



REQUEST FOR PROPOSALS (RFP)

Updates to Residential Building Energy Standard (RBES) and Commercial Building Energy Standard (CBES) plus the update of the ‘stretch-code’ for both Residential and Commercial application.

INTRODUCTION

The Vermont Department of Public Service (DPS) is seeking the services of a qualified contractor with demonstrated experience in building practices; energy codes; public outreach; and excellent written, verbal and organization skills to provide consulting services to update the Vermont Residential Building Energy Standard (RBES) and the Vermont Commercial Building Energy Standard (CBES). In addition to the statewide energy code update the DPS seeks to update the ‘stretch-code’ for both Residential and Commercial application. The contractor will work closely with DPS and a stakeholder advisory group.

Proposals are due by 4:00 PM on Thursday, March 8, 2018 with the goal of selecting a contractor by March 16, 2018. The contract period will run from contract execution (target start date is March 29 but will depend state contracting review and approval process) through June 2019. Questions on the RFP should be received no later than 4:00 PM on February 13, 2018 with expected response from the VT DPS to be emailed to all potential bidders by February 16, 2018.

Applicants mailing proposals should allow adequate time to ensure receipt of their proposal(s) by the deadline. One original signed hard copy, three additional hard copies, and an electronic copy¹ of the proposal must be delivered to Barry Murphy, Vermont Department of Public Service. **Both** electronic and hard copies must arrive before the deadline. Proposals and questions should be addressed to:

Barry Murphy
Vermont Department of Public Service
112 State Street
Montpelier, VT 05620-2601
Phone: (802) 828-3183
Email: barry.murphy@vermont.gov

BACKGROUND

The Vermont Residential Building Energy Standard (RBES), was adopted by statute in 1997 (21 V.S.A. § 266) and affected all new homes (and additions over 500 square feet) built after July 1, 1998. The RBES has been revised three times, first in January, 2005, again in October 2011 and finally in March 2015. As of the 2011 update, the RBES is now applicable to all additions, alterations, renovations and repairs, in addition to new construction. The current RBES is based upon the 2015 International Energy Conservation Code (IECC) and a viewable only PDF is available at the following link;

<https://codes.iccsafe.org/public/document/details/toc/862>

Additional information on the RBES, including the handbook, can be found here:

http://publicservice.vermont.gov/energy_efficiency/rbes.

¹ This can be e-mailed or submitted on a USB drive

The Vermont Commercial Building Energy Standard (CBES), was enacted into law in 2006 (21 V.S.A. § 268). It is the energy code for all commercial buildings and residential buildings four stories or greater above grade, and took effect January 1, 2007. The CBES was revised in January, 2012 and again in March 2015. The Current CBES is based upon the 2015 IECC and a viewable only PDF is available at the following link; <https://codes.iccsafe.org/public/document/details/toc/861>
More information on the CBES can be found at:
http://publicservice.vermont.gov/energy_efficiency/cbes

As required by statute an Advisory Committee will be convened, which will include one or more mortgage lenders, builders, building designers, utility representatives and other persons with experience and expertise, such as consumer advocates and energy conservation experts to provide the Department with recommendations for revisions to the energy standards. The selected contractor will facilitate these meetings for the Department.

