



Cooperative Contract Due Diligence Sheet

Lead Public Agency: Fairfax County, Virginia

Solicitation Method: [RFP 2000002547](#)

Contract Number: [Contract 4400008468](#) - Safeware, Inc. & Mallory Safety and Supply LLC.

Contract Term: 5-year initial term, October 1, 2018 to September 30, 2023

Available Extensions: Option to renew for (5) additional (1) year periods

Frequently Asked Questions:

- Uniform Guidance (2CFR200) Compliance?
 - This contract was competitively solicited and awarded in 2018. All Uniform Guidance requirements took effect on new solicitations on December 26, 2017 at the latest. This contract was competitively solicited by Fairfax County according to their 2CFR200 requirements (additional clarifications on pages 104-115 of the RFP and included here as Appendix I)
- FEMA/Grant Language?
 - All contracts competitively solicited by a lead public agency and available through the U.S. Communities cooperative program included federal language (pages 100-103 of the solicitation, included here as Appendix F). This language can be enhanced by providing additional requirement as allowed by applicable state law through the Master Intergovernmental Cooperative Purchasing Agreement (Appendix B of the RFP) by which the contracts are accessed by other agencies.
- Solicitation Advertisement
 - This contract was solicited nationwide to meet multiple state and local requirements across the country. Some examples of advertisement include but are not limited to ONVIA/DemandStar, The New York State Contract Reporter, Maricopa County, AZ/Bidsync, Canadian Merx Public Tenders, State of Hawaii, State of Washington, State of Oregon, State of Louisiana, Cobb County, GA, City of Kansas City, MO, U.S. Communities upcoming Solicitations, and Fairfax County, VA.
- Minority/Disadvantaged Business Consideration
 - Non-discrimination terms were included and evaluated during the RFP process as well as the Minority Business Enterprise Program documents by Fairfax County (Included below from Appendix C & D of the RFP).
- Award Evaluation
 - Fairfax County, VA received 9 responses, and 5 were responsive and responsible. Evaluation results are listed below (Scoring Summary Attachment C)

- Contract Pricing
 - Fairfax County wanted to award this contract with a uniform discount pricing schedule to make price verification easier across thousands of manufacturer offerings through Safeware/Mallory (Safeware in 38 Easternmost States/Mallory in 12 Western states including Hawaii and Alaska). The contract was awarded at a 41% discount off Safeware List Price (not Manufacturer Suggested Retail Price) and 10% discount off Safeware List Price for Services. Safeware keeps an approved manufacturer list current with Fairfax County. (See attached Memorandum of Negotiations)
- Scope of Award
 - This contract is a sole award to Safeware/Mallory based upon the solicitation response encompassing the full product and service offering of Safeware/Mallory. (see Acceptance Agreement from Fairfax County, VA)
 - Some General Categories were provided as:
 - General Product Categories:
 - 1. Personal Protective Equipment (PPE)
 - 2. Explosive Device Mitigation and Remediation Equipment
 - 3. Environmental Monitoring
 - 4. CBRNE Search & Rescue Equipment
 - 5. Interoperable Communications Equipment
 - 6. Detection Equipment
 - 7. Decontamination Equipment
 - 8. Hazardous Materials Storage
 - 9. Spill Control and Containment
 - 10. Physical Security Enhancement Equipment
 - 11. Surveillance, Warning, Access/Intrusion Control
 - 12. Explosion Protection
 - 13. Fire and Emergency Response
 - 14. Traffic Safety
 - 15. Facility Safety and Maintenance
 - 16. Fall protection and Confined Space
 - 17. Medical and First Aid Supplies
 - 18. CBRNE Reference Materials
 - 19. Automated External Defibrillators (AEDs)
 - 20. Ammunition/Less than Lethal Munitions
 - 21. Civil Disturbance Gear
 - 22. Dive Gear/Underwater Recovery/Water Safety
 - 23. Police Fleet Management Products
 - 24. Law Enforcement Software
 - 25. Public Safety Aviation- Helicopters
 - 26. Public Safety Uniforms
 - 27. Vehicles
 - 28. Trainers and Training Equipment
 - 29. Vending Solutions
 - 30. Related Services
 - 31. Other Non-Listed Public Safety, Law Enforcement and Fire Equipment

By way of example only, and without the intent to limit the broad category of Public Safety and Emergency Preparedness Equipment and Related Services that might be available from potential offerors, a more detailed listing of the above referenced categories is shown on ATTACHMENT A

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FEMA STANDARD TERMS AND CONDITIONS ADDENDUM
FOR CONTRACTS AND GRANTS

If any purchase made under the Master Agreement is funded in whole or in part by Federal Emergency Management Agency (“FEMA”) grants, Contractor shall comply with all federal laws and regulations applicable to the receipt of FEMA grants, including, but not limited to the contractual procedures set forth in Title 44 of the Code of Federal Regulations, Part 13 (“44 CFR 13”).

