

# CONTRACT, LEASE, AGREEMENT CONTROL FORM

Date: 09/27/2023

Contract/Lease Control #: C23-3905-TDD

Procurement#: N/A

Contract/Lease Type: CONTRACT-AGREEMENT

Award To/Lessee: DESTIN FISHING & HISTORY MUSEUM

Owner/Lessor: OKALOOSA COUNTY

Effective Date: 10/01/2023

Expiration Date: INDEFINITE

Description of: EDUCATING & ENTERTAINING THE PUBLIC

Department: TDD

Department Monitor: ADAMS

Monitor's Telephone #: 850-651-7131

Monitor's FAX # or E-mail: JADAMS@MYOKALOOSA.COM

Closed: \_\_\_\_\_

CC: BCC RECORDS

PROCUREMENT/CONTRACT/LEASE  
INTERNAL COORDINATION SHEET

TDD  
C23-3905-0003

Procurement/Contract/Lease Number: TDD Tracking Number: 4955-23  
Procurement/Contractor/Lessee Name: Qestn Fishng: Histog museum Grant Funded: YES \_\_\_ NO X  
Purpose: Educating Entertaining Public  
Date/Term: Indefinite 1.  GREATER THAN \$100,000  
Department #: 1410 2.  GREATER THAN \$50,000  
Account #: 582705 3.  \$50,000 OR LESS  
Amount: \$ 12,500  
Department: TDD Dept. Monitor Name: Adams

*Purchasing Review*

Procurement or Contract/Lease requirements are met: DeRita Mason Date: 9-14-23  
Purchasing Manager or designee: DeRita Mason, Erin Poole, Amber Hammonds

*2CFR Compliance Review (if required)*

Approved as written: no Federal funds Grant Name: \_\_\_\_\_ Date: \_\_\_\_\_  
Grants Coordinator: Suzanne Ulloa

*Risk Management Review*

Approved as written: see email attached Date: 9-15-23  
Risk Manager or designee: Lydia Garcia

*County Attorney Review*

Approved as written: see email attached Date: 9-15-23  
County Attorney: Lynn Hoshihara, Kerry Parsons or Designee

*Department Funding Review*

Approved as written: \_\_\_\_\_ Date: \_\_\_\_\_

*IT Review (if applicable)*

Approved as written: \_\_\_\_\_ Date: \_\_\_\_\_

**DeRita Mason**

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**From:** Parsons, Kerry <KParsons@ngn-tally.com>  
**Sent:** Friday, September 15, 2023 12:49 PM  
**To:** DeRita Mason; Lynn Hoshihara  
**Cc:** Odessa Cooper-Pool; Jacqueline Matichuk  
**Subject:** RE: For Coordination: New Agreements for Museums (5)

The Museum Agreements are approved for legal purposes.

**Kerry A. Parsons, Esq.**  
**Nabors  
Giblin &  
Nickerson**  
1500 Mahan Dr. Ste. 200  
Tallahassee, FL 32308  
T. (850) 224-4070  
[kparsons@ngn-tally.com](mailto:kparsons@ngn-tally.com)

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**From:** DeRita Mason <dmason@myokaloosa.com>  
**Sent:** Thursday, September 14, 2023 8:05 AM  
**To:** lhoshihara@myokaloosa.com  
**Cc:** Parsons, Kerry <KParsons@ngn-tally.com>; Odessa Cooper-Pool <ocooperpool@myokaloosa.com>; Jacqueline Matichuk <jmatichuk@myokaloosa.com>  
**Subject:** FW: For Coordination: New Agreements for Museums (5)

Good morning,  
Please review and approve the attached.  
Thank you,

DeRita Mason



DeRita Mason, CPPO, CPPB, NIGP-CPP  
Purchasing Manager  
Okaloosa County Purchasing Department  
5479A Old Bethel Road

## DeRita Mason

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**From:** Odessa Cooper-Pool  
**Sent:** Friday, September 15, 2023 1:17 PM  
**To:** DeRita Mason; Lynn Hoshihara  
**Cc:** 'Parsons, Kerry'; Jacqueline Matichuk  
**Subject:** RE: For Coordination: New Agreements for Museums (5)  
**Attachments:** FY24 DHFM Funding.doc

Hello DeRita,

The Agreement for the Destin History & Fishing Museum has been reviewed and is approved by Risk Management for insurance purposes.

