

PARISH OF TERREBONNE

STATE OF LOUISIANA

MASTER AGREEMENT FOR GROUND AMBULANCE SERVICES

This Agreement is hereby made and executed by and between:

I. PARTIES

1.1. **Terrebonne Parish Consolidated Government**, a political subdivision of the State of Louisiana, with a mailing address of PO Box 2768, Houma LA 70361, acting by and through Gordon E. Dove, President, by virtue of Terrebonne Parish Council Resolution No. _____, hereinafter designated as “FACILITY”; and

and

1.2. **Acadian Ambulance Service, Inc.**, a Louisiana corporation, with a mailing address of PO Box 98000, Lafayette, LA 70509-8000, represented herein by _____, its duly authorized _____, by virtue of _____, a copy of which is attached to this agreement and made a part hereof;

who agree as follows:

II. PREAMBLES

2.1. WHEREAS, Acadian Ambulance Service, Inc. is an accredited ambulance service provider recognized by the Commission on Accreditation of Ambulance Service, (herein after referred to as a “Acadian”); and

2.2. WHEREAS, under the authority of La. R.S. 15:7036, Terrebonne Parish Consolidated Government (hereinafter referred to as “FACILITY”) maintains a medical staff at the Terrebonne Parish Criminal Justice Complex to conduct daily operations necessary to provide health care services to parish prisoners confined therein; and

2.3. WHEREAS, FACILITY has historically contracted with Acadian for the transportation of prisoners and/or the provision of medical care during transport; and

2.4. WHEREAS, Facility also operates other departments, such as the Houma Police Department and the Juvenile Justice Facility, which would benefit from the emergency services under the same contract; and

2.5. WHEREAS, the current agreement is scheduled to expire December 31, 2017, and FACILITY and Acadian desire to enter into this agreement to provide for continued services in the form of ground ambulance transportation of patients of FACILITY at the locations specified herein needing transportation; and

2.6. NOW, therefore, in consideration of the mutual covenants herein contained, and the mutual benefits to be derived by both parties herein the parties agree as follows:

III. SCOPE OF AGREEMENT

3.1. Upon request and acceptance, Acadian shall provide ground ambulance transportation for all clients of FACILITY, when authorized, scheduled or requested by FACILITY at the following locations:

3.1.1. Terrebonne Parish Criminal Justice Complex, 3211 Grand Caillou Rd., Houma LA 70363;

3.1.2. Terrebonne Parish Juvenile Justice Complex, 180 Government Street, Gray LA 70359;

3.1.3. Houma Police Department, 500 Honduras Street, Houma LA 70360; and

3.1.4. Any additional location authorized in writing by the Parish President..

3.2. Upon request and acceptance, Acadian may provide Bariatric services, based upon availability of bariatric unit, patient necessity, for a patient whose weight is in excess of 500 pounds or request from FACILITY.

3.3. All transports will be provided at the appropriate level of care in accord with the patient's condition. Acadian shall provide either Advanced Life Support level of care, by at least one Nationally Registered EMT-Paramedic who shall be annually certified, and subject to an annual performance appraisal by Acadian or Basic Life Support level of care, by at least one Nationally Registered EMT- Basic who shall be annually certified, and subject to an annual performance appraisal by Acadian.

IV. CONSIDERATION

4.1. In consideration of the services described above, FACILITY hereby agrees to pay Acadian, and Acadian agrees to accept payment in amounts not to exceed the Louisiana Medicaid allowable rates for the services outlined above. The attached Exhibit A is an example of the current rates. FACILITY understands that the compensation set forth above, to which it is obligated to pay to Acadian, is a discount on Acadian's usual and customary rates.

4.2. No additional costs or expenses incurred by Acadian in performance of this Agreement shall be reimbursed or paid by FACILITY unless agreed upon in writing by the parties. Disbursements under this agreement will be allowed only for expenditures occurring between and including the date of execution of this Agreement by all parties through the date of expiration or termination of this Agreement. Acadian hereby assumes all responsibility for payment of taxes from the funds thus received under this Agreement.

V. INVOICES AND TERMS OF PAYMENT

5.1. For each location listed in part 3.1 of this Agreement, Acadian shall, on a monthly basis, submit patient invoices to the location for which services were provided, plus a recap sheet for each location, restating the total invoices being billed to each location, for the month of services performed by Acadian under this agreement.

