

**Appendix 6 - DC ENERGY STORAGE GRANT PROGRAM RFA-FY23-PCD-811
AF07242023**

INSURANCE

- A. **GENERAL REQUIREMENTS.** The Grantee, at its sole expense, shall procure and maintain, during the entire period of performance under this grant, the types of insurance specified below. The Grantee shall submit a Certificate of Insurance to the Department of Energy and Environment (DOEE) giving evidence of the required coverage prior to commencing performance under this grant. In no event shall any work be performed until the required Certificates of Insurance signed by an authorized representative of the insurer(s) have been provided to, and accepted by DOEE.

The Government of the District of Columbia shall be included in all policies, where applicable and allowable by law, required hereunder to be maintained by the Grantee and its subgrantees, contractors, subcontractors or subrecipients (“subrecipient”) (except for workers’ compensation and professional liability insurance) as additional insureds for claims against The Government of the District of Columbia relating to this grant, with the understanding that any affirmative obligation imposed upon the insured Grantee or its subrecipients (including without limitation the liability to pay premiums) shall be the sole obligation of the Grantee or its subrecipients, and not the additional insured. The additional insured status under the Grantee’s and its subrecipients’ Commercial General Liability insurance policies shall be effected using the ISO Additional Insured Endorsement form CG 20 10 11 85 (or CG 20 10 07 04 **and** CG 20 37 07 04) or such other endorsement or combination of endorsements providing coverage at least as broad and approved by DOEE in writing. All of the Grantee’s and its subrecipients’ liability policies (except for workers’ compensation and professional liability insurance) shall be endorsed using ISO form CG 20 01 04 13 or its equivalent so as to indicate that such policies provide primary coverage (without any right of contribution by any other insurance, reinsurance or self-insurance, including any deductible or retention, maintained by an Additional Insured) for all claims against the additional insured arising out of the performance of this Statement of Work by the Grantee or its subrecipients, or anyone for whom the Grantee or its subrecipients may be liable. These policies shall include a separation of insureds clause applicable to the additional insured.

If the Grantee and/or its subrecipients maintain broader coverage and/or higher limits than the minimums shown below, the District requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Grantee and subrecipients.

B. INSURANCE REQUIREMENTS

1. Commercial General Liability Insurance (“CGL”) - The Grantee shall provide evidence satisfactory to DOEE with respect to the services performed that it carries a CGL policy, written on an occurrence (not claims-made) basis, on Insurance Services Office, Inc. (“ISO”) form CG 00 01 04 13 (or another occurrence-based form with coverage at least as broad and approved by DOEE in writing), covering liability for all ongoing and completed operations of the Grantee and under all subrecipients, covering claims for bodily injury, including without limitation sickness, disease or death and mental anguish of any persons, broad form property damage, including loss of use resulting therefrom, personal and advertising injury, and including coverage for liability arising out of an

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Insured Contract or Grant (including the tort liability of another assumed in a contract or grant) and acts of terrorism (whether caused by a foreign or domestic source). Such coverage shall have limits of liability of not less than \$1,000,000 for each occurrence, a \$2,000,000 general aggregate.

The Commercial General Liability shall be further endorsed to:

- a) To the fullest extent permitted by law, provide additional insured coverage using ISO form CG 2015 0413 (or its equivalent) to The Government of the District of Columbia
- b) Coverage available to the additional insureds shall apply on a primary and non-contributing basis with respect to any other insurance, deductibles, or self-insurance available to the additional insureds
- c) A waiver of subrogation in favor of The Government of the District of Columbia
- d) Any Annual Aggregate shall apply on a per location or per project basis (where applicable)
- e) Defense costs shall be in addition to and not erode the limits of liability

2. Automobile Liability Insurance - The Grantee shall provide evidence satisfactory to DOEE of commercial (business) automobile liability insurance written on ISO form CA 00 01 10 13 (or another form with coverage at least as broad and approved by DOEE in writing), including coverage for all owned, hired, borrowed and non-owned vehicles and equipment used by the Grantee in connection with work under this agreement, with a minimum combined single limit of \$1,000,000 for bodily injury or death and property damage, including loss of use thereof. Such policy or policies of automobile liability insurance shall be written on an "occurrence" (as opposed to a "claims made") basis.

Auto Physical Damage Coverage - The Grantee shall provide auto physical damage insurance to cover "loss" to a covered "auto" or its equipment:

- a) Comprehensive - Fire, lightning or explosion; theft; windstorm, hail or earthquake; flood; mischief or vandalism; or the sinking, burning, collision or derailment of any conveyance transporting the covered "auto".
- b) Collision Coverage - Caused by: The covered "auto's" collision with another object or the covered "auto's" overturn.

The Commercial Auto Liability policy shall be further endorsed to:

- a) To the fullest extent permitted by law, provide additional insured coverage to The Government of the District of Columbia
- b) Coverage available to the additional insureds shall apply on a primary and non-contributing basis with respect to any other insurance, deductibles, or self-insurance available to the additional insureds
- c) A waiver of subrogation in favor of The Government of the District of Columbia
- d) Defense costs shall be in addition to and not erode the limits of liability

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- e) If applicable, include Form CA 99 48 03 06 Pollution Liability - Broadened Coverage for Covered Autos - Business Auto, Motor Carrