ADDENDUM NO. 1

Date: 4/27/11

To the CM Request for Qualifications:

PROJECT NUMBER: BSU11-016
Transmitted Via: Web
Project Name: Research Infrastructure Upgrade – Micron Engineering Center
BOISE STATE UNIVERSITY (BSU)
BOISE, IDAHO

Owner: Boise State University
1910 University Drive
Boise, ID  83725

NOTICE TO CONSTRUCTION MANAGERS

You are hereby notified of the following changes, deletions, corrections, additions, revisions, and/or modifications to Request for Qualifications dated 14 April, 2011, for the above-mentioned project which are made a part thereof.

The items of this Addendum are as follows:

1. Boise State University is in contract negotiations with HSA Architects and McKinstry to provide design services for the project. Architect selection to be confirmed by PBFAC on 5/4/11.

2. Attached document “Exhibit A – Grant Conditions” is a draft document containing a summary explanation of regulations that apply to the federally funded project. (8 pages)
EXHIBIT A

GRANT CONDITIONS

To be used as a guide to Government regulations pertaining to the administration, design and construction of grant funded BSU Project No. 11-016. The user has the responsibility for complying with all applicable laws, regulations and program guidance. This is a non-exclusive summary of statutes, regulations and/or guidance commonly applicable to Federal funds.

PREAMBLE

This contract is funded under the American Recovery and Reinvestment Act of 2009 (ARRA) (Public Law 111-5) and is subject to the ARRA Terms and Conditions dated April 2009.

The American Recovery and Reinvestment Act of 2009, was enacted to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits, stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive State and local tax increases.

This Exhibit addresses additional requirements applicable to ARRA funds. Subject to further guidance by the applicable Federal awarding agency, the following terms and conditions are consistent with the mandatory requirements for agreements funded by ARRA.

Be advised that ARRA funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of ARRA and related guidance. For projects funded by other sources in addition to ARRA funds, Contractors must keep separate records for ARRA funds and must ensure those records comply with the requirements of the ARRA.

The Contractor must comply with all requirements of ARRA. In the event there is any inconsistency between ARRA requirements and current terms and conditions, the ARRA requirements will take precedence.

Contractor agrees that in consideration of receipt of Federal ARRA Funds, it will comply with all of the terms, conditions, requirements and limitations set forth below:

TERMS & CONDITIONS

1. **Revisions to Requirements.** Contractor acknowledges that this Exhibit may be revised pursuant to ongoing guidance from the relevant Federal agency regarding requirements for ARRA funds. Contractor agrees to abide by any such revisions upon receipt of written notification of the revisions, which will automatically become a material part of this Exhibit,
without the necessity of either party executing any further instrument.

2. **ARRA Reporting Requirements.**
   a. No later than the 5th of each month, the Contractor shall submit a report to the Owner that contains:
      1. Status of project including milestones and objectives achieved
      2. Number of FTEs paid from ARRA funds during the previous month
      3. For single payments of $25,000 or more per month:
         (i) Number of payments
         (ii) Dollar amount of each payment
         (iii) Vendor DUNS number or vendor headquarters and zipcode (+4)
         (iv) Vendor name
         (v) Product/service description
         (vi) Number of FTEs paid from ARRA funds
   b. For payments under $25,000 per month:
      (i) Total number of payments made
      (ii) Total amount paid (aggregate)

b. If required by the Owner, the Contractor shall submit backup documentation for expenditures of ARRA funds including such items as timecards and invoices.

3. **Registrations and Identification Information.**
   a. Contractor must maintain current registrations in the Central Contractor Registration (www.ccr.gov) at all times during which they have active federal awards funded with ARRA funds. Registration must be in effect prior to contract issuance.
   b. A Dun and Bradstreet Data Universal Numbering System (DUNS) Number (www.dnb.com) is one of the requirements for registration in the Central Contractor Registration.

4. **Flow Down Requirement.** Contractor must include applicable ARRA Terms and Conditions in any subcontract pursuant to contract award amounts.

5. **Prohibition on Use of Funds.** No ARRA funds may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool, or any other items prohibited by ARRA.