5.2. All undisputed invoices are due and payable by Facility to Acadian net thirty days from receipt of

same. All invoices not paid in full within 61 days from date of invoice will be considered past due. Once an invoice becomes past due, Acadian may mail to FACILITY a Past Due Notice consisting of the invoice number(s) and amount(s) due on said invoice(s).

5.3. All invoices not paid in full within 91 days from date of invoice will be considered delinquent. Once an invoice becomes delinquent, FACILITY shall no longer be entitled to the discount to which it would otherwise be entitled under the terms of this contract, and FACILITY will be obligated to pay for any new services at Acadian's usual and customary rates. Acadian shall be entitled to file suit against FACILITY if it fails to pay delinquent invoices within thirty (30) day of Acadian mailing to FACILITY, by certified mail, a Delinquent Notice consisting of the invoice number and amount due on said invoice.

5.4. Upon filing suit, Acadian shall be entitled to recover from FACILITY all amounts to which it is entitled to recover under the terms of this contract along with attorney fees, court costs and all other amounts to which it is legally entitled.

5.5. Repeated failure of Facility to pay timely shall be grounds for immediate termination of this Agreement at the option of Acadian without further notice.

VI. RESERVATION OF RIGHTS

Acadian agrees to bill any 3rd party sources available, such as Medicare, Medicaid, and/or commercial insurance when available. However, to the extent 3rd party benefits are not available, whether due to denial or otherwise, for any client transported pursuant to this agreement, Facility hereby agrees to be responsible for and pay all costs associated with the transportation of clients of Facility at the rates set forth herein. Facility agrees that it shall pay all undisputed sums owed to Acadian Ambulance within 30 days of presentation of an invoice by Acadian Ambulance for services performed at the address set forth below.

VII. INDEPENDENT CONTRACTOR

Acadian agrees that, at all times, Acadian and its employees shall be independent contractors, and not agents or employees of FACILITY. No act of commission or omission by either party shall make the other principal, agent, or employee of the other.

VIII. INSURANCE

Acadian shall procure, pay and maintain for the duration of this Agreement insurance coverage against claims for injuries to persons or damages to property and other claims or lawsuits which may arise from or in connection with the performance or nonperformance of this Agreement, whether by the Acadian, its agents, representatives, employees or subcontractors in conformity with the terms, conditions, and requirements noted below.

8.1. Minimum Limits and Scope of Insurance. Acadian shall maintain limits no less than and coverages shall be at least as broad as:

8.1.1. Commercial General Liability with Contractual Indemnity with a minimum coverage amount of \$1,000,000.00 combined single limit per occurrence for bodily injury, personal injury and property damage written on the latest available forms covering Comprehensive General Liability and covering Broad Form Comprehensive General Liability coverage. "Claims Made" form is unacceptable. The "occurrence form" shall not have a "sunset clause".

8.1.2. Professional/Medical Liability with a minimum of \$1,000,000.00 combined single limit coverage. This requirement shall extend to all professional subcontractors employed by Acadian. Acadian shall provide certification of such insurance and a copy of the policy upon request.

8.1.3. Automobile Liability with a minimum coverage amount of \$1,000,000.00 combined single limit per accident for bodily injury and property damage written on the latest available form(s) covering Automobile Liability. The policy shall provide coverage for any auto or owned, hired, and non-owned coverage.

8.1.4. Workers' Compensation Insurance and Occupational Disease coverage as required by the Labor Code of the State of Louisiana, including Employers Liability insurance with limits as required by the Labor Code of the State of Louisiana.

8.2. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by Facility. At the option of Facility, either: The insurer shall reduce or eliminate such deductibles or self-insured retentions as respects Facility, its officers, officials, employees and volunteers or the Acadian shall procure a Bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

8.3. Other Insurance Provisions. The policies are to contain, or be endorsed to contain, the following provisions:

8.3.1. General Liability, Professional/Medical Liability, and Automobile Liability Coverages

8.3.1.1. Facility, its officers, officials, employees, Boards and Commissions and volunteers are to be added as certificate holders and "additional insureds" as respects liability arising out of activities performed by or on behalf of the Acadian; products and completed operations of Acadian premises owned, occupied or used by the Acadian. The coverage shall contain no special limitations on the scope of protection afforded to TPCG, its officers, officials, employees or volunteers. It is understood that the business auto policy under "Who is an insured" automatically provides liability coverage in favor of TPCG.

8.3.1.2. Any failure to comply with reporting provisions of the policy shall not affect coverage provided to TPCG, its officers, officials, employees, Boards and Commissions or volunteers.

8.3.1.3. Acadian's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insured's liability.

8.3.2. Workers' Compensation, Occupational Disease, and Employer's Liability Coverage - The insurer shall agree to waive all rights of subrogation against Facility, its officers, officials, employees and volunteers for losses arising from work performed by Acadian for Facility.

8.4. Acceptability of Insurers. Insurance is to be placed with insurers with an A.M. BEST'S RATING OF

NO LESS THAN A:VI. This requirement will be waived for workers' compensation coverage only for those contractors whose workers' compensation coverage is placed with companies who participate in the State of Louisiana Workers' Assigned Risk Pool or Louisiana Workers' Compensation Corporation.

8.5. Verification of Coverage. Acadian shall furnish TPCG with certificates of insurance affecting coverage required. The certificates for each insurance policy are too signed by a person authorized by that insurer to bind coverage on its behalf. THE CERTIFICATES ARE TO BE RECEIVED AND APPROVED BY FACILITY BEFORE WORK COMMENCES. All certificates shall provide that the policies may not be canceled without thirty (30) days' written notice to the Facility. Facility reserves the right to require complete, certified copies of all required insurance policies at any time.

8.6. Subcontractors. Acadian shall include all subcontractors as insureds under its policies or shall furnish separate certificates for each subcontractor. All coverage for sub- contractors shall be subject to all of the requirements stated herein.

IX. INDEMNIFICATION

9.1. Acadian agrees to defend, indemnify, save, and hold harmless the Terrebonne Parish Consolidated Government, including all parish departments, agencies, councils, boards and commissions, their officers, agents, servants and employees, including volunteers, from and against any and all claims, lawsuits and demands for damages under any theory of liability as allowed by law, whether contractual, tortuous, or implied, arising from this agreement, whether for breach of contract, injury or death to any person, or for the damage, loss or destruction of any property, including loss of use, which may occur or in any way grow out of any breach, act or omission, whether intentional or unintentional, and any negligence or liability of Acadian, its subcontractors, agents, servants, officers and/or employees, related to the performance or nonperformance of the Agreement herein entered into, except for losses or injuries occurring as the result of the sole negligence of the FACILITY. Further, and a result of any such claims, lawsuits and demands, the Acadian agrees to investigate, handle, respond to, provide defense for and defend any such claims, demands or suits related thereto, at its sole expense, even if such claim, demand or suit is groundless, false or fraudulent. Damages are defined to include, but not be limited to, general, special, punitive, exemplary, delay, attorney fees, court costs, fines, penalties, interest, and/or expenses. Acadian shall include all subcontractors as insureds under its policies or shall furnish separate certificates for each subcontractor. All coverage for sub-contractors shall be subject to all of the requirements stated herein.

9.2. Facility agrees to defend, indemnify, save, and hold harmless Acadian, its officers, agents, servants and employees, including volunteers, from and against any and all claims, lawsuits and demands for damages under any theory of liability as allowed by law, whether contractual, tortuous, or implied, arising from this agreement, whether for breach of contract, injury or death to any person, or for the damage, loss or destruction of any property, which may occur or in any way grow out of any breach or any negligence or liability of Facility, including all parish departments, agencies, councils, boards and commissions, their officers, agents,

servants and employees, including volunteers, related to the performance or nonperformance of the Agreement herein entered into, except for losses or injuries occurring as the result of the sole negligence of Acadian.

X. TERM AND TERMINATION

10.1. This Agreement shall be in effect for one (1) year from the Effective Date of **January 1, 2018** (Primary Term) and shall thereafter automatically renew for additional one (1) year term unless otherwise terminated.