In addition, Contractor agrees to the following specific provisions:

1. Pursuant to 44 CFR 13.36(i)(1), County is entitled to exercise all administrative, contractual, or other remedies permitted by law to enforce Contractor’s compliance with the terms of this Master Agreement, including but not limited to those remedies set forth at 44 CFR 13.43.
2. Pursuant to 44 CFR 13.36(i)(2), County may terminate the Master Agreement for cause or convenience in accordance with the procedures set forth in the Master Agreement and those provided by 44 CFR 13.44.
3. Pursuant to 44 CFR 13.36(i)(3)-(6)(12), and (13), Contractor shall comply with the following federal laws:
 - a. Executive Order 11246 of September 24, 1965, entitled “Equal Employment Opportunity,” as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor (“DOL”) regulations (41 CFR Ch. 60);
 - b. Copeland “Anti-Kickback” Act (18 U.S.C. 874), as supplemented in DOL regulations (29 CFR Part 3);
 - c. Davis-Bacon Act (40 U.S.C. 276a-276a-7) as supplemented by DOL regulations (29 CFR Part 5);
 - d. Section 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by DOL regulations (29 CFR Part 5);
 - e. Section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR part 15); and
 - f. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).
4. Pursuant to 44 CFR 13.36(i)(7), Contractor shall comply with FEMA requirements and regulations pertaining to reporting, including but not limited to those set forth at 44 CFR 40 and 41.
5. Pursuant to 44 CFR 13.36(i)(8), Contractor agrees to the following provisions regarding patents:
 - a. All rights to inventions and/or discoveries that arise or are developed, in the course of

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or under this Agreement, shall belong to the County and be disposed of in accordance with County policy. The County, at its own discretion, may file for patents in connection with all rights to any such inventions and/or discoveries.

6. Pursuant to 44 CFR 13.36(i)(9), Contractor agrees to the following provisions, regarding copyrights:

a. If this Agreement results in any copyrightable material or inventions, in accordance with 44 CFR 13.34, FEMA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, for Federal Government purposes:

- (1) The copyright in any work developed under a grant or contract; and
- (2) Any rights of copyright to which a grantee or a contractor purchases ownership with grant support.

7. Pursuant to 44 CFR 13.36(i)(10), Contractor shall maintain any books, documents, papers, and records of the Contractor which are directly pertinent to this Master Agreement. At any time during normal business hours and as often as County deems necessary, Contractor shall permit County, FEMA, the Comptroller General of United States, or any of their duly authorized representatives to inspect and photocopy such records for the purpose of making audit, examination, excerpts, and transcriptions.

8. Pursuant to 44 CFR 13.36(i)(11), Contractor shall retain all required records for three years after FEMA or County makes final payments and all other pending matters are closed. In addition, Contractor shall comply with record retention requirements set forth in 44 CFR 13.42.

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COMMUNITY DEVELOPMENT BLOCK GRANT ADDENDUM

Purchases made under this contract may be partially or fully funded with federal grant funds. Funding for this work may include Federal Funding sources, including Community Development Block Grant (CDBG) funds from the U.S. Department of Housing and Urban Development. When such funding is provided, Contractor shall comply with all terms, conditions and requirements enumerated by the grant funding source, as well as requirements of the State statutes for which the contract is utilized, whichever is the more restrictive requirement. When using Federal Funding, Contractor shall comply with all wage and latest reporting provisions of the Federal Davis-Bacon Act. HUD-4010 Labor Provisions also applies to this contract.

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UNIFORM ADMINISTRATIVE REQUIREMENTS

By entering into this Contract the Contractor agrees to comply with all applicable provisions of Title 2, Subtitle A, Chapter II, PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS contained in Title 2 C.F.R. § 200 et seq.