6. **Wage Rate Requirements (Davis-Bacon Act).**
   a. Section 1606 of Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to ARRA shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.
   b. The Contractor will collect weekly payroll statements for all such laborers and mechanics, verify that the wages comply with the Department of Labor prevailing wage standards for the locale, and submit the weekly payroll statements to the Owner with their monthly pay requests.
   c. Consult the Department of Labor’s Wage and Hour Division (WHD) website at http://www.wdol.gov/ for wage rate tables for your locality.
   d. These requirements shall flow down to all Subcontracts.

7. **Whistleblower Provision.**
a. An employee of any non-Federal employer receiving covered funds may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or such other person working for the employer who has the authority to investigate, discover, or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee reasonably believes is evidence of:

1. gross mismanagement of an agency contract or grant relating to covered funds;
2. a gross waste of covered funds;;
3. a substantial and specific danger to public health or safety related to the implementation or use of covered funds;
4. an abuse of authority related to the implementation or use of covered funds; or
5. a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to covered funds.

b. A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint regarding the reprisal to the appropriate U.S. Office of the Inspector General.

c. Any employer receiving covered funds under ARRA, shall post notice of the rights and remedies as required by Section 1553 of ARRA. See http://www.recovery.gov/Contact/ReportFraud/Pages/Report_Fraud.aspx

8. **False Claims Act**. Contractors and subcontractors shall promptly refer to the U.S. Office of Inspector General any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving those funds.

9. **Environmental and Preservation Requirements**.
   
a. The Contractor shall comply with all applicable Federal, State, and local environmental and historic preservation (EHP) requirements and shall provide any information requested by the awarding Federal agency to ensure compliance with applicable laws including: National Environmental Policy Act, National Historic Preservation Act, Endangered Species Act, the Clean Air Act, the Federal Water Pollution and Control Act, and Executive Orders on Floodplains (11988), Wetlands (11990) and Environmental Justice (12898).
   
b. Failure of the Contractor to meet Federal, State, and local EHP requirements and obtain applicable permits may jeopardize Federal funding. The Contractor shall not undertake any project having the potential to impact EHP resources without the prior approval of the awarding Federal agency.
   
c. If ground disturbing activities occur during project implementation, the Contractor must ensure monitoring of ground disturbance and if any potential archeological resources are discovered, the Contractor will immediately cease construction in that area and notify the awarding Federal agency and the Owner.

10. **Debarment and Suspension**. The Contractor shall not enter into any contract or subcontract with any parties listed on the government-wide Excluded Parties List System.
The Contractor shall include a similar clause in any subcontract.


11. **Prohibition of Lobbying.** This contract is subject to Section 319 of Public Law 101-121, which added section 1352, regarding lobbying restrictions, to Chapter 13 of Title 31 of the United States Code. The new section is explained in the common rule, 15 CFR Part 28 (55 FR 6736-6748, 2/26/90). Each bidder/applicant/recipient of this contract, subcontract, or subgrant and subrecipients are generally prohibited from using Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with this Award.

a. This Contract Clause regarding lobbying must be included in each application for a subgrant and in each bid for a contract or subcontract exceeding $100,000 of Federal funds at any tier under the Federal Award.

b. Each applicant/recipient of a subgrant and each bidder/applicant/recipient of a contract or subcontract exceeding $100,000 of Federal funds at any tier under the Federal Award must file a “Certification Regarding Lobbying” and, if applicable, Standard Form LLL, “Disclosure of Lobbying Activities,” regarding the use of any nonfederal funds for lobbying. Certifications shall be retained by the next higher. All disclosure forms, however, shall be forwarded from tier to tier until received by the Recipient of the Federal Award (grant), who shall forward all disclosure forms to the Federal agency.

c. Each subgrantee, contractor, or subcontractor that is subject to the Certification and Disclosure provision of this Contract Clause is required to file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained any disclosure form previously filed by such person. Disclosure forms shall be forwarded from tier to tier until received by the Recipient of the Federal Award (grant), who shall forward all disclosure forms to the Federal agency.

