constitute a waiver of any right under this Agreement.

**XIV CONTRACT MODIFICATIONS**

No modification or waiver of any clause or condition of this Agreement shall be binding upon either party unless such modification or waiver is in writing and duly authorized and executed by the County and the **BHA**.

**XV SEVERABILITY**

If any Portion of this Agreement is changed per mutual agreement or any Portion is held invalid, the remainder of this Agreement shall remain in full force and effect.

**XVI NOTICES**

Unless stated otherwise herein, all notices and demands shall be in writing and sent or hand-delivered to the parties to their addresses as follows:

**TO BHA and the Partnership:**

Housing Authority of the City of Bellingham  
Attn. Executive Director  
208 Unity Street  
Bellingham, WA 98225

**With a copy to:**

**Partnership's limited partner:**

RBC-Samish Way III, LLC  
c/o RBC Community Investments, LLC  
600 Superior Avenue  
Suite 2300  
Cleveland, Ohio 44114  
Attention: President and General Counsel

with a copy to:

Bocarsly Emden Cowan Esmail & Arndt LLP  
633 West Fifth Street, 64th Floor  
Los Angeles, California 90071  
Attention: Kyle Arndt, Esq.

**TO COUNTY:** Tyler Schroeder, Deputy Executive  
c/o Whatcom County Executive's Office  
311 Grand Avenue, Suite 108  
Bellingham, WA 98225

or to such other addresses as the parties may hereafter designate in writing. Notices and/or demands shall be sent by registered or certified mail, postage prepaid, or hand-delivered. Such notices shall be deemed effective when mailed or hand-delivered at the addresses specified above.

**XVII INTEGRATION**

This Agreement contains all terms and conditions to which the County and the **BHA** agreed, and this Agreement supersedes all of their previous understandings and agreements, written and oral, with respect to this grant transaction. There are no other oral or written agreements between the **BHA** and County as to the grant terms contained herein. No changes or additions to this Agreement shall be valid or

binding upon either party unless such change or addition be in writing, duly authorized and executed by both parties.

**XVIII GOVERNING LAW AND VENUE**

All questions of the validity, construction, and application of this Agreement shall be governed by the laws of the State of Washington. Venue for any suit between the parties arising out of this Agreement shall be the Superior Court of the State of Washington in and for Whatcom County, Washington.

**XIX RECORDING**

Upon execution of this agreement by the parties hereto, the County shall cause it to be posted on the county web site, or otherwise published pursuant to the requirement contained within RCW 39.34.040.

IN WITNESS WHEREOF, the County and the **BHA** have executed this Agreement as of the date and year last written below.

EXECUTED, this \_\_\_\_\_ day of <sup>8/17/2021</sup> \_\_\_\_\_, 2021, for the **BHA OF BELLINGHAM**:

DocuSigned by:  
  
Brien Thane, Executive Director

EXECUTED, this \_\_\_\_\_ day of 8/17/2021, 2021, for **WHATCOM COUNTY:**

WHATCOM COUNTY

DocuSigned by:  
Satpal Singh Sidhu 8/17/2021  
SATPAL SIDHU  
County Executive

APPROVED AS TO FORM

DocuSigned by:  
Chris Quinn 8/17/2021  
Christopher Quinn, Prosecuting Attorney Date

**Exhibit A  
SUBRECIPIENT AWARD**

Funding provided by U.S. Department of the Treasury grant CFDA Number 21.027 Coronavirus State and Local Fiscal Recovery Funds as authorized by Sections 602 and 603 of the Social Security Act as added by section 9901 of the American Rescue Plan Act of 2021, Public Law No. 117-2 (March 11, 2021)

BHA will comply with all applicable terms and conditions for Coronavirus State and Local Fiscal Recovery Funds as issued by the U.S. Department of the Treasury.

BHA will cooperate with the County concerning any requests for information related to this Project that may be needed for the County to fulfill its reporting obligations to U.S. Treasury.

**General information about this program can be found at:**

<https://home.treasury.gov/policy-issues/coronavirus/assistance-for-state-local-and-tribal-governments/state-and-local-fiscal-recovery-funds>

**Specific compliance requirements can be found in:**

Compliance and Reporting Guidance

<https://home.treasury.gov/system/files/136/SLFRF-Compliance-and-Reporting-Guidance.pdf>

Interim Final Rule (31 CFR 35), specifically housing investment in QCTs

<https://www.govinfo.gov/content/pkg/FR-2021-05-17/pdf/2021-10283.pdf>

FAQs (and all subsequent updates)

<https://home.treasury.gov/system/files/136/SLFRPFAQ.pdf>

**These funds are subject to:**

**Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 (the “Uniform Guidance”)**

**Single Audit Requirements.** Recipients and subrecipients that expend more than \$750,000 in Federal awards during their fiscal year will be subject to an audit under the Single Audit Act and its implementing regulation at 2 CFR Part 200, Subpart F regarding audit requirements.<sup>8</sup> Recipients and subrecipients may also refer to the Office of Management and Budget (OMB) Compliance Supplements for audits of federal funds and related guidance and the Federal Audit Clearinghouse to see examples and single audit submissions.