SCOPE OF WORK

- Research and provide a recommendation on whether the Department should modify the existing RBES and CBES, which are based on IECC 2015, or develop a new version based on IECC 2018. Note that the recommendation may be different for RBES and CBES.
- Provide a recommended roadmap of code updates, including target energy efficiency improvement percentages per update, necessary to achieve “net zero” designed buildings through RBES and CBES by the year 2030.
- Facilitate 2-4 advisory committee meetings (including drafting agendas, writing minutes, sending materials to members, maintaining a redline copy of suggested edits, etc). These meeting should include provisions for remote participation through a webinar format. This is intended to be a smaller group of participants than the public comment meetings. The intent is to provide professional feedback pre and post public meeting comments. Selection of participants will be directed by the PSD with input from the contractor. All meetings will be coordinated by the contractor.
- Compile and maintain an annotated version of each code (RBES and CBES), clearly showing changes from the previous code in a redline/strikeout manner.
- Provide technical assistance as needed, including suggested Vermont specific amendments to the IECC 2015 or IECC 2018 (if deemed necessary).
 - Residential specific requirements include but are not limited to; log home performance requirements and Home Energy Rating compliance path.
- Provide technical assistance and recommendations in the creation of a ‘stretch-code’ (potentially based upon the IECC 2018 draft or the updated Northeast Energy Efficiency Partnership (NEEP) stretch-code.) This may include collaborating with other organizations such as the NBI (New Buildings Institute), NEEP, etc.
- Assist with Vermont rulemaking process including drafting an economic analysis and impact statement (this is to demonstrate that the proposed changes are cost-effective and would not substantially impact the affordability of the building due to the modifications of the energy codes); assisting with drafting of rules, and possibly providing testimony to Legislative Committee on Administrative Rules.
- Facilitate public meetings (including drafting agendas, writing minutes, preparing materials/handouts, maintaining a redline copy of suggested edits, etc). DPS estimates that there will be six public meetings total with various constituencies over the course of the project. Two of these meetings could be conducted online as webinars. Of the in-person meetings, half will be held at a southern Vermont location and half at a northern Vermont location. These meetings would contain separate RBES and CBES discussions. (e.g. RBES in the AM and CBES in the PM or vice versa)
- Assist with the creation/update of the statewide CBES Codebook and Certificate, as well as the stretch-code guidelines. (Costs for printing the codebooks will be paid for directly by the DPS.)
- Assist with the creation/update of the statewide RBES Handbook, Codebook and Certificate,

- including the stretch-code. (Costs for printing the codebooks will be paid for directly by the DPS.)
- Liaise with International Code Council (ICC) regarding updates to RBES and CBES code language and completion of codebooks.
 - Liaise with relevant parties, specifically Pacific Northwest National Laboratory (PNNL) in regard to the update to REScheck and COMcheck for both the statewide base code and stretch-code. (PNNL will be responsible for the actual REScheck and COMcheck updates/changes and this portion of the task will be funded either directly through the DPS or through the US DOE Technical Assistance Program.)
 - After adoption, conduct four presentations (for both CBES and RBES) on the new codes to stakeholder groups. (Note: these presentations are in addition to the advisory committee and public meetings discussed above.) More trainings may be added later but this would be either a separate contract or an amendment to the existing one.
 - Provide an estimate of the increased energy savings from the previous versions of the VT energy code compared to the updated version.
 - Participate in regularly scheduled check-ins with the DPS.
 - Complete brief quarterly progress reports to fulfil federal reporting requirements.

INFORMATION REQUIRED FROM APPLICANTS

Proposals should be prepared simply and economically, providing a straight forward, concise description of the applicant's ability to meet the requirements of the RFP. Emphasis should be on completeness and clarity of content. Information in the applicant's proposal which should be held confidential must be clearly marked as confidential and comply with an exemption from public inspection as per 1 V.S.A. § 317(c).

Identification of Organization

State the full name and address of the organization and, if applicable, other subcontractors that will perform, or assist in performing, the work.

Authorized Negotiators

Include the names and phone numbers of personnel authorized to negotiate the proposed contract with the State. One original hard copy must be signed by a duly authorized representative of the party (or parties) submitting the proposal.

Prior Experience Disclosure

Prior experience in building practices, energy codes, stretch codes and public outreach is important to the selection of a contractor. Proposals must include a description of the applicant's experience in each of these areas.

Personnel

Each organization submitting a proposal under this RFP shall have demonstrable knowledge, skills and experience as it relates to the required work. The proposal must identify all persons that will be employed in the proposed work by skill and qualifications. Identify key personnel by name and title and provide a resume for each. Subcontractors must be listed, including the firm name and address, contact person, and complete description of work to be subcontracted. Include descriptive information concerning subcontractor's organization and abilities.