10.2. Either party shall be free to terminate this agreement by providing 30 days written notice to the other party. The parties may terminate by mutual written agreement. However, either party may terminate this Agreement if the other party breaches any term hereof and such breach is not cured within 10 days of written notice of same. All notices of termination must be in writing and delivered or sent registered mail to the following address listed below:

Acadian Ambulance Service, Inc.
c/o David L. Kelly, CFO
PO BOX 98000
Lafayette, LA 70509

Terrebonne Parish Consolidated Government
c/o Gordon Dove, Parish President
P O Box 6907
Houma, LA 70361

With a copy to:
Jail Medical Administrator
Terrebonne Parish Criminal Justice Complex
3211 Grand Caillou Road
Houma LA 70363

10.3. Failure to return this Agreement to Acadian, executed by Facility, within 30 days of the commencing date written above shall render this Agreement null and void and any services provided to facility shall be charged and billed at customary rates.

10.4. The indemnity obligations under this Agreement shall survive termination of this Agreement. Contractor's insurance obligations shall also survive the termination of this agreement to the extent necessary for the coverage of any claims made. The Contractor shall be entitled to payment for deliverables to the date of termination to the extent work has been performed satisfactorily.

CHOICE OF LAW

This agreement shall be construed in according to the laws of the state of Louisiana. The venue of any suit filed in connection with any claim or controversy under this agreement shall be the Thirty-second Judicial District Court, Parish of Terrebonne, state of Louisiana.

XI. AMENDMENT AND MODIFICATION

This agreement, including its attachments – Acadian’s signatory authority, Addendum 1 recognizing federally mandated contractual provisions (attached hereto and made a part of this agreement), and Exhibit A – constitutes the sole and entire agreement between the parties concerning the subject matter hereof, and may not be modified, discharged, or amended except in writing, signed by the duly authorized officers of each party. The parties agree that no promise or inducement has motivated either party to execute this agreement other than the terms articulated herein. The parties also agree that should any particular section of this agreement be deemed, void, or unenforceable, that the remainder of the agreement shall remain intact for the duration listed in this agreement.

XII. ADDITIONAL TERMS AND CONDITIONS

12.1. Assignment. Neither party may assign, in whole or in part, any interest, right, or obligation under this agreement without first obtaining written approval from the other party.

12.2. Legal Compliance. Acadian shall comply with all federal, state, and local laws and regulations, including, specifically, the Louisiana Code of Governmental Ethics (R.S. 42:1101, *et seq.*) in carrying out the provisions of this Agreement.

12.3. No Waiver. The failure of the either party to enforce any of the terms of this Agreement or to provide any of the supporting documentation in any particular instance shall not constitute a waiver of, or preclude the subsequent enforcement of, any or all of the terms or conditions of this Agreement.

12.4. Financial Disclosure. Because FACILITY is a public entity, each recipient may be subject to audit in accordance with R.S. 24:513. If the amount of public funds received by the provider is below the amount for which an audit is required under R.S. 24:513, the transferring agency shall monitor and evaluate the use of the funds to ensure effective achievement of the project goals and objectives.

12.5. Audit. It is hereby agreed that because FACILITY is a public entity, the Legislative Auditor of the State of Louisiana, and/or the Office of the Governor, Division of Administration auditors shall have the option of inspecting and auditing all data, records and accounts of Acadian which relate to this contract, upon request.

12.6. Taxes, Permits, Licenses. Acadian shall pay all sales, consumer, use and other similar taxes required in accordance with the laws and regulations of the Terrebonne Parish Consolidated Government which are applicable during the performance of the work. Acadian shall obtain, maintain and pay for all permits and licenses necessary.

Signatures to follow.

THUS DONE AND SIGNED AT the city of _____, Parish of _____, state of Louisiana, on the ____ day of _____ 20____, in the presence of the undersigned competent witnesses, and me, Notary Public, duly authorized and acting for and in the said parish and state.

WITNESSES:

Terrebonne Parish Consolidated Government

By: _____

Name: _____

Title: _____

NOTARY PUBLIC

THUS DONE AND SIGNED AT the city of _____, Parish of _____, state of Louisiana, on the ____ day of _____ 20____, in the presence of the undersigned competent witnesses, and me, Notary Public, duly authorized and acting for and in the said parish and state.

Acadian Ambulance Service, Inc.