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Federal Grant Terms and Conditions

1. **Civil Rights Requirements – 29 U.S.C. § 62, 42 U.S.C. § 2000, 42 U.S.C. § 602, 42 U.S.C. § 12112, 42 U.S.C. § 12132, 49 U.S.C. § 5332**
 - a. **Nondiscrimination** – In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and all other provisions of Federal law, the CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the CONTRACTOR agrees to comply with applicable Federal implementing regulations.
 - b. **Equal Employment Opportunity** – The following equal employment opportunity **requirements** apply to the underlying contract:
 1. **Race, Color, Creed, National Origin, Sex** – In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, the CONTRACTOR agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note), and with any applicable Federal Statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of this Project. The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, creed, national origin, sex, or age. 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. In addition, the CONTRACTOR agrees to comply with any implementing requirements the funding federal agency may issue.
 2. **Age** – In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and other applicable law, the CONTRACTOR agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the CONTRACTOR agrees to comply with any implementing requirements the funding federal agency may issue.
 3. **Disabilities** – In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the CONTRACTOR agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the CONTRACTOR agrees to comply with any implementing requirements the funding federal agency may issue.
 - c. The CONTRACTOR also agrees to include these requirements in each subcontract financed in whole or in part with Federal Assistance, modified only if necessary to identify the affected parties.

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2. Energy Conservation - 42 U.S.C. 6321 et seq.

The CONTRACTOR agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

3. Davis-Bacon Act**Minimum wages.**

- i. All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project], will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof] due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly] under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a) (1) (ii) of this section] and the Davis-Bacon poster (WH1321] shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

- ii. The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - a. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - b. The classification is utilized in the area by the construction industry; and
 - c. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- iii. If the contractor and the laborers and mechanics to be employed in the classification (if known], or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate], a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every

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additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

- iv. In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- v. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a) (1) (ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
 - a. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
 - b. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

Withholding. Fairfax County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

Payrolls and basic records.

- i. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act], daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages

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of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

- ii. The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency] if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency]. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee [e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- a. That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(h) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a) (3) (i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
- b. That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- c. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of

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Compliance" required by paragraph (a) (3) (ii) (B) of this section.

The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

- iii. The contractor or subcontractor shall make the records required under paragraph (a) (3) [i] of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

Apprentices and trainees—

- i. **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- ii. **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and

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individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered

program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- iii. **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5 [a] (1) through [10] and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

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Certification of eligibility.

- i. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- ii. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- iii. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

4. Contract Work Hours and Safety Standards Act. The Agency Head shall cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by § 5.5(a) or 4.6 of part 4 of this title. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

- i. **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- ii. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.
- iii. **Withholding for unpaid wages and liquidated damages.** The County of Fairfax shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.
- iv. **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

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In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in § 5.1, the Agency Head shall cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Agency Head shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

5. Recycled Products – 42 U.S.C. 6962

The Recycled Products requirements apply to all contracts for items designated by the EPA, when the County or the CONTRACTOR procures \$10,000 or more of one of these items during the fiscal year, or has procured \$10,000 or more of such items in the previous fiscal year, using federal funds.

The CONTRACTOR agrees to comply with all requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

6. Clean Water Requirements – 33 U.S.C. 1251 et seq.

- i. The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended. 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 appropriate federal agencies including the appropriate EPA Regional Office.
- ii. The CONTRACTOR also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance.

7. Clean Air – 42 U.S.C. 7401 et seq.

The Clean Air requirements apply to all contracts exceeding \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year.

- i. 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 the funding federal agency, if any, and the appropriate EPA regional office.
- ii. The CONTRACTOR also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance.

8. Program Fraud and False or Fraudulent Statements and Related Acts – 31 U.S.C. 3801 et seq.

- a. The CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et. seq. and all appropriate federal agency regulations apply to its actions pertaining to this Project. Upon execution of the underlying contract, the

APPENDIX I

CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract of the Federally assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the CONTRACTOR further acknowledges that if it makes, or caused to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONTRACTOR or to the extent the Federal Government deems appropriate.

- b. The CONTRACTOR also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance, the Federal Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the CONTRACTOR, to the extent the Federal Government deems appropriate.
- c. The CONTRACTOR agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to the provisions.

9. Patent and Rights in Data

A. Rights in Data - The following requirements apply to each contract involving experimental, developmental or research work:

(1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

- (a) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.
 - 1. Any subject data developed under that contract, whether or not a copyright has been obtained; and
 - 2. Any rights of copyright purchased by the Purchaser or CONTRACTOR using Federal assistance.