Thank you,

### **Odessa Cooper-Pool**

Public Records & Contracts Specialist |Risk Management  
Okaloosa County BCC  
302 N. Wilson Street, Crestview, FL 32536  
Office: 1-850-689-4111



"And, when you want something, all the universe conspires in helping you to achieve it."— Paulo Coelho, *The Alchemist*

**Please note: Due to Florida's very broad public records laws, most written communications to or from County employees regarding County business are public records, available to the public and media upon request. Therefore, this written e-mail communication, including your e-mail address, may be subject to public disclosure.**

**From:** DeRita Mason <dmason@myokaloosa.com>  
**Sent:** Thursday, September 14, 2023 7:05 AM  
**To:** Lynn Hoshihara <lhoshihara@myokaloosa.com>  
**Cc:** 'Parsons, Kerry' <KParsons@ngn-tally.com>; Odessa Cooper-Pool <ocooperpool@myokaloosa.com>; Jacqueline Matichuk <jmatichuk@myokaloosa.com>  
**Subject:** FW: For Coordination: New Agreements for Museums (5)

Good morning,  
Please review and approve the attached.  
Thank you,

DeRita Mason

**AGREEMENT FOR**  
**DESTIN HISTORY & FISHING MUSEUM PROJECTS**

This AGREEMENT (the "Agreement") is made and entered into on the effective date below by and between OKALOOSA COUNTY, FLORIDA, a political subdivision of the State of Florida (the "County") and DESTIN HISTORY & FISHING MUSEUM, a 501(c)(3) non-profit organization (the "Museum").

**WHEREAS**, the County finds that educating and entertaining the public is an essential component of promoting a tourist destination; and

**WHEREAS**, museums meaningfully engage the needs and interests of our visitors; and

**WHEREAS**, the Destin History & Fishing Museum has the qualifications, experience and resources to provide such services; and

**WHEREAS**, the County determines it would be in the best interest of its visitors to support the Museum for the purposes set forth herein.

**NOW, THEREFORE**, in consideration of the above and mutual covenants contained herein, the County and the Museum agree as follows:

**Section 1. Recitals.** The above recitals are true and accurate and are incorporated herein as essential terms of the Agreement.

**Section 2. Scope of Services.** The Museum shall undertake the Projects as set forth in EXHIBIT A attached hereto and incorporated by reference.

The Museum shall acknowledge funding provided by Okaloosa County tourist development taxes alongside exhibits and prominently place the Okaloosa County tourist development logo ("Logo") on marketing and advertising materials used to provide services under this Agreement. Additionally, the Museum agrees to work with the County to enhance marketing efforts. Such marketing efforts may include, but not be limited to, social media development and interaction, public relations and publicity initiatives, webpage links and landing pages, and photograph and video.

Statistical information, including but not limited to, visitor demographics, gift shop sales, website traffic and social media engagement shall be provided to the County within 15 calendar days of each quarter end (i.e. January 15, April 15, July 15, October 15).

**Section 3. Compensation and Invoices.** The County agrees to reimburse the Museum an amount not to exceed as set forth in EXHIBIT A.

Reimbursement shall be paid to Museum after expenses have been incurred and upon receipt of an invoice. Invoicing detail shall be in sufficient detail for pre- and post-audit review to ensure the services were performed and that the correct amount has been invoiced. Invoices shall be signed by the Museum Director and include backup documentation detailing expenditure transactions, including but not limited to transaction date, vendor name, and purpose of transaction. Invoices shall be itemized such that the description of services performed is consistent with the description of expenses as set forth in EXHIBIT A.

CONTRACT #: C23-3905-TDD  
DESTIN FISHING & HISTORY MUSEUM  
EDUCATING & ENTERTAINING THE PUBLIC  
EXPIRATION: INDEFINITE

The Museum is authorized to shift expenses between line items so long as the total annual amount is not exceeded. Failure to provide the requisite documentation for payment by September 30, shall result in forfeiture of County funds.

Reimbursement may be reduced as necessary in the event of a storm or other occurrence that results in decreased visitation and consequently a significant decrease in tourist development tax revenue.

In the event a portion of an invoice submitted to the County for payment to the Museum, as specified above, is disputed, payment for the disputed amount may be withheld pending resolution of the dispute, and the remainder of the invoice will be processed for payment without regard to that portion which is in dispute.

This Agreement is for one-time projects and there is no continuing obligation by the County to provide such funds in the future.

*If County funds are provided for reimbursement of the purchase of a capital item – “capital item” means property of a non-consumable nature with a value of \$1,000 or more and normal expected life of one (1) year or more – then the proceeds from subsequent disposal of such capital item (e.g. sale, trade-in, auction) shall be refunded to the County. The County shall retain the right of first refusal prior to the Museum’s disposal of any capital item funded by tourist development tax dollars.*

**Section 4. Non-Appropriation of Funds.** Notwithstanding anything contained in this Agreement to the contrary, in the event the funds appropriated by the County through the Tourist Development Department are insufficient to pay the costs of this Agreement, the Agreement shall terminate on the last fiscal quarter period for which appropriations were received, without penalty or expense to the County of any kind whatsoever. The County will immediately notify the Museum of such occurrence. Notwithstanding the foregoing, the restrictive covenants of this paragraph are limited to the Okaloosa County Tourist Development Council Trust Fund and nothing herein shall be applied to the General Fund or any other special fund controlled by the County.

