

Lebanese American University
Compliance Program for United States Sponsored Programs & Procurement Contracts
Procurement Subawards and Subrecipients

1. PURPOSE

The purpose of this Policy is to establish supplemental standards and guidelines to existing policies and procedures at LAU, namely the Purchasing Policy and the Procurement Procedure, for soliciting, awarding, and monitoring compliance with Subawards and Award Subcontracts under LAU's Awards, as defined below.

2. TERMS AND DEFINITIONS

2.1 The following terms shall have the meanings indicated below for purposes of this Policy, regardless of whether the terms are capitalized:

2.1.1 Agreements Officer – The individual designated as such by the Awarding Agency. This individual is the Government official authorized to execute and modify Awards on behalf of the Government and the Awarding Agency. This individual may also be referred to as the Grants Officer. The terms may be used interchangeably.

2.1.2 Award – U.S. grants, cooperative agreements, and any other Federal financial assistance from an Awarding Agency. These are agreements that would be subject to [2 CFR Part 200](#), if entered into after December 26, 2014.

2.1.3 Award Subcontract – A subcontract issued under an Award strictly for the purchase of property or services needed to carry out the performance of the Award. This term does not include an agreement that qualifies as a Subaward (i.e., an agreement to actually carry out part of the Award scope of work). See "Procurements, Subawards, and Subrecipient Monitoring" Policy for further explanation of the differences between a Subaward and an Award Subcontract. See Section 2.2 below for additional information.

2.1.4 Award Subcontractor – A recipient of an Award Subcontract. See Section 2.2 below for additional information.

2.1.5 Awardee – The recipient of an Award directly from an Awarding Agency.

2.1.6 Awarding Agency - The Government department or agency that solicits and enters into an Award or a FAR Contract.

2.1.7 Competitive Proposals - The procurement of goods or services by publicizing a request for competitive proposals from more than one qualified source for a fixed price or cost-reimbursement Award Subcontract or FAR Subcontract or is awarded.

- 2.1.8 Contracting Officer or CO – The individual designated as such by the Awarding Agency. The Contracting Officer is the official authorized to execute and modify FAR Contracts on behalf of the Government and the Awarding Agency.
- 2.1.9 Costs – All costs incurred in connection with an Award or FAR Contract, charged directly or indirectly to an Award or FAR Contract, and/or which LAU claims as part of a Cost Share for an Award.
- 2.1.10 Cost Objective - as defined in applicable regulations, is a program, function, activity, award, organizational subdivision, contract, or work unit for which Cost data are desired or required and for which LAU takes steps to accumulate and measure the cost of processes, products, jobs, capital projects, etc. A Cost objective may be a major function of LAU, a particular service or project, an Award, a FAR Contract, or an indirect cost activity (as defined in [2 CFR 200.414](#)).
- 2.1.11 Cost Share or Cost Sharing – Some Awards are cost sharing Awards, which means LAU will only be paid or reimbursed an agreed-upon portion of its costs to perform the Award. The portion not paid with Government funds is the Cost Share.
- 2.1.12 Direct Cost – Any cost that can be specifically and accurately identified with a particular Award, FAR Contract, or other activity. Examples of Direct Costs include, but are not limited to, equipment, salaries, and independent contractor costs.
- 2.1.13 FAR Contract – Any contract awarded to LAU by an Awarding Agency for the acquisition of goods or services and that is subject to the FAR. Except in very limited circumstances, all contracts awarded by the Government for the acquisition of goods and services, as opposed to providing financial assistance, are subject to the FAR.
- 2.1.14 FAR Subcontract – A subcontract issued under a FAR Contract for the purchase of property or services needed to carry out the performance of the FAR Contract.
- 2.1.15 FAR Subcontractor – A recipient of a FAR Subcontract.
- 2.1.16 Federal Acquisition Regulation or “FAR” – The regulations in Title 48 of the Code of Federal Regulations implementing uniform policies and procedures for acquisitions by Government executive agencies. The FAR is the primary set of regulations for this purpose, but Government agencies can issue their own acquisition regulations to supplement the FAR.
- 2.1.17 Government – The Federal government of the United States of America.
- 2.1.18 Grants Officer – See definition of Agreements Officer above. The terms Grants Officer and Agreements Officer are interchangeable.