B. Patent Rights - The following requirements apply to each contract involving experimental, developmental, or research work:

[1] General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that

APPENDIX I

invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and CONTRACTOR agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until the Federal funding agency is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the CONTRACTOR status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the CONTRACTOR agree to take the necessary actions to provide, through the Federal funding agency, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The CONTRACTOR also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

10. 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.

11. Interest of Members of Congress

No member of or delegates to the Congress of the United States shall be admitted to a share or part of this Contract or to any benefit arising there from.

12. 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.

APPENDIX I

BYRD ANTI-LOBBYING CERTIFICATION

31 U.S.C. 1352 et seq.

(To be submitted with each bid or offer exceeding \$100,000)

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 and Federal contract, grant, loan, or cooperative agreement.
2. If any funds or than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to 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 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 [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]
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 by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). 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.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The CONTRACTOR, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the CONTRACTOR understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Printed Name of
Representative: _____

Signature/Date: _____

Company Name: _____

Address: _____

City/State/Zip: _____

SSN or TIN No: _____

APPENDIX C

General Conditions and Instructions to Bidders

dependent upon the same action. If such an appropriation is not made for any fiscal year, the contract shall terminate effective at the end of the fiscal year for which funds were appropriated and the County will not be obligated to make any payments under the contract beyond the amount appropriated for payment obligations under the contract. The County will provide the

Contractor with written notice of non-appropriation of funds within thirty (30) calendar days after action is completed by the Board of Supervisors. However, the County's failure to provide such notice will not extend the contract into a fiscal year in which sufficient funds have not been appropriated.

34. **DELIVERY/SERVICE FAILURES:** If a Contractor (i) fails to deliver goods or services within the time specified or within a reasonable time as interpreted by the Purchasing Agent; or (ii) fails to make replacements or corrections of rejected articles or services when so requested, immediately or as directed by the Purchasing Agent, then the Purchasing Agent shall have the authority to purchase in the open market goods or services of comparable grade or quality to replace goods or services not delivered or rejected. On all such purchases, the Contractor shall reimburse the County, within a reasonable time specified by the Purchasing Agent, for any expense incurred in excess of contract prices. Such purchases shall be deducted from the contract quantities if applicable. Should public necessity demand it, the County reserves the right to use or consume articles delivered or services performed which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Agent.
35. **NON-LIABILITY:** The Contractor shall not be liable in damages for delay in shipment or failure to deliver when such delay or failure is the result of fire, flood, strike, the transportation carrier, act of God, act of Government, act of an alien enemy or by any other circumstances which, in the Purchasing Agent's opinion, are beyond the reasonable control of the Contractor. Under such circumstances, however, the Purchasing Agent may, at her discretion terminate the contract.
36. **NON-DISCRIMINATION:** During the performance of this contract, the Contractor agrees as follows:
- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.
 - b. The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
 - d. The Contractor will include the provisions of the foregoing paragraphs a, b, and c above in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.
 - e. Contractor shall, throughout the term of this contract, comply with the Human Rights Ordinance, Chapter 11 of the Code of the County of Fairfax, Virginia, as reenacted or amended. Contractor shall further require that all of its subcontractors will comply with the Human Rights Ordinance, Chapter 11 of the Code of the County of Fairfax, Virginia, as reenacted or amended.
37. **SMALL, WOMEN-OWNED, AND MINORITY-OWNED BUSINESS USE:**
- a. It is the declared policy of the County of Fairfax, through its Small and Minority Business Enterprise Program, that Fairfax County and its employees undertake every effort to increase opportunity for use of small or minority businesses in all aspects of procurement to the maximum extent feasible.
 - b. Where it is practicable for any portion of the awarded contract to be subcontracted to other suppliers, the contractor is encouraged to offer such subcontracting opportunities to small, women and minority businesses.
 - c. Where Federal grants or monies are involved, it is the policy of Fairfax County, through its agents and employees, to comply with the requirements set forth in the 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, as they pertain to small and minority business use.