**Section 5. Independent Contractor.** It is mutually agreed that the Museum is and shall remain an independent contractor and is not an employee or agent of the County.

**Section 6. Effective Date and Term of Agreement.** This Agreement shall be effective on October 1, 2023 and shall remain in effect until terminated by either party in accordance with the provision contained in this Agreement.

Exhibit A shall be amended annually to reflect the fiscal year scope of services and reimbursement amount.

**Section 7. Termination.** Either party may terminate this Agreement by giving thirty (30) days’ written notice to the other party of its intent to terminate this Agreement.

**Section 8. Audit.** The County shall have the right from time to time at its sole expense to audit the compliance by the Museum with the terms, conditions, obligations, limitations, restrictions and requirements of this Agreement and such right shall extend for a period of three (3) years after termination of this Agreement.

**Section 9. Public Records.** The Museum shall allow public access to all documents, records and other materials, subject to the provisions of Chapter 119, Florida Statutes, prepared or received by the Museum in conjunction with this Agreement.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT OKALOOSA COUNTY RISK MANAGEMENT DEPARTMENT 302 N. WILSON STREET, STE 301, CRESTVIEW, FL 32536 PHONE: (850) 689-5977 riskinfo@myokaloosa.com.**

Contractor must comply with the public records laws, Florida Statute chapter 119, specifically Contractor must:

- a. Keep and maintain public records required by the County to perform the service.
- b. Upon request from the County's custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119 Florida Statutes or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the County.
- d. Upon completion of the contract, transfer, at no cost, to the County all public records in possession of the contractor or keep and maintain public records required by the County to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining the public records. All records stored electronically must be provided to the public agency, upon the request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

**Section 10. Indemnification & Insurance.** To the fullest extent permitted by law, the Museum shall indemnify and hold harmless the County, its officers and employees from liabilities, damages, losses, and costs including but not limited to reasonable attorney fees, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the Museum and other persons employed or utilized by the Museum in the performance of this Agreement.

Museum shall furnish the County with Certificates of Insurance. The certificate holder shall be as follows:

Okaloosa County BCC  
5479A Old Bethel Road  
Crestview, Florida 32536

Okaloosa County will be added as Additional Insured on all policies, except workers compensation. All policies, including workers compensation, will have a waiver of subrogation.

The insurance required shall be written for not less than the following limits unless law requires higher amounts:

- |   |                             |
|---|-----------------------------|
| 1. Workers Compensation                                       |                             |
| a) State  | Statutory                   |
| b) Employers Liability  | \$500,000 each accident     |
| 2. Business Automobile<br>(Combined Single Limit)             | \$1 million each occurrence |
| 3. Commercial General Insurance<br>(Combined Single Limit)    | \$1 million each occurrence |
| 4. Professional Liability<br>(Combined Single Limit)          | \$1 million each occurrence |
| 5. Personal Injury and Advertising<br>(Combined Single Limit) | \$1 million each occurrence |

**Section 11. Entire Agreement.** This Agreement represents the entire understanding between the parties with respect to the undertakings covered hereunder and there are no oral or collateral agreements with respect thereto between the parties.

**Section 12. Legal Fees.** If any legal action is brought by either party relating to this Agreement, the prevailing party shall be entitled to reimbursement by the other party of its reasonable attorneys' fees and costs.

**Section 13. Governing Law and Venue.** The validity, construction and performance of this Agreement shall be governed by the laws of the State of Florida. Venue for any action arising out of this Agreement shall be in Okaloosa County, Florida.

**Section 14. Severability.** If any portion of the Agreement, the deletion of which would not adversely affect the receipt of any material benefit by either party, is for any reason held or declared to be invalid or unenforceable, such determination shall not affect the remaining portions of this Agreement. If this Agreement or any portion of this Agreement is held or declared to be inapplicable to any person, property or circumstance, such determination shall not affect its applicability to any other person, property or circumstance.

**Section 15. Federal Requirements.** During the performance of this Agreement, the parties shall comply with the Federal Regulations as set forth in Exhibit B. Exhibit B is expressly incorporated herein as part of the contract.