- 2.1.19 Indirect Cost – Costs that are incurred for and benefit multiple activities, including those not directly related to Awards or FAR Contracts, and cannot be readily identified with a specific Award or FAR Contract. Examples of Indirect Costs include, but are not limited to, facilities and administrative costs and depreciation.
- 2.1.20 Institutional Base Salary or “IBS” - The annual compensation paid by LAU for a faculty/staff member’s employment or appointment, whether that individual's time is spent on research, instruction, administration, or other activities. IBS excludes any income that an individual earns outside of duties performed for LAU.
- 2.1.21 LAU – refers to Lebanese American University.
- 2.1.22 Micro Purchases - The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the Micro-Purchase Threshold set by LAU. Micro Purchases generally may be awarded without soliciting competitive quotes or proposals if the price is considered to be reasonable by the business unit implementing the award. To the extent practical, micro-purchases must be distributed equitably among qualified suppliers.
- 2.1.23 Micro-Purchase Threshold – Purchase of supplies or services using simplified acquisition procedures. Generally stated, it is a monetary threshold and is set as per LAU procedures at \$1,500. Micro-purchases below \$1500 may be made directly by the requesting department without bidding, and \$1,500-\$3500 will require three offers through the unit implementing the award, while those between \$3500 and \$5000 are made by the Purchasing Department with bidding.
- 2.1.24 Prime Contractor – The recipient of a FAR Contract directly from an Awarding Agency.
- 2.1.25 Sealed Bids - Procurement through publicly solicited bids for a firm fixed price contract (lump sum or unit price) awarded to the lowest priced, responsive, and responsible bidder.
- 2.1.26 Simplified Acquisition Threshold or “SAT” – Dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Generally stated, it is a monetary threshold, currently set at \$250,000 for most purposes, but is periodically adjusted for inflation. A single purchase of supplies or services that does not exceed the threshold may utilize simplified acquisition procedures. Also, the SAT is often used as a threshold for the application of certain compliance regulations.
- 2.1.27 Small Purchase Procedures - Less formal and demanding procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. LAU simply must obtain price or rate quotations from an adequate number of qualified sources, to the maximum extent practical this should include at least three sources, but two

or more responsible sources competing independently is sufficient. Proposals may be used rather than Small Purchase Procedures if appropriate, even if a procurement is below the Simplified Acquisition Threshold.

- 2.1.28 Sponsored Program – A program funded at least in part with an Award or Subaward, contract or sub-contract.
- 2.1.29 Subaward – An agreement issued under an Award by the Awardee to a Subawardee, or made from one Subawardee to another, to carry out part of the performance of an Award. It does not include an agreement by which an Awardee or Subawardee merely purchases property or services needed to carry out the Award. See “Procurements, Subawards, and Subrecipient Monitoring” Policy for further explanation of the differences between a Subaward and an Award Subcontract. See Section 2.2 below for additional information.
- 2.1.30 Subawardee or Subrecipient – Recipient of a Subaward. See Section 2.2 below for additional information.
- 2.1.31 Uniform Requirements – the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Award at [2 CFR Part 200, as supplemented by applicable agency supplements, including, for example, 2 CFR Parts 600 \(Department of State\) and 700 \(USAID\)](#)

2.2 Determining who is a Subawardee/Subrecipient and who is an Award Subcontractor

Pursuant to [2 CFR Part 200](#), an award by LAU of Award funds in connection with or for the performance of that Award will be considered either an award to a Subrecipient (“Subaward”) or an award to a contractor (“Award Subcontract”) based on the nature of the award and the criteria in 2 CFR 200.330 and the definitions in 2 CFR 200.22, .23, .92 and .93.