WITNESSES:

By: _____

Name: _____

Title: _____

NOTARY PUBLIC

Exhibit A- Ground Ambulance Rates

Item	HCPC	Rate
BLS Non Emergency	A0428	100% Louisiana Medicaid Allowable
ALS1 Non Emergency	A0426	100% Louisiana Medicaid Allowable
BLS Emergency	A0429	100% Louisiana Medicaid Allowable
ALS1 Emergency	A0427	100% Louisiana Medicaid Allowable
ALS2 Emergency	A0433	100% Louisiana Medicaid Allowable
Specialty Care	A0434	100% Louisiana Medicaid Allowable
Mileage – Non Emergency	A0425	100% Louisiana Medicaid Allowable
Mileage – Emergency	A0425	100% Louisiana Medicaid Allowable

Rates are subject to change annually when rates are published by the Centers for Medicare and Medicaid Services.

You may refer to the Louisiana Medicaid link below for more information.

http://www.lamedicaid.com/provweb1/fee_schedules/Ambulance_Fee_Schedule_2014.pdf

Addendum 1

Code of Federal Regulations
Title 41. Public Contracts and Property Management
Subtitle B. Other Provisions Relating to Public Contracts
Chapter 60. Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor
Part 60-1. Obligations of Contractors and Subcontractors (Refs & Annos)
Subpart A. Preliminary Matters; Equal Opportunity Clause; Compliance Reports

41 C.F.R. § 60-1.4

§ 60-1.4 Equal opportunity clause.

Effective: January 11, 2016

Currentness

(a) Government contracts. Except as otherwise provided, each contracting agency shall include the following equal opportunity clause contained in section 202 of the order in each of its Government contracts (and modifications thereof if not included in the original contract):

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202

of [Executive Order 11246](#) of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of [Executive Order 11246](#) of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by [Executive Order 11246](#) of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in [Executive Order 11246](#) of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in [Executive Order 11246](#) of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of [Executive Order 11246](#) of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

(b) Federally assisted construction contracts.

(1) Except as otherwise provided, each administering agency shall require the inclusion of the following language as a condition of any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of the equal opportunity clause:

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor

agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of [Executive Order 11246](#) of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by [Executive Order 11246](#) of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in [Executive Order 11246](#) of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in [Executive Order 11246](#) of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of [Executive Order 11246](#) of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary

of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The applicant further agrees that it will refrain from entering into any contract or contract modification subject to [Executive Order 11246](#) of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(2) [Reserved]

(c) Subcontracts. Each nonexempt prime contractor or subcontractor shall include the equal opportunity clause in each of its nonexempt subcontracts.

(d) Inclusion of the equal opportunity clause by reference. The equal opportunity clause may be included by reference in all Government contracts and subcontracts, including Government bills of lading, transportation requests, contracts for deposit of Government funds, and contracts for issuing and paying U.S. savings bonds and notes, and such other contracts and subcontracts as the Director of OFCCP may designate.

(e) Incorporation by operation of the order. By operation of the order, the equal opportunity clause shall be considered to be a part of every contract and subcontract required by the order and the regulations in this part to include such a clause whether or not it is physically incorporated in such contracts and whether or not the contract between the agency and the contractor is written.

(f) Adaptation of language. Such necessary changes in language may be made in the equal opportunity clause as shall be appropriate to identify properly the parties and their undertakings.

Credits

[[62 FR 66971](#), Dec. 22, 1997; [79 FR 72993](#), Dec. 9, 2014; [80 FR 16996](#), March 31, 2015; [80 FR 54975](#), Sept. 11, 2015]

SOURCE: [43 FR 49240](#), Oct. 20, 1978, [49 FR 27947](#), July 9, 1984; [61 FR 19350](#), May 1, 1996; [62 FR 44188](#), Aug. 19, 1997; [68 FR 56393](#), Sept. 30, 2003; [79 FR 72993](#), Dec. 9, 2014; [80 FR 16996](#), March 31, 2015, unless otherwise noted.

AUTHORITY: Sec. 201, [E.O. 11246](#), [30 FR 12319](#), 3 CFR, 1964–1965 Comp., p. 339, as amended by [E.O. 11375](#), [32 FR 14303](#), 3 CFR, 1966–1970 Comp., p. 684, [E.O. 12086](#), [43 FR 46501](#), 3 CFR, 1978 Comp., p. 230, [E.O. 13279](#), [67 FR 77141](#), 3 CFR, 2002 Comp., p. 258 and [E.O. 13672](#), [79 FR 42971](#).

[Notes of Decisions \(85\)](#)