**IN WITNESS WHEREOF,** the parties hereto, by and through the undersigned, have entered into this Agreement.

**DESTIN HISTORY & FISHING MUSEUM**

By: *Vivienne Williams*  
Vivienne Williams, Executive Director

Date: 9/27/23

**OKALOOSA COUNTY, FLORIDA**

By: DeRita Mason Digitally signed by DeRita Mason  
Date: 2023.09.27 13:49:14 -05'00'  
DeRita Mason, Purchasing Manager

Date: \_\_\_\_\_



**EXHIBIT A**

**SCOPE OF SERVICES**

Destin History & Fishing Museum  
Funding Request due April 14, 2023  
for expenses to be incurred 10/1/23 - 9/30/24

Expenditure Type	Description	TDT Funding	Non-TDT Funding
Promotional - Marketing	Advertising & Promotions - expand ad program with media/hotels/resorts	4,000	500
Promotional - Exhibits	Update/Create outside learning spaces and exhibits	4,000	1,000
Promotional - Exhibits	Exhibit & Technology Enhancements - evaluate & update exhibits thru technology & professionally printed data	4,500	1,000
		12,500	2,500

The Destin History & Fishing Museum meaningfully engages the educational and entertainment needs and interests of visitors and provides a venue to learn about the "World's Luckiest Fishing Village".

I attest this request complies with the provisions of section 125.0104 Florida Statutes and County Ordinance 2021-22, and am aware this request will be reviewed for final approval by the FDC and BOCC and is subject to available budget funds and ultimately actual TDT collections.

  
Applicant Signature

4/8/23  
Date

## Exhibit B

### Title VI Clauses for Compliance with Nondiscrimination Requirements

#### Compliance with Nondiscrimination Requirements

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

**Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Title VI List of Pertinent Nondiscrimination Acts And Authorities, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

**Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Nondiscrimination Acts and Authorities, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.

**Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

**Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Nondiscrimination Acts And Authorities and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.

**Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:

- a. Withholding payments to the contractor under the contract until the contractor complies; and/or
- b. Cancelling, terminating, or suspending a contract, in whole or in part.

**Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

### **Title VI List of Pertinent Nondiscrimination Acts and Authorities**

#### **Title VI List of Pertinent Nondiscrimination Acts and Authorities**

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;

Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

### **FEDERAL FAIR LABOR STANDARDS ACT (FEDERAL MINIMUM WAGE)**

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The [*contractor* | *consultant*] has full responsibility to monitor compliance to the referenced statute or regulation. The [*contractor* | *consultant*] must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division

### **OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970**

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

### **E-VERIFY**

Enrollment and verification requirements.

- (1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall-
  - a. Enroll. Enroll as a Federal Contractor in the E-Verify Program within thirty (30) calendar days of contract award;

- b. Verify all new employees. Within ninety (90) calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within three (3) business days after the date of hire (but see paragraph (b)(3) of this section); and,
  - c. Verify employees assigned to the contract. For each employee assigned to the contract, initiate verification within ninety (90) calendar days after date of enrollment or within thirty (30) calendar days of the employee's assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section.)
- (2) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of
- a. All new employees.
    - i. Enrolled ninety (90) calendar days or more. The Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within three (3) business days after the date of hire (but see paragraph (b)(3) of this section); or
    - b. Enrolled less than ninety (90) calendar days. Within ninety (90) calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the contractor, who are working in the United States, whether or not assigned to the contract, within three (3) business days after the date of hire (but see paragraph (b)(3) of this section; or
    - ii. Employees assigned to the contract. For each employee assigned to the contract, the Contractor shall initiate verification within ninety (90) calendar days after date of contract award or within thirty (30) days after assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section.)
- (3) If the Contractor is an institution of higher education (as defined at 20 U.S.C. 1001(a)); a State or local government or the government of a Federally recognized Indian tribe, or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract, whether existing employees or new hires. The Contractor shall follow the applicable verification requirements of (b)(1) or (b)(2), respectively, except that any requirement for verification of new employees applies only to new employees assigned to the contract.
- (4) Option to verify employment eligibility of all employees. The Contractor may elect to verify all existing employees hired after November 6, 1986 (after November 27,

2009, in the Commonwealth of the Northern Mariana Islands), rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), within one hundred eighty (180) calendar days of-

- i. Enrollment in the E-Verify program; or
- ii. Notification to E-Verify Operations of the Contractor's decision to exercise this option, using the contract information provided in the E-Verify program Memorandum of Understanding (MOU)

(5) The Contractor shall comply, for the period of performance of this contract, with the requirements of the E-Verify program MOU.

- i. The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Contractor, will be referred to a suspension or debarment official.
- ii. During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the contractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must reenroll in E-Verify.
- iii. Web site. Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

Individuals previously verified. The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee-

- (a) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;
- (b) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or
- (c) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD)-12. Policy for a Common Identification Standard for Federal Employees and Contractors.

Subcontracts. The Contractor shall include the requirements of this clause, including this paragraph e (appropriately modified for identification of the parties in each subcontract that-

- (1) Is for-(i) Commercial and noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or  
(ii) Construction;
- (2) Has a value of more than \$3,500; and
- (3) Includes work performed in the United States.

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