APPENDIX D



COUNTY OF FAIRFAX
DEPARTMENT OF PROCUREMENT & MATERIAL MANAGEMENT
SMALL AND MINORITY BUSINESS ENTERPRISE PROGRAM
12000 Government Center Parkway, Suite 427
Fairfax, Virginia 22035-0013
Fax: 703-324-3228

SUBCONTRACTOR (S) NOTIFICATION FORM

Solicitation/Contract Number/Title: _____

Prime Contractors Name: _____

Prime Contractor's Classification: _____

In accordance with the Subcontracting paragraph of the Special Provisions for the above-cited solicitation, you are required to provide the County with names, addresses, anticipated dollar amount and small/minority classification of each first-tier subcontractor. Please complete this form and return it to this office with your submission.

Please check here if you are not using a subcontractor: _____

SUBCONTRACTOR(S) NAME	STREET ADDRESS	CITY	STATE	ZIP CODE	ANTICIPATED DOLLAR AMOUNT	VENDOR CLASSIFICATION

Complete and return this form with your proposal.

APPENDIX D

BUSINESS CLASSIFICATION SCHEDULE

PLEASE CLASSIFY YOUR BUSINESS/ORGANIZATION BY MARKING IN STEP 1. STEP 2 IS OPTIONAL. This designation is required of all business/organizations including publicly traded corporations, non-profits, sheltered workshops, government organizations, partnerships, sole proprietorships, etc. Fairfax County does not certify business classifications nor does it establish preferences or set-asides for specific classifications.

Examples:

- A small Asian women-owned business would mark "Small" in Step 1, then "Women-Owned" and "Minority-Owned" in Step 2
- A small, service-disabled veteran and women-owned business would mark "Small" in Step 1, then "Women-Owned" and "Service-Disabled Veteran-Owned" in Step 2
- A government agency/public body would ONLY mark "Government Agency/Public Body" in Step 1.

Step 1: Please indicate the classification of your business/organization. Select ONLY one (1) option.				
<input type="checkbox"/> Small	<input type="checkbox"/> Large	<input type="checkbox"/> Non-Profit	<input type="checkbox"/> Government Agency/Public Body	<input type="checkbox"/> Shelter Workshop
Step 2 (OPTIONAL): Please indicate what type of ownership your business/organization consists of. You may choose MORE than one (1) option.				
<input type="checkbox"/> Women-Owned	<input type="checkbox"/> Minority-Owned	<input type="checkbox"/> Service-Disabled Veteran-Owned		

DEFINITIONS

Small Business/Organization – "Small business" means a business that is at least 51% independently owned and controlled by one or more individuals who are U.S. citizens or legal resident aliens, and together with affiliates, has 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged over the previous three years. One or more of these individual owners shall control both the management and daily business operations of the small business.

Minority Business – is a business concern that is at least 51% owned by one or more minority individuals or in the case of a corporation, partnership or limited liability company, or other entity, at least 51% of the equity ownership interest in the corporation, partnership or limited company or other entity is owned by one or more minority individuals and both the management and daily business operations are controlled by one or more minority individuals. Such individuals shall include Asian American, African American, Hispanic American, Native American, Eskimo, or Aleut.

Women-Owned Business – a business concern that is at least 51% owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership or limited company or other entity, at least 51% of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women who are U.S. citizens or legal resident aliens.

Service-Disabled Veteran – means a veteran who (i) served on active duty in the United States military ground, naval, or air service, (ii) was discharged or released under conditions other than dishonorable, and (iii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

Service-Disabled Veteran-Owned Business – is a business that is at least 51 percent owned by one or more service-disabled veterans or, in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more individuals who are service-disabled veterans and both the management and daily business operations are controlled by one or more individuals who are service-disabled veterans.

Shelter Workshop – a private non-profit, state, or local government institution that provides employment opportunities for individuals who are developmentally, physically, or mentally impaired, to prepare for gainful work in the general economy. These services may include physical rehabilitation, training in basic work and life skills (e.g., how to apply for a job, attendance, personal grooming, and handling money), training on specific job skills, and providing work experience in the workshop.