**Civil Rights Compliance.** Recipients of Federal financial assistance from the Treasury are required to meet legal requirements relating to nondiscrimination and nondiscriminatory use of Federal funds. Those requirements include ensuring that entities receiving Federal financial assistance from the Treasury do not deny benefits or services, or otherwise discriminate on the basis of race, color, national origin (including limited English proficiency), disability, age, or sex (including sexual orientation and gender identity), in accordance with the following authorities: Title VI

of the Civil Rights Act of 1964 (Title VI) Public Law 88-352, 42 U.S.C. 2000d-1 et seq., and the Department's implementing regulations, 31 CFR part 22; Section 504 of the Rehabilitation Act of 1973 (Section 504), Public Law 93-112, as amended by Public Law 93-516, 29 U.S.C. 794; Title IX of the Education Amendments of 1972 (Title IX), 20 U.S.C. 1681 et seq., and the Department's implementing regulations, 31 CFR part 28; Age Discrimination Act of 1975, Public Law 94-135, 42 U.S.C. 6101 et seq., and the Department implementing regulations at 31 CFR part 23.

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions:**

- The lower tier contractor certifies, by signing this contract that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- Where the lower tier contractor is unable to certify to any of the statements in this contract, such contractor will attach an explanation to this contract.
- The contractor further agrees by signing this contract that it will not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction.

**Clean Air Act**

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

**Federal Water Pollution Control Act**

- The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- The contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to U.S. Treasury, and the appropriate Environmental Protection Agency Regional Office.
- The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by ARPA funding.

**Anti-Lobbying (certifications required for all awards and subawards of \$100,000 or more)**

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

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

Contractors must sign and submit the following certification to the NFE with each bid or offer exceeding \$100,000:

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING  
Certification for Contracts, Grants, Loans, and Cooperative Agreements The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title

31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

DocuSigned by:  
*Brien Thane, Executive Director*  
183E9FA630B3463  
Signature of Contractor's Authorized Official

Brien Thane, Executive Director  
Name and Title of Contractor's Authorized Official

8/17/2021  
Date

**Prohibition on Contracting for Covered Telecommunications Equipment or Services**

(a) Definitions. As used in this clause, the terms backhaul; covered foreign country; covered telecommunications equipment or services; interconnection arrangements; roaming; substantial or essential component; and telecommunications equipment or services have the meaning as defined in FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds for Covered Telecommunications Equipment or Services (Interim), as used in this clause—

(b) Prohibitions.

- (1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- (2) Unless an exception in paragraph (c) of this clause applies, the contractor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the Federal Emergency Management Agency to:

- (i) Procure or obtain any equipment, system, or service that uses covered

- (ii) telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (ii) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
- (iii) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
- (iv) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

- (1) This clause does not prohibit contractors from providing—
  - (i) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or Contract Provisions Guide 28
  - (ii) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.
- (2) By necessary implication and regulation, the prohibitions also do not apply to: (i) Covered telecommunications equipment or services that:
  - (i) Are not used as a substantial or essential component of any system; and ii. Are not used as critical technology of any system.
  - (ii) Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) Reporting requirement.

- (1) In the event the contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the contractor is notified of such by a subcontractor at any tier or by any other source, the contractor shall

report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

- (2) The Contractor shall report the following information pursuant to paragraph (d)(1) of this clause:
- (i) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
  - (ii) Within 10 business days of submitting the information in paragraph (d)(2)(i) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the contractor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The Contractor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

### **Domestic Preference for Procurements**

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

**Exhibit B**  
(Financial Commitment)

Funding, in the amount of \$525,000 will be disbursed to the Housing Authority of the City of Bellingham (BHA). Funding will be provided by the American Rescue Plan Act Fund.

BHA will send invoices for Project expenses to:

Whatcom County Executive Office  
311 Grand Ave, Suite 108  
Bellingham, WA 98225

Invoices will include copies of receipts or paid invoices and reference the Whatcom County assigned interlocal agreement number.

Funds will be made available by immediately upon execution of this Agreement and will be disbursed within 30 days following receipt of invoice and for reimbursement of Project expenses only.

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