The Director of the Office of Grants and Contracts (“OGC”), or his/her designee, must determine prior to award, whether the award will be a Subaward or an Award Subcontract. The applicable regulations and guidance shall be used in making such determination. This designation will determine the legal status of the award and the obligations that must flow down in the award. A Subaward requires LAU to include the full set of regulatory compliance obligations of the Award. However, Award Subcontracts for the purchase of goods and/or services are not subject to the full set of regulatory compliance obligations and, generally, are entered into at established fair market prices (e.g., commercial pricing).

Very generally stated, a Subrecipient (or Subawardee) is an entity responsible for the actual performance of some portion of the Award statement of work and its objectives. An Award Subcontractor, on the other hand, simply sells its products and/or services in its typical course of business and does not have responsibility for the outcome of any portion of the Award.

3. **RESPONSIBILITY**

- 3.1 It is the responsibility of all departments, faculty, staff and other employees to fully comply with this Policy and ensure that all Subawards and Award Subcontracts are conducted in

accordance with all applicable laws and Award requirements. Compliance with this Policy is critical to protect LAU and Government resources and ensure efficient compliance with LAU's Awards and Subawards. Violations may require corrective action by LAU, the awarding agency or auditors.

- 3.2 The OGC and the Purchasing Department are responsible for the maintenance and general oversight of the Policy.
- 3.3 The implementation unit (business unit implementing the Award), in close collaboration and subsequent approval of, the OGC or Purchasing, as appropriate, or its designee, is responsible for the solicitation and negotiation of Subawards/Award Subcontracts. The implementation unit conducts the oversight of sub-awards/award subcontracts.
- 3.4 The OGC, or its designee, in close collaboration with the Legal Counsel and the Finance Department, is responsible for:
 - 3.4.1 The award of all Subawards.
 - 3.4.2 Undertaking the compliance review of Subawards;
 - 3.4.3 Working with Purchasing Department to properly educate all LAU faculty, staff, and other employees on the Policy and its purpose; and
 - 3.4.4 Updating the Policy as necessary to address changes in applicable Awards, Subawards and/or regulations;
- 3.5 The Purchasing Department in close collaboration with the OGC is responsible for making all purchases that result in Award Subcontracts. It is responsible for achieving the best combination of quality, service, and economy while complying with all applicable terms, conditions, and laws, as per applicable LAU Procurement Procedure.
- 3.6 Any questions concerning this Policy should be directed to the following, in this order:
 - 3.6.1.1 Purchasing Department
 - 3.6.1.2 Office of Grants and Contracts

4. SCOPE AND APPLICABILITY

This Policy applies to all employees responsible for the award or administration of Subawards or Award Subcontracts. This Policy should be viewed as a supplement to LAU's other policies, including its Purchasing Policy and Procurement Procedures. To the extent there is a conflict or ambiguity amongst these policies and procedures, this Policy shall control all expenditures of Government or private funds as Subawards or Award Subcontracts.

5. STATEMENT OF POLICY

LAU and its faculty, staff, and other employees will fully comply with all requirements and procedures set forth in the Uniform Requirements related to the solicitation, award, and

monitoring of Subawards and Award Subcontracts.

6. IDENTIFYING A NEED AND INITIATING THE PROCESS

6.1 Even if expressly stated in an Award, the principal investigator performing the Award and/or the principal investigator's department is responsible for determining and confirming the need for a Subaward or an Award Subcontract. The request must be in writing to the proper individual or office and pursuant to this Policy and the procedures set forth below.

6.2 Award Subcontracts

6.2.1 The Purchasing Department is responsible for carrying out all requested purchases of goods and services for an Award Subcontract that is \$3,500 or more. As set forth in more detail in the Procedure, an Award Subcontract that will be \$3,500 or more must be initiated with a formal Purchase Request by the principal investigator to the Purchasing Department that contains the information necessary to identify the specific need including at least quantities, desired goods/services, specifications and time of delivery.