12. **Nondiscrimination Provisions.**

a. Before entering into a Contract with the Owner, the Contractor shall provide a signed NSF Nondiscrimination Certificate to the Owner. The Contractor shall also require any subcontractor under their contract to provide a signed NSF Nondiscrimination Certificate prior to entering into a subcontract with the subcontractor and provide such to the Owner.

b. The Contractor will comply with Title VI of the Civil Rights Act of 1964 (42 USC Section 2000d), Title IX of the Education Amendments of 1972 (20 USC Section 1681 et seq.), the Rehabilitation Act of 1973 (29 USC Section 794), the Age Discrimination Act of 1975 (42 USC Sections 6101 et seq.), Executive Order 11246 (3 CFR, 1964-1965 Comp. pg. 339) and all regulations and policies issued by NSF pursuant to these statutes.

c. In accordance with the above-referenced nondiscrimination statues, and NSF’s implementing regulations and policies, no person in the United States shall, on the ground of race, color, national origin, sex, disability, blindness, or age, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by Federal financial assistance from NSF.
13. **Clean Air and Water.**
   a. The Contractor agrees to comply with all the requirements of Section 114 of the Clean Air Act [42 USC Section 7413(c)(1)] and Section 308 of the Clean Water Act [33 USC Section 1318], respectively, relating to inspection, monitoring, entry, reports and information, as well as other requirements specified in Section 114 and 308 of the Clean Air Act and Clean Water Act, respectively, and all regulations and guidelines issued thereunder before the award of the grant.
   b. To use its best efforts to comply with clean air standards and clean water standards at the facility in which the contract is being performed.
   c. Violations shall be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
   d. To insert the substance of the provisions of this article into any nonexempt subcontract.

14. **Access to Records.** Contractor agrees that with respect to each agreement using, in whole or in part, ARRA funds, any representative of an appropriate U.S. Inspector General appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the U.S. Comptroller General is authorized:
   a. to examine any records of the Contractor, any of its subcontractors, or any state or local agency administering such contract that pertain to, and involve transactions relating to the contract; and
   b. to interview any officer or employee of the contractor, subcontractor or agency regarding such transactions.

15. **Records Retention.** The Contractor shall retain all such contract records intact in a form, if not original documents, as may be approved by the Federal Government, for at least three (3) years following termination of a project funded by ARRA.

16. **Access to Information.**
   a. This contract and any records or expenditures related thereto may be subject to the Freedom of Information Act, 5 U.S.C. §552.
   b. The Owner, the Director of the National Science Foundation, the Comptroller General of the U.S., or any of their duly authorized representatives, shall have access to all such contract records for government audits.

17. **Increasing Seat Belt Use in the United States.** In accordance with Executive Order 13043, *Increasing Seat Belt Use in the United States*, dated April 16, 1997, “grantees are encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles.”

18. **Buy American - Use of American Iron, Steel, and Manufactured Goods.** In compliance with Section 1605 of the ARRA. All iron, steel, and other manufactured goods used as construction material for the construction, alteration, maintenance, or repair of a public building or public work must be produced in the United States. This requirement shall be applied in a manner that is consistent with the laws and agreements of the United States.
   a. This award term and condition implements Section 1605 of ARRA, by requiring that all iron, steel, and other manufactured goods used as construction material in the project are produced in the United States. The Contractor shall use only domestic construction material in performing this project
   b. The Federal government may allow foreign construction material if the Federal
government determines that:

1. The cost of domestic construction material would be unreasonable. The cost of domestic iron, steel, or other manufactured goods used as construction material in the project is unreasonable when the cumulative cost of such material will increase the cost of the overall project by more than 25 percent;
2. The construction material is not mined, produced, or manufactured in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
3. The application of the restriction of section 1605 of ARRA to a particular construction material would be inconsistent with the public interest.

c. Request for determination of inapplicability of Section 1605 of ARRA.

1. The Contractor shall make no assumptions about the ability to receive Federal approval for the use of foreign construction material.
2. It is the Contractor's responsibility to provide the appropriate documentation to apply for and obtain permission to use any foreign construction materials.
3. The Contractor shall coordinate any such requests through the Owner and abide by all applicable ARRA guidelines.

19. **Equipment.**

a. In accordance with the requirements of 2 CFR Section 215.33(a)(1): The Contractor shall provide a listing of all equipment exceeding $5000 to the Owner for reporting purposes.

b. The listing shall include the type of equipment, serial number, acquisition price and acquisition date.

20. **Site Visits.** NSF, through authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. If any site visit is made by NSF on the premises of the Owner or a Contractor under an award, the Owner shall provide and shall require its Contractors to provide all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All site visits and evaluations shall be performed in such a manner that will not unduly delay the work.