Work Plan

Describe in narrative form the plan for accomplishing the work. Indicate the number of hours allocated to each task and which staff member(s) will complete the tasks. Describe quality assurance measures that will be put in place to make certain that services will be delivered in an effective, efficient, timely, and competent manner. Provide a breakdown of potential development strategies, including but not limited to the NEEP stretch-code and NBI stretch-code, for a stretch code listing levels of effort and potential efficiencies to be gained. The work plan should also include a proposed timeline for the code

development work based upon the goal of a January 1st, 2019 adoption date for these codes. (This would entail finalized code-language and relevant economic and impact assessments being completed by December 1, 2018) Work to be completed after adoption includes public trainings, development of REScheck and COMcheck software and coordination with ICC to publish the updated RBES and CBES.

Budget Considerations

Applicants must submit a proposed budget for services described in this RFP and include narrative explanations. Budget for this work is a not-to-exceed figure of \$260,000 which excludes costs relating to the printing of copies of the developed codebook and handbooks but should include all related costs for meetings such as refreshments or space rental (The Department encourages the use of free public space whenever feasible.). This contract will be funded with federal funds. A list of state and federal provisions are included under “General Terms and Conditions” – Attachment C and Attachment D.

The following cost elements should be included:

Personnel (position, rate, hours)

Travel (mileage must be billed at the state rate of 54.5 cents/mile)

Supplies & Materials

Other (specify)

Total Direct Costs
Indirect Costs
BUDGET TOTAL

Additional Information and Comments

Include any other information that is believed to be pertinent, but not specifically requested elsewhere in this RFP.

SELECTION CRITERIA

The DPS will evaluate all proposals received based upon reasonableness of cost, completeness and quality of the proposal, qualifications of the individuals proposed to perform the work, relevance of previous experience, and any other criteria it deems relevant. Acceptance or rejection of any or all proposals will be determined by the exercise of the Department's sole discretion.

All proposals are subject to an evaluation by the DPS and/or non-departmental reviewers. The DPS reserves the right (but in no way is obligated) to interview the top prospective candidates to aid in the selection process.

The award of the contract will be made based on the following criteria:

1. Experience & Qualifications
 - Experience in residential and commercial building practices, energy codes, and public outreach.
 - Adequate staffing for described work.
2. Work Plan
 - Clarity and reasonableness of work plan, including definition and timeliness of tasks to be performed.
 - Quality assurance measures are well defined.
 - Ability to start quickly.
3. Budget
 - Budget line items and amounts are sufficiently described and justified.
 - Administrative costs are reasonable and competitive.
4. Timeline
 - Estimated timelines should be based upon an adoption date of January 2019 for these codes.

GENERAL TERMS AND CONDITIONS

- The DPS reserves the right to reject any and all proposals received as a result of this RFP for any reason, to waive minor irregularities in any proposals received, and to negotiate with any party in any manner deemed necessary to best serve the interests of the State.
- The DPS shall not be responsible for any costs incurred by any party in preparation of any proposal submitted in response to this RFP.
- The DPS reserves the right to amend or cancel this RFP at any time if the best interest of the State requires such action.
- News releases pertaining to this RFP, contract award, or the project shall not be made without prior written approval from the DPS.
- The DPS will pay for actual work performed and expenses incurred under this project up to the specified contract amount. Specific payment provisions will be arrived at upon mutual agreement of the parties. All payments will require the submission of an itemized billing of work performed to date in sufficient detail to justify payment.
- All deliverables submitted by the selected contractor shall become the property of the State.
- The selected contractor(s) shall agree to grant to the State a nonexclusive, irrevocable license to reproduce, translate, publish, use, and dispose of all material developed as a result of the contract.
- The DPS assumes no liability in any fashion with respect to this RFP or any matters related thereto. All prospective contractors and their subcontractors or successors, by their participation in the RFP process, shall indemnify, save and hold the DPS and its employees and agents free and harmless from all lawsuits, causes of action, debts, rights, judgments, claims, demands, damages, losses and expenses or whatsoever kind in law or equity, known and unknown, foreseen and unforeseen, arising from or out of this RFP and/or any subsequent acts related thereto, including but not limited to the recommendation of a contractor and any action brought by an unsuccessful applicant.

The state and federal provisions as shown below in “Attachment C” and “Attachment D” will be included in all contracts resulting from this RFP.