6.2.2 Purchases below \$3,500 can be handled directly by the department in accordance with this Policy and the applicable Procedure. Breaking apart purchases that are \$3,500 or more to smaller, partial or disaggregated purchases to avoid this threshold and/or the competitive requirements in the Policy and the Procedure is not allowable.

6.3 Subawards

6.3.1 The OGC is responsible for carrying out all requested Subawards, regardless of amount.

6.3.2 The principal investigator's determination and confirmation of the need for a Subaward must be well documented in order to obtain approval from the OGC (in cooperation with Finance).

6.3.3 The final documentation and approval must include, at least:

6.3.3.1 A clear and concise statement of the need;

6.3.3.2 How it relates to LAU's Award or Subaward scope of work;

6.3.3.3 Authorization in the approved budget by the Office of Finance;
and

6.3.3.4 An acknowledgement that the department and principal investigator have met the applicable requirements of this Policy and related Procedure.

7. GENERAL PRINCIPLES

In conducting the solicitation and award of an Award Subcontract or Subaward, the following basic principles apply in addition to all other requirements:

- 7.1 LAU will contract only with responsible entities that have the ability to perform successfully. There is no bright-line test for determining whether a proposed awardee is responsible, however the following factors should be considered to the extent possible in making such a determination:
 - 7.1.1 Has access to adequate financial resources to perform the work;
 - 7.1.2 Ability to comply with the required or proposed delivery or performance schedule, taking into consideration all known existing commitments;
 - 7.1.3 To the extent it is known, has a satisfactory past performance record and has a satisfactory record of integrity and business ethics including checking any exclusions identified on the System for Award Management ("SAM");
 - 7.1.4 Has the necessary organization, experience, accounting and operational controls, technical skills, and technical equipment and facilities, or the ability to obtain them;
 - 7.1.5 Is otherwise qualified and eligible to receive an award under applicable laws, regulations, and LAU policies (e.g., LAU's anti-terrorist financing provisions; and
 - 7.1.6 States that it is willing to comply with the negotiated Award Subcontract or Subaward terms.
- 7.2 Avoid organizational conflicts of interest, including awards to entities that helped in developing or drafting the specifications, requirements, statements of work, or invitations for bids for that Award Subcontract or Subaward.

8. SOLICITATION AND ISSUANCE OF AWARD SUBCONTRACTS

- 8.1 To the extent required by this Policy (see below), procurements must be conducted in a manner that facilitate full and open competition. This includes avoiding:
 - 8.1.1 Placing unreasonable requirements on firms in order for them to qualify to do business;
 - 8.1.2 Requiring unnecessary experience and excessive bonding;
 - 8.1.3 Noncompetitive pricing practices between firms or between affiliated companies;
 - 8.1.4 Noncompetitive contracts to professional services/consultants that are on retainer contracts;