PROCUREMENT COMPLIANCE QUESTIONNAIRE

ATTACHMENT C
SCORING SUMMARY



County of Fairfax, Virginia

MEMORANDUM

DATE: April 23, 2018

TO: Jamie Pun, Contract Specialist II
Department of Procurement and Material Management

FROM: Kevin Burns, SAC Chair

SUBJECT: Recommendation for Award: RFP 2000002547, Public Safety and Emergency Preparedness Equipment and Related Services

Request for Proposal 2000002547, Public Safety and Emergency Preparedness Equipment and Related Services, closed on March 13, 2018 at 2:00 p.m. The Department of Procurement and Material Management (DPMM) distributed copies of the technical proposals to the four (4) Selection Advisory Committee (SAC) for review and evaluation. The SAC evaluation was based on the criteria cited in the RFP's Special Provisions, paragraph 16, entitled Basis for Award. A summary of the technical proposal evaluation can be seen below out of a possible 60 points:

• Safeware & Mallory	56.75
• Federal Resources	55.50
• TSSi	51.25
• WatchGuard	33.25
• Strack	29

The SAC requested the cost proposals for the top two (2) offerors for review and evaluation from the contract specialist. Pricing was evaluated using a market basket of most commonly ordered items. Mismatches and substituted items that were not comparable were removed from the analysis. The contract specialist distributed the copies to the SAC and the summary of the cost proposal evaluation can be seen below out of a possible 40 points.

• Safeware & Mallory	40 score
• Federal Resources	39.20 score

The composite scores of both the Technical and Cost Proposal can be seen below out of a possible 100 points:

• Safeware & Mallory	96.75
• Federal Resources	94.70

The SAC conducted phone interviews with each of the finalists, reviewing a list of clarification questions about their proposal with each one. After the written answers to these

clarification questions were received, each of the SAC members had the option to review their scores. No changes were made to the scoring matrix. It was determined at this point that Federal Resources had incorrectly priced their market basket items, providing additional discounting for market basket items, which resulted in their prices looking lower than they actually ~~were~~ proposed.

The SAC decided to enter into negotiations with the top two (2) offerors from the composite scores of the technical and cost proposal. The SAC chairperson forwarded the negotiations points and requested that negotiations be done in written form.

The SAC negotiation letters can be found in the file. Federal Resources was asked to reprice their market basket and each proposer was asked for their BAFO.

The SAC would like to recommend for award a single contract with Safeware & Mallory for all product categories in the RFP. The below lists characteristics of the proposals submitted by the top two (2) offerors.

- Safeware & Mallory
 - Comprehensive offering
 - Most advantageous pricing
 - Full nationwide coverage
 - Positive references
 - Ecommerce rebates
 - Volume rebates
 - Experience working with all types of agencies across the country
- Federal Resources
 - Comprehensive offering
 - Nationwide coverage
 - Pricing is not as competitive
 - Positive references
 - No rebates offered
 - Very little experience working with state and local governments

Thank you for your consideration in this matter. Please let me know if you have any questions.



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

Date of Award: **JUN - 7, 2018**

Safeware, Inc.
4403 Forbes Blvd
Lanham, MD 20706

Attention: Rick Bond, Vice President of Sales

Reference: RFP2000002547; Public Safety and Emergency Preparedness Equipment and Related Services

Dear Mr. Bond:

Acceptance Agreement

Contract Number: 4400008468

This acceptance agreement signifies a contract award for Public Safety and Emergency Preparedness Equipment and Related Services. The period of the contract shall be from October 1, 2018 through September 30, 2023 with renewals of five (5) additional years, one (1) year at a time or a combination of the years, by mutual agreement of both parties.

The contract award shall be in accordance with:

- 1) This Acceptance Agreement; and
- 2) The Attached Memorandum of Negotiations.

Please note that this is not an order to proceed. A Purchase Order, which constitutes your notice to proceed, will be issued to your firm. Please provide your Insurance Certificate according to Fairfax County Special Provisions, Section 1 (Insurance) within ten (10) days after receipt of this letter.

Sincerely,

Cathy A. Muse, CPPO
Director/County Purchasing Agent

Department of Procurement & Material Management
12000 Government Center Parkway, Suite 427
Fairfax, VA 22035-0013

Website: www.fairfaxcounty.gov/dpmm

Phone 703-324-3201, TTY: 1-800-828-1140, Fax: 703-324-3228



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

MEMORANDUM OF NEGOTIATIONS

RFP 2000002547

Public Safety and Emergency Preparedness Equipment and Related Services

The County of Fairfax (hereinafter called the County) and Safeware, Inc. and Mallory Safety and Supply, LLC. (hereinafter called the Contractor) hereby agree to the following in the execution of Contract 4400008468 with Safeware, Inc. and Contract 4400008495 with Mallory Safety and Supply, LLC. (hereinafter called the Contract) for the provision of public safety and emergency preparedness equipment and related services. The final Contract contains the following documents:

- a. The County's Request for Proposal RFP 2000002547 and all Addenda;
- b. The Contractor's Technical Proposal and Cost Proposal dated March 8, 2018;
- c. The Contractor's response to clarification questions dated March 28, 2018.
- d. The Contractor's response to items for negotiation dated April 12, 2018.
- e. This Memorandum of Negotiations;
- f. County's purchase order;
- g. Any subsequent amendments to the Contract.