**ATTACHMENT C: STANDARD STATE PROVISIONS
FOR CONTRACTS AND GRANTS
REVISED DECEMBER 15, 2017**

<http://bgs.vermont.gov/sites/bgs/files/files/purchasing-contracting/pcard/ATTACHMENT%20C%20-%20rev%20Dec%202017%20CLEAN.docx>

**Attachment D:
Other Provisions**

1. DOE (U.S. Department of Energy) Terms and Conditions Incorporated by reference

The following are incorporated into this contract by reference:

- a. DOE Assistance Regulations, 10 CFR Part 600 at <http://ecfr.gpoaccess.gov>.
- b. National Policy Assurances in effect on date of award at <http://www.nsf.gov/awards/managing/rtc.jsp>.
- c. Financial Assistance Regulations, 2 CFR part 200 as amended by 2 CFR part 910 at <http://www.eCFR.gov>.

2. Work Product Ownership: Products of the Grantee's work, including: outlines, reports, charts, sketches, drawings, art work, plans, photographs, specifications, estimates, computer programs, or similar documents, patents and copyrights become the property of the Grantee. However, Grantee must provide copies of such work to the State of Vermont upon request free of charge. Absent an order to the contrary from a court of competent jurisdiction, certain information will be held as confidential by the DPS where Grantee has established such information is proprietary in nature and therefore exempt from access to public records requests pursuant to 1 V.S.A. § 317(c)(9).

3. Prior Approval of Press Releases/Credit for Funding:

Any notices, information pamphlets, press releases, research reports, or similar other publications prepared and released in written or oral form by the Grantee under this Agreement shall be submitted to the DPS Administrator for approval prior to release. The Grantee will credit funding for the project to the "Vermont Agency of Natural Resources, Vermont Agency of Transportation, Vermont Department of Public Service, and U.S. Department of Energy" in any of the aforementioned materials.

4. DOE Special Terms and Conditions The following requirements, based upon the DOE Terms and Conditions, apply to this grant.

a) Ceilings on Indirect Costs

- i. If actual allowable indirect costs are less than those budgeted and funded under the award, you may use the difference to pay additional allowable direct costs during the project period. If at the completion of the award the Government's share of total allowable costs (i.e., direct and indirect), is less than the total costs reimbursed, you must refund the difference.
- ii. Subrecipients are expected to manage their indirect costs. DPS will not amend an award solely to provide additional funds for changes in indirect cost rates. DPS recognizes that the inability to obtain full reimbursement for indirect costs means the Subrecipient must absorb the underrecovery. Such underrecovery may be allocated as part of the organization's required cost matching.

b) Use of Program Income – Addition If you earn program income during the project period

as a result of this award, you may add the program income to the funds committed to the award and used to further eligible project objectives.

c) Site Visits and Access

DOE and DPS's authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. The subrecipient must provide reasonable access to facilities, office space, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work. The subrecipient must provide any information, documents, site access, or other assistance requested by DOE or DPS.

d) Publications

The subrecipient is encouraged to publish or otherwise make publicly available the results of the work conducted under the award. The subrecipient is required to include the following acknowledgement in publications arising out of, or relating to, work performed under this Award, whether copyrighted or not:

Acknowledgment: "This material is based upon work supported by the U.S. Department of Energy, Vermont Department of Public Service, Vermont Agency of Natural Resources, and the Vermont Agency of Transportation."

Disclaimer: "This report was prepared as an account of work sponsored by an agency of the United States Government and Vermont State Government. Neither the United States or Vermont State Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States or Vermont Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States or Vermont Government or any agency thereof."

e) Compliance with Federal, State, and Municipal Law

The subrecipient is required to comply with applicable Federal, state, and local laws and regulations for all work performed under this Award. The Recipient is required to obtain all necessary Federal, state, and local permits, authorizations, and approvals for all work performed under this Award.

f) Lobbying Restrictions

By accepting funds under this award, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. §1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

g) Notice Regarding the Purchase of American-Made Equipment and Products

To the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.

h) Reporting Executive Compensation

1. Applicability and what to report. Unless you are exempt as provided in paragraph h3. of this section, you shall report the names and total compensation of each of your five most highly compensated executives for your preceding completed fiscal year, if;

i. The funding authorized to date under this award is \$25,000 or more;

ii. In the preceding fiscal year, you received;

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>)

2. Where and when to report. You must report executive total compensation described in paragraph h.1. of this award term:

i. To the DPS Administrator.

ii. By the end of the month following the month during which you signed your agreement.