- 8.1.5 Organizational conflicts of interest as per applicable policy on Conflict of Interest and the Public Sector Supplement to Code of Ethics;
 - 8.1.6 Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
 - 8.1.7 Any arbitrary action in the procurement process.
- 8.2 The Purchasing Department should maintain current lists of prequalified persons, firms, or products that include enough qualified sources to ensure maximum open and free competition. Other potential bidders must also be allowed to qualify during the solicitation period. Such lists may also be used by departments to identify responsible vendors for purchases the departments are conducting below \$3,500.
- 8.3 As outlined in the Decision Tree in the attached procedures, and in compliance with the set requirements in the procedures, the Purchasing Department must use the correct procurement method for the Award Subcontract.
- 8.4 The Solicitation
- 8.4.1 Requests for competitive proposals must be solicited from an adequate number of qualified sources by at least publicizing the solicitation to all qualified sources known to the Purchasing Department and via electronic distribution through relevant websites including the university’s webpage. The solicitation must include all evaluation factors to be used by the Purchasing Department and their relative order of importance. Any response to publicized requests for proposals must be considered to the maximum extent practical.
 - 8.4.2 The solicitation must include a clear and accurate description of the technical requirements for the material, product, or service to be procured, including all requirements that the offerors must fulfill and any other factors used to evaluate bids or proposals.
 - 8.4.3 Most Award Subcontracts should be solicited and awarded as either fixed-price or cost-reimbursement. To the extent possible, avoid, time-and-materials Award Subcontracts for which the price is based on cost of materials and direct labor hours. These will only be used pursuant to [2 CFR 200.318\(j\)](#).
- 8.5 Evaluation
- The evaluation method must strictly comply with the rules set for in the solicitation and all applicable laws.
- 8.5.1 Evaluations must include and comply with the pricing requirements located at [2 CFR 200.323](#), including:

- 8.5.1.1 Performing a cost or price analysis (described below) for any Award Subcontract in excess of the Simplified Acquisition Threshold, to ensure that the cost or price is reasonable. For each Award Subcontract in excess of the Simplified Acquisition Threshold, LAU must make and document independent cost or price estimates before receiving bids or proposals. These analyses shall be documented in the files relevant to the Award.
- 8.5.1.2 The Purchasing Department shall include a written determination regarding an appropriate amount of profit for all Award Subcontracts where there is no price competition, or for which cost analysis is performed;
- 8.5.1.3 Allow only those costs that LAU would be allowed to claim under the Costs and Cost Accounting Policy and Timekeeping and Sponsored Effort Reporting Policy;
- 8.5.1.4 Avoid pricing based on a method that bases price on cost plus a percentage of cost.
- 8.5.2 The cost or price analysis must take into consideration and comply with LAU Cost and Cost accounting policy.
- 8.5.3 The evaluator(s) must be aware of and avoid real or apparent personal and organizational conflicts of interest as discussed in [2 CFR 200.318](#).
- 8.6 Award
 - 8.6.1 Award Subcontracts under competitive proposals must be awarded to the responsible Award Subcontractor whose proposal is most advantageous to LAU for the Sponsored Program, with price and other factors considered. Affirmative steps where applicable and possible must be taken to ensure that small, minority, women's business enterprise, and labor surplus area firms are used when possible.
 - 8.6.2 Ensure that all construction or facility improvement Award subcontracts in excess of the Simplified Acquisition Threshold comply with the contractor bonding requirements of [2 CFR 200.325](#).
 - 8.6.3 Make technical specifications and procurement documents available for review as required by the Uniform Requirements and LAU's Awards and Subawards.
 - 8.6.4 Ensure that all Award Subcontracts contain the applicable provisions described in Appendix II to 2 CFR Part 200 and any other necessary flowdown provisions. A minimum set of required flowdowns is attached to this Policy as **Attachment A**. Any applicable flow-down requirements from the prime award must also be included.

- 8.7 Resolve any disputes related to contractual or administrative issues arising out of procurements, including source evaluation, protests, disputes, and claims.
- 8.8 Report any violations of law to the appropriate local, state, or federal authority, as required by law.