21. **Air Travel.**

a. Allowability of Travel Expenses: The difference between economy airfare and a higher-class airfare is unallowable.

b. Use of U.S.-Flag Air Carriers: In accordance with the Fly America Act (49 USC 40118), any air transportation to, from, between, or within a country other than the U.S. of persons or property, the expense of which will be assisted by NSF funding, must be performed by or under a code-sharing arrangement with a U.S.-flag air carrier if service provided by such a carrier is available.

22. **Definitions.**

a. "ARRA funds" means funds expended or obligated from appropriations under the American Recovery and Reinvestment Act of 2009, (Public Law 111-5).

b. "Contractor" is defined as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee, or subgrantee, who has furnished or seeks to furnish goods, supplies, services, or leased space, or who has performed or seeks to perform construction activity under contract, subcontract, grant, or subgrant with the State, or
with a person under contract, subcontract, grant, or subgrant with the State or its state-affiliated entities, and state-related institutions. The term contractor may include a permittee, licensee, or any agency, political subdivision, instrumentality, public authority, or other entity of the State.

c. “Building or work” means construction, maintenance, alteration, or repair. The terms include, without limitation, buildings, structures, and improvements of all types, such as bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, dredging, shoring, rehabilitation and reactivation of plants, scaffolding, drilling, blasting, excavating, clearing, and landscaping. The manufacture or furnishing of materials, articles, supplies, or equipment (whether or not a Federal or State agency acquires title to such materials, articles, supplies, or equipment during the course of the manufacture or furnishing, or owns the materials from which they are manufactured or furnished) is not “building” or “work” within the meaning of this definition unless conducted in connection with and at the site of such building or work as is described in the foregoing sentence, or under the United States Housing Act of 1937 and the Housing Act of 1949 in the construction or development of the project.

d. “Construction material” means an article, material, or supply brought to the construction site by the recipient, subrecipient or a subcontractor for incorporation into the building or work. The term also includes an item brought to the site preassembled from articles, materials, or supplies. However, emergency life safety systems, such as emergency lighting, fire alarm, and audio evacuation systems, that are discrete systems incorporated into a public building or work and that are produced as complete systems, are evaluated as a single and distinct construction material regardless of when or how the individual parts or components of those systems are delivered to the construction site. Materials purchased directly by the Government are supplies, not construction material.

e. “Domestic construction material” means:
   1. An unmanufactured construction material mined or produced in the United States; or
   2. A construction material manufactured in the United States.

f. “Foreign construction material” means a construction material other than a domestic construction material.

g. “Manufactured good or product” means a good or product used as construction material in a project that is the result of processing materials by way of machinery and/or labor that produce a substantially different article. Where the basic character, function, or kind of material processed remains the same, it is not manufactured.

h. "Manufactured construction material" means any construction material that is not unmanufactured construction material.

i. “Public building or public work” means building or work, the construction, alteration, maintenance, or repair of which, as defined in this award term, is carried on directly by authority of, or with funds of, a Federal agency to serve the interest of the general public regardless of whether title thereof is in a Federal agency.

j. “Steel” means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

k. “Unmanufactured construction material” means raw material brought to the construction site for incorporation into the building or work that has not been:
   1. Processed into a specific form and shape; or
   2. Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.
23. **Compliance.** The Contractor shall comply with all applicable laws, regulations and program guidance. A non-exclusive list of statutes, regulations and/or guidance commonly applicable to Federal funds follows:

**General**
Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.; 32 CFR part 26, Subpart B


**Administrative Requirements**
OMB Circular A-110, Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations (11/19/93, amended 09/30/99) (2 CFR Part 215)

**Cost Principles**
OMB Circular A-87, State and Local Governments (05/10/04) (2 CFR Part 225)


**Audit Requirement**
OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations

**ARRA/NSF**

NSF Grant General Conditions (GC-1) Effective January 4, 2010

NSF Academic Research Infrastructure – Recovery and Reinvestment (ARI-R2) Program Award Terms and Conditions dated June 2010

NSF Research Terms and Conditions dated July 1, 2008

NSF Award Notification dated 9/20/11

**End of ADDENDUM NO. 1**