3. Exemptions

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report the total compensation of your five most highly compensated executives.

4. Definitions: For purposes of this award term:

a. Executive means officers, managing partners, or any other employees in management positions.

b. Total compensation means the cash and noncash dollar value earned by the executive during the your preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

i. Salary and bonus.

ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings on deferred compensation which is not tax-qualified.

vi. Other compensation, if the aggregate value of all such other compensation (*e.g.* severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

i) National Environmental Policy Act (NEPA) Requirements

The Vermont Department of Public Service (DPS) must comply with the National Environmental Policy Act (NEPA) prior to authorizing the use of federal funds. Based on all information provided by the Subrecipient, DPS has determined the proposed activities fall under the bounded categories categorically excluded, and require no further NEPA review, absent extraordinary circumstances, cumulative impacts, or connected actions that may lead to significant impacts on the environment, or any inconsistency with “integral elements” (as contained in 10 C.F.R. Part 1021, Appendix B) as they relate to a particular project. The Subrecipient is thereby authorized to use federal funds for the defined project activities.

However, the Subrecipient remains responsible for:

- Identifying and promptly notifying the DPS Administrator of extraordinary circumstances, cumulative impacts, or connected actions that may lead to significant impacts on the environment, or any inconsistency with the “integral elements” (as contained in 10 C.F.R. Part 1021, Appendix B) as they relate to a particular Project; and
- Compliance with Section 106 of the National Historic Preservation Act (NHPA), as applicable.
- Some bounded categories are more restrictive than the CX referenced. The restrictions must be followed for the bounded category to be applicable.

If the Subrecipient later intends to add to or modify activities, those new activities or modified activities are subject to additional NEPA review and are not authorized for federal funding until the DPS Administrator provides approval on those additions or modifications. Subrecipients are restricted from taking any action using federal funds, which would have an adverse effect on the environment or limit the choice of reasonable alternatives prior to authorization from the DPS Administrator. Should the Subrecipient elect to undertake activities prior to authorization from the DPS Administrator, the Subrecipient does so at risk of not receiving federal funding and such costs may not be recognized as allowable cost match.

These are the bounded categories that have been categorically excluded per DE-EE0007493:

1. Administrative activities associated with management of the designated State Energy Office and management of programs and strategies to encourage energy efficiency and renewable energy, including energy audits.
2. Development and implementation of programs and strategies to encourage energy efficiency and renewable energy
3. Funding energy efficiency retrofits, provided that projects apply the restrictions of each state’s programmatic agreement with SHPO, and are limited to:
 - installation of insulation;
 - installation of energy efficient lighting;
 - HVAC upgrades (to existing systems);

- weather sealing;
 - purchase and installation of ENERGY STAR appliances (such as but not limited to; furnaces and air conditioners);
 - replacement of windows and doors; and
 - high efficiency shower/faucet upgrades.
4. Development, implementation, and installation of onsite renewable energy technology that generates electricity from renewable resources, provided that projects are limited to:
 - Solar Electricity/Photovoltaic - appropriately sized system or unit on existing rooftops and parking shade structures; or a 60 kW system or smaller unit installed on the ground within the boundaries of an existing facility.
 - Wind Turbine - 20 kW or smaller.
 - Solar Thermal (including solar thermal hot water) - system must be 20 kW or smaller.
 - Ground Source Heat Pump - 5.5 tons of capacity or smaller, horizontal/vertical, ground, closed-loop system.
 - Combined Heat and Power System - boilers sized appropriately for the buildings in which they are located.
 - Biomass Thermal - 3 MMBTUs per hour or smaller system with appropriate Best Available Control Technologies (BACT) installed and operated.
 5. Development, implementation and installation of energy efficient or renewable energy-powered emergency systems (lighting, cooling, heat, shelter) installed in existing buildings and facilities.
 6. Installation of alternative fueling pumps and systems for fuels such as compressed natural gas, hydrogen, ethanol and other commercially available biofuels, (but not storage tanks) installed on the site of a current or former fueling station, or within a previously disturbed or developed area within the boundaries of a facility managed by the owners of a vehicle fleet.
 7. Purchase of alternative fuel vehicles.
 8. Installation of electric vehicle charging stations installed on existing facilities.
 9. Development and implementation of training programs.
 10. Development and implementation of building codes and inspection services, and associated training and enforcement of such codes in order to support code compliance and promote building energy efficiency.
 11. Implementing financial incentive programs such as rebates and energy savings performance contracts for existing facilities or for energy efficient equipment, provided that the incentives are not so large that they would be deemed to be grants that create projects that would not otherwise exist. (For example, giving a wind farm that cost \$100 million a sum of \$50 million and calling it a rebate would not fall within this Bounded Category).