9. SOLICITATION AND ISSUANCE OF SUBAWARDS

- 9.1 OGC must receive a request for the approval and award of a Subaward, which must be done in writing to enable OGC to make a determination as set in the procedures.
- 9.2 Further, in coordination with the Finance Department and the Legal Counsel, the OGC shall determine the appropriate Subaward type (fixed amount vs. cost-reimbursement) and the appropriate payment terms (reimbursement vs. advances, etc.), as informed by the required Subaward risk-assessment described in more detail below.
- 9.3 Generally, the Subaward will be cost-reimbursement, unless approved by the Awarding Agency and under the Simplified Acquisition Threshold.
- 9.4 If the Subaward is a cost-reimbursement award, the OGC must perform a cost analysis
- 9.5 Risk Assessments. Prior to approving and issuing a Subaward, the OGC must conduct a review of each proposed Subrecipient's compliance risk level (low, medium, or high) at the proposal phase. This includes, among other things, (i) evaluating each Subrecipient's risk of noncompliance prior to award in order to determine the appropriate monitoring level, and (ii) monitoring the activities of Subrecipients to ensure that performance of the Subaward is in compliance with applicable federal statutes and regulations and the terms of the Subaward. The review process is set in the procedures
- 9.6 OGC shall institute additional oversight requirements and terms for the Subaward if a high risk determination is made, in accordance with 2 CFR 200.207. The specific additional terms should focus on the identified risks.
- 9.7 Award
 - 9.7.1 A Subaward shall not be signed by the OGC unless and until the above review and risk assessments have been completed, to the extent possible, and the Award covering the Subaward's statement of work has been finalized and is legally enforceable.
 - 9.7.2 The OGC must include all required flowdown terms from the Award and the Uniform Requirements. Generally, a Subaward should include most of the same compliance requirements of the Award.
 - 9.7.3 The Subaward must be clearly identified as a Subaward and include the information required by [2 CFR 200.331](#), which includes at least the Federal

award identification, an approved indirect cost rate when applicable, records access requirements, and appropriate terms and conditions for close-out.

9.8 Monitoring Subawards

9.8.1 The unit implementing the award, in close coordination with the OGC, must ensure ongoing sub-award monitoring as defined in the procedures, identifying difficulties, reviewing relevant reports, ensuring corrective action, and tracking all compliance reporting.

9.8.2 The OGC will conduct annual performance assessments of Subrecipients as set in the procedures based on the review of noted issues, compliance with audit requirements, and checking exclusions.

9.8.3 The annual Subrecipient review will be documented by the OGC and, as necessary, include an update of the written Subrecipient risk assessment and monitoring plan. Any additional monitoring steps will be included in the updated monitoring plan, including increased monitoring meetings, additional review of invoices, requesting additional supportive documents for questionable expenses, withholding payments, performing additional audits or site visit, and/or termination of the Subaward.

9.8.4 The OGC shall take prompt action when instances of noncompliance are identified, including escalation to appropriate individuals, such as the Office of Legal Counsel. If the OGC in consultation with the Office of Legal Counsel determines that a noncompliance cannot be remedied by imposing additional conditions, it may take one or more of the allowable actions set in the procedures.

9.8.5 Termination of the Subaward may only be done in consultation with Office of Legal Counsel and pursuant to the terms and conditions of the Subaward and the Uniform Guidance, and in close coordination with the awarding agency.

9.9 Closeout

9.9.1 The OGC will closeout the Subaward when it determines that all applicable administrative actions and all required work have been completed.

9.9.2 All closeout actions must be completed no later than one year after receipt and acceptance of all required final reports.

10. TERRORIST FINANCING PROHIBITIONS

10.1 LAU does not engage in transactions with, or provide resources or support to, individuals or organizations associated with terrorism that would violate Executive Order 13224 and related laws. This includes knowingly providing material support or resources to any individual or entity that commits, attempts to commit, advocates, facilitates, or participates in terrorist acts, or has committed, attempted to commit, facilitated, or participated in terrorist acts. The LAU related procedures shall apply.