In addition, the County and the Contractor agree to the following:

1. The parties to this Contract acknowledge that Safeware, Inc. submitted a proposal, on behalf of Safeware, Inc. and Mallory Safety and Supply, LLC., in response to RFP2000002547. Mallory Safety and Supply, LLC. acknowledges and agrees to provide public safety and emergency preparedness equipment and related services to Participating Public Agencies of the states of Alaska, Hawaii, Washington, Oregon, California, Arizona, Nevada, New Mexico, Wyoming, Idaho, Montana, and Utah and to assume all responsibilities and obligations under this Contract for its designated territory. Safeware, Inc. acknowledges and agrees to provide public safety and emergency preparedness equipment and related services to Participating Public Agencies located in all other states of the United States, not identified above and to assume all responsibilities and obligations under this Contract for its designated territory. Contract number 4400008468 has been assigned to Safeware, Inc. and Contract number 4400008495 has been assigned to Mallory Safety and Supply LLC. to facilitate ordering.
2. The Contractor shall provide eCommerce rebates as outlined below:
 - If 30%-69.99% of total invoiced sales are received by website orders at the conclusion of each contract year, a 0.5% rebate will be provided on purchases made through eCommerce.
 - If 70% or greater of total invoiced sales are received by website orders at the conclusion of each contract year, a 1% rebate will be provided on purchases made through eCommerce.
 - Conditions: The agency total purchases for the annual contract period must be greater than \$20,000. Ecommerce is defined as any order placed through Safeware or Mallory's website or fully integrated third party marketplace where the Participating Public Agency's orders and Safeware-Mallory's invoices are transacted via EDI, XML or cXML. Ecommerce rebates cannot be combined with other rebates, early payment discounts, or where the buying agency or procurement platform charges an administrative or transaction fee.

Department of Procurement & Material Management

12000 Government Center Parkway, Suite 427

Fairfax, VA 22035-0013

Website: www.fairfaxcounty.gov/dpmm

Phone 703-324-3201, TTY: 1-800-828-1140, Fax: 703-324-3228

3. Large sales greater than \$20,000 may be eligible for additional price discounts from manufacturers and will be automatically flagged in the Contractor's system to seek additional price concessions from manufacturers.
4. For purchase of services under this Contract, the Contractor shall provide a minimum of 10% discount from Safeware and Mallory's list price. The pricing for services may be negotiated to a lower price.
5. The Contractor acknowledges and agrees that the County and the Participating Public Agencies reserve the right to review and negotiate the license and maintenance terms and conditions prior to any purchase of software under this Contract and that the Contractor will provide full support for executing the negotiated license/maintenance agreement(s) by the County/Participating Public Agencies and the software publisher. The Contractor also agrees to obtain agreement from its software publishers that their shrink wrap, browse wrap, click through, or similar processes are for access purposes only, and any terms and conditions offered in or referenced by those procedures will have no force or effect.
6. The Contractor shall hold the discount rate of 41% for equipment and 10% for services firm for the entire contract term including renewal periods.
7. The parties mutually agree that the first sentence of Paragraph 1.3 of Section 1 titled Insurance (Fairfax County Special Provisions) is deleted and is replaced with the following language:

No change, cancellation, or non-renewal shall be made in any insurance coverage without a thirty-day written notice to the County Purchasing Agent and/or Risk Manager.
8. The parties mutually agree that the Paragraph 1.2 b. of Section 1 titled Insurance (Fairfax County Special Provisions) is deleted and is replaced with the following language:

The contractor agrees to maintain Commercial General Liability insurance in the amount of \$1,000,000 per occurrence/aggregate, to protect the contractor, its subcontractors, and the interest of the County, against any and all injuries to third parties, including bodily injury and personal injury, wherever located, resulting from any action or operation under the contract or in connection with contracted work.

ACCEPTED BY:


Safeware, Inc.

6/6/18
Date


Shawn Murray
Mallory Safety and Supply, LLC.

6/6/18
Date


Cathy A. Muse CPPO
Director/County Purchasing Agent

6/7/18
Date