j) Historic Preservation

Prior to the expenditure of Federal funds to alter any structure or site, the Subrecipient is required to comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA), consistent with DOE's 2009 letter of delegation of authority regarding the NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. In order to fulfill the requirements of Section 106, the Subrecipient must contact the State Historic Preservation Officer (SHPO), and, if applicable, the Tribal Historic Preservation Officer (THPO), to coordinate the Section 106 review outlined in 36 CFR Part 800. SHPO contact information is available

at the following link: <http://www.ncshpo.org/find/index.htm>. THPO contact information is available at the following link: <http://www.nathpo.org/map.html>

Section 110(k) of the NHPA applies to DOE funded activities. Subrecipients shall avoid taking any action that results in an adverse effect to historic properties pending compliance with Section 106.

Subrecipients should be aware that the DPS Administrator will consider the Subrecipient in compliance with Section 106 of the NHPA only after the Subrecipient has submitted adequate background documentation to the SHPO/THPO for its review, and the SHPO/THPO has provided written concurrence to the Subrecipient that it does not object to its Section 106 finding or determination. The Subrecipient shall provide a copy of this concurrence to the DPS Administrator.

k) Allowable Costs

1. Allowable Costs for For-Profit Entities and Certain Non-Profit Organizations.

For for-profit entities and nonprofit organizations listed in Attachment C to OMB Circular A-122 (codified at 2 C.F.R. Part 230), DOE determines the allowability of costs through reference to the for-profit cost principles in the Federal Acquisition Regulations (48 C.F.R. Part 31).

2. Allowable Costs for Nonprofits.

For nonprofit organizations not listed in Attachment C to OMB Circular A-122 (codified at 2 C.F.R. Part 230), DOE determines the allowability of costs through reference to the cost principles for nonprofit organizations in OMB Circular A-122 (Codified at 2 C.F.R. Part 230).

3. Allowable Costs for Institutions of Higher Education.

For institutions of higher education, DOE determines the allowability of costs through reference to OMB Circular A-21, "Cost Principles of Educational Institutions" (codified at 2 C.F.R. Part 220).

4. Allowable Costs for States and Local Governments.

For States, local governments, and tribes, DOE determines the allowability of costs through reference to OMB Circular A-87, "Cost Principles for State, Local, and Indian Tribal Governments" (codified at 2 C.F.R. Part 225).

5. Unallowable Direct Costs in Addition to Those in OMB Circulars A-21 & A-122.

Interest penalties for late payments to the subrecipient are not allowable costs under this Award.

6. Project Costs.

All project costs must be allowable, allocable, and reasonable. The subrecipient must document and maintain records of all project costs, including, but not limited to, the costs paid by Federal funds, costs claimed by its subrecipients/subcontractors and project costs that the subrecipient claims as cost matching, including in-kind contributions. The subrecipient is responsible for maintaining records adequate to demonstrate that costs claimed have been incurred, are reasonable, allowable and allocable, and comply with the applicable cost principles. Upon request, the subrecipient is required to provide such records to DOE. Such records are subject to audit. Failure to provide DOE adequate supporting documentation may result in a determination by the DOE Contracting Officer that those costs are unallowable.

l) Equipment

Subject to the conditions provided in 2 CFR 200.313, title to equipment (property) acquired under a Federal award will conditionally vest upon acquisition with the non-Federal entity. The non-Federal entity cannot encumber this property and must follow the requirements of 2 CFR 200.313 before disposing of the property.