11. REFERENCES

Please refer to the following regulations and documents for further details regarding the above policy:

- 11.1 2 CFR 200.67
- 11.2 2 CFR 200.88
- 11.3 2 CFR 200.318
- 11.4 2 CFR 200.319
- 11.5 2 CFR 200.320
- 11.6 2 CFR 200.321
- 11.7 2 CFR 200.322
- 11.8 2 CFR 200.323
- 11.9 2 CFR 200.324
- 11.10 2 CFR 200.325
- 11.11 2 CFR 200.326
- 11.12 2 CFR 200.331
- 11.13 2 CFR 200.501
- 11.14 2 CFR 200.514
- 11.15 48 CFR 2.101 (definitions)
- 11.16 Purchasing Policy
- 11.17 Procurement Procedures
- 11.18 LAU Policies for United States Sponsored Programs and Contracts - Compliance Program for Financial Assistance Awards
- 11.19 LAU Policies for United States Sponsored Programs and Contracts - Costs and Cost Share Policy
- 11.20 LAU Policies for United States Sponsored Programs and Contracts -Records Retention and Audits

Effective Date:

The foregoing Compliance Program for United States Sponsored Programs & Procurement Contracts: Procurement Subawards & Subrecipients was adopted by the Board of Trustees on September 6 & 7, 2018 and is effective as of September 7, 2018.

ATTACHMENT A

In addition to other provisions required by applicable law and the Awarding Agency, all Award Subcontracts made by LAU will contain the following Exhibit, unless it is determined by legal to be inapplicable.

EXHIBIT

Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

This Subcontract is being issued by LAU in connection with the performance of Award No. _____ (“Prime Award”) from _____ (“Government”). Accordingly, Subcontractor must comply with all regulations and clauses in 2 CFR Part 200, as supplemented by any applicable Part of Subtitle B of CFR Title, applicable to contractors (as defined in 2 CFR 200.23 and as opposed to “subrecipient”). To the extent the Subcontract is in direct conflict with the applicable terms of this Exhibit, this Exhibit shall control. Specifically, but without limiting the foregoing, Subcontractor must comply with the following clauses of Appendix II to 2 CFR Part 200, to the extent applicable.

- a. As set forth in 2 CFR 200.321, Subcontractor must take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.
- b. Equal Employment Opportunity. Subcontractor shall perform this contract in full compliance with all applicable employment and wage and hour laws including, but not limited to, those laws relating to: (i) the payment of minimum wage; (ii) the payment of overtime; (iii) the maintenance of all required wage and hour records; and (iv) the payment of any other wages or benefits, including making such payments to their employees as required by all applicable wage payment laws. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- c. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). To the extent applicable to this contract, Subcontractor shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor

Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”), including paying wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor and not less than once a week. Award of this agreement is conditioned upon the acceptance of the applicable wage determination, if any.

- d. Copeland “Anti-Kickback” Act (40 U.S.C. 3145). To the extent applicable to this contract, Subcontractor shall comply with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”).
- e. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, and to the extent the contract is in excess of \$100,000 and involves the employment of mechanics or laborers, Subcontractor must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5).
- f. Rights to Inventions Made Under a Contract or Agreement. To the extent the contract is for experimental, developmental, or research work, rights in inventions made in the performance of this contract shall be controlled by the clause required by 2 CFR 910.362, suitably modified to identify the parties.
- g. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—If the contract is in excess of \$150,000, Subcontractor must comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- h. Debarment and Suspension (Executive Orders 12549 and 12689)—Subcontractor hereby warrants and represents that it is not listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” In addition to other available remedies, this contract shall be voidable at the discretion of LAU in the event of a violation of this warranty.
- i. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—If this contract exceeds \$100,000, Subcontractor must file the required certification 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.

Subcontractor must further disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal contract, grant or other award. Subcontractor must include the same requirements in its lower-tier subcontracts exceeding \$100,000. Such disclosures are forwarded from tier to tier up to LAU.

- j. Termination. In addition to any other termination rights set forth in the contract, LAU, by written notice, may terminate this contract in whole or in part when it is in LAU's interest. After receipt of a notice of termination, Subcontractor shall stop work as specified in the notice.
- k. Subcontractor agrees to apply the terms and conditions of this Section, as applicable, to its subcontractors, as required by 2 CFR 200.101 and 200.326, and require strict compliance therewith.