



MONTEREY BAY AQUARIUM RESEARCH INSTITUTE

Independent Contractor Agreement

Contractor: _____

Date: _____ Project Number: _____ PO# _____

This agreement is entered into in Moss Landing, California as of the date set forth in Exhibit A to this agreement between the independent contractor named above ("Contractor") and Monterey Bay Aquarium Research Institute ("MBARI") for the purpose of engaging Contractor to perform services for MBARI as described herein. In consideration of the mutual promises herein, the parties, agree, as follows:

The attached documents constitute part of the agreement: *(Check all that apply.)*

Exhibit A, Part I

Exhibit A, Part II

Exhibit B, Part I

Exhibit C

Additional Documents:

Monterey Bay Aquarium Research Institute

Signature:

Name:

Chief Financial Officer

Date:

Signature:

Name:

Director of Human Resources

Date:

Independent Contractor

Signature:

Name:

Date:



MONTEREY BAY AQUARIUM RESEARCH INSTITUTE
Independent Contractor Agreement
EXHIBIT A, Part I (Non-federal funding source)

Name

Office Phone:

Address

Cell Phone:

Fax:

City State Zip Code

Email:

SSN/TIN/EIN:

Agreement Date

Term of Service:

Start Date:

End Date:

Description of
services to be
performed:

Deliverables:

Fee:

Payment Method:



MONTEREY BAY AQUARIUM RESEARCH INSTITUTE

Independent Contractor Agreement

Exhibit A, Part II (Federal funding source)

Complete the following pages only if the Contractor will be paid with federal funds

Page 1 of 2

Purchases made with federal funds may be subject to audit at any time. Fair and reasonable pricing is mandatory.

A. To be completed by the Contractor

Name

Office Phone:

Address

Cell Phone:

Fax:

City State Zip Code

Email:

In what capacity will you be working, check any that apply:

Individual (Provide SSN)

Foreign National

Yes

No

Corporation/Company
(Provide TIN)

If yes, are you a nonresident alien (i.e.,
do you not have an Alien Registration
Receipt Card or "Green Card")?

Yes

No

Sole Proprietor (Provide SSN)

Yes

No

If yes, what is your visa type?

Term of Service:

Start Date:

End Date:

Description of
services to be
performed:

Deliverables:
(Attach additional
pages as needed.)

Fee:

Payment Method:

Invoice, no more frequently than monthly.



MONTEREY BAY AQUARIUM RESEARCH INSTITUTE
Independent Contractor Agreement
Exhibit A, Part II (Federal funding source)
Page 2 of 2

B. To be completed by the Principal Investigator/Project Manager

For all purchases completion of section (a) "Cost/Price Analysis" is required.

(a) Identify the basis for cost or price

- ☐ The price was obtained from a current catalogue or printed price list.
- ☐ The quoted price was reviewed in an MBARI proposal to a federal agency and was found acceptable.
- ☐ The vendor has stated the quoted price is no greater than that charged to vendor's most favored customer(s).
- ☐ The quoted price compares favorably to previous prices paid for the same or similar work done at MBARI.
- ☐ Other:

For all purchases over \$10,000 – Competitive bidding is expected for every purchase, complete sections (b) and (c) below:

(b) Briefly describe the selection criteria used for this Contractor (e.g., education, training, expertise). Include a justification for sole/selected source* selection or three price quotes.

*Sole Source: (no other professional/company is known to be fully capable of satisfying requirement).
Selected Source: alternative vendors exist, but vendor selection was based on a) technical requirements (e.g., precision, reliability, etc) or b) past performance of alternative vendors (poor service level, unavailability of parts, etc.).

(c) The certification required in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension" must be included in this agreement.

For purchases above \$100,000 --

(d) Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions in accordance with 31 USC 1352, and FAR 52.203-11 and FAR 52.203-12, must be included in this agreement.



MONTEREY BAY AQUARIUM RESEARCH INSTITUTE

Independent Contractor Agreement

Exhibit B, Part I (Federal funding source)

Uniform Guidance 2 CFR 200

All purchases made by MBARI under federal grants awards, including small purchases, hereby incorporate the following provisions as applicable:

1. Equal Employment Opportunity - All contracts shall contain a provision requiring compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

2. Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 40 U.S.C. 276c) - All contracts and subgrants in excess of \$2000 for construction or repair awarded by recipients and subrecipients shall include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The recipient shall report all suspected or reported violations to the Federal awarding agency.

3. Davis-Bacon Act, as amended (40 U.S.C. 276a to a-7) - When required by Federal program legislation, all construction contracts awarded by the recipients and subrecipients of more than \$2000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) and as supplemented by Department of Labor regulations (29 CFR part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction"). Under this Act, contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less than once a week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the Federal awarding agency.

4. Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333) - Where applicable, all contracts awarded by recipients in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers shall include a provision for compliance with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5). Under Section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

5. Rights to Inventions Made Under a Contract or Agreement - Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

6. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended - Contracts and subgrants of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

7. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

8. Debarment and Suspension (E.O.s 12549 and 12689) - No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Nonprocurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold shall provide the required certification regarding its exclusion status and that of its principal employees.

MONTEREY BAY AQUARIUM RESEARCH INSTITUTE
Independent Contractor Agreement
Exhibit C, Part I (Federal funding source)
Certifications

Independent Contractors paid with federal funds must sign and return certification forms at the following thresholds:

For all purchases over \$10,000

A Certification will be required in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension".

For purchases above \$100,000

A Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions in accordance with 31 USC 1352, and FAR 52.203-11 and FAR 52.203-12, must be completed.

Debarment Certification

1. By signing and submitting this Agreement, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this Agreement is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations (13CFR Part 145).
5. The prospective lower tier participant agrees by signing this Agreement that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by signing this Agreement that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 13 CFR Part 145. The regulations were published as Part VII of the May 26, 1988 *Federal Register* (pages 19160-19211). Copies of the regulations may be obtained by contacting the person to whom the Agreement is submitted.

(1) The prospective lower tier participant certifies, by signing of this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this Agreement.

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.