A state must use equipment acquired under a Federal award by the state in accordance with state laws and procedures.

Equipment must be used by the non-Federal entity in the program or project for which it was acquired as long as it is needed, whether or not the project or program continues to be supported by the Federal award. When no longer needed for the originally authorized purpose, the equipment may be used by programs supported by DOE in the priority order specified in 2 CFR 200.313(c)(1)(i) and (ii).

Management requirements, including inventory and control systems, for equipment are provided in 2 CFR 200.313(d).

When equipment acquired under a Federal award is no longer needed, the non-Federal entity must obtain disposition instructions from DOE or pass-through entity.

Disposition will be made as follows: (a) items of equipment with a current fair market value of \$5,000 or less may be retained, sold, or otherwise disposed of with no further obligation to DOE; (b) Non-Federal entity may retain title or sell the equipment after compensating DOE as described in 2 CFR 200.313(e)(2); or (c) transfer title to DOE or to an eligible third party as specified in 2 CFR 200.313(e)(3).

See 2 CFR 200.313 for additional requirements pertaining to equipment acquired under a Federal award. Also see 2 CFR 910.360 for additional requirements for equipment for For-Profit recipients. See also 2 CFR 200.439 Equipment and other capital expenditures.

m) Supplies

See 2 CFR 200.314 for requirements pertaining to supplies acquired under a Federal award. See also 2 CFR 200.453 Materials and supplies costs, including costs of computing devices.

n) Property Trust Relationship

Real property, equipment, and intangible property, that are acquired or improved with a Federal award must be held in trust by the non-Federal entity as trustee for the beneficiaries of the project or program under which the property was acquired or improved. See 2 CFR 200.316 for additional requirements pertaining to real property, equipment, and intangible property acquired or improved under a Federal award.

o) Record Retention

Consistent with 2 CFR 200.333 through 200.337, the subrecipient is required to retain records relating to this Award.

p) System For Award Management And Universal Identifier Requirements

a. Requirement for Registration in the System for Award Management (SAM)

Unless the subrecipient is exempted from this requirement under 2 CFR 25.110, the subrecipient must maintain the currency of its information in SAM until the subrecipient submits the final financial report required under this Award or receive the final payment, whichever is later. This requires that the

subrecipient reviews and updates the information at least annually after the initial registration, and more frequently if required by changes in its information or another award term.

If the subrecipient had an active registration in the CCR, it has an active registration in SAM.

b. Requirement for Data Universal Numbering System (DUNS) Numbers

The subrecipient must provide its DUNS number to the DPS.

c. Definitions

For purposes of this award term:

1. System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at <https://www.sam.gov>).
2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).

q) Performance Of Work In United States

a. Requirement.

All work performed under this Award must be performed in the United States unless the DPS Administrator provides a waiver. This requirement does not apply to the purchase of supplies and equipment; however, the subrecipient should make every effort to purchase supplies and equipment within the United States.

b. Failure to Comply.

If the subrecipient fails to comply with the Performance of Work in the United States requirement, the DPS Administrator may deny reimbursement for the work conducted outside the United States and such costs may not be recognized as allowable subrecipient cost share regardless if the work is performed by the subrecipient, vendors or other project partners.

c. Waiver for Work Outside the U.S.

All work performed under this Award must be performed in the United States. However, the DPS Administrator may approve the subrecipient to perform a portion of the work outside the United States under limited circumstances. Subrecipient must obtain a waiver from the DPS Administrator prior to conducting any work outside the U.S. To request a waiver, the subrecipient must submit a written waiver request to the DPS Administrator, which includes the following information:

- The rationale for performing the work outside the U.S.;
- A description of the work proposed to be performed outside the U.S.;
- Proposed budget of work to be performed; and
- The countries in which the work is proposed to be performed.

For the rationale, the subrecipient must demonstrate to the satisfaction of the DPS Administrator that the performance of work outside the United States would further the purposes of the FOA that the Award was selected under and is in the economic interests of the United States. The DPS Administrator may

require additional information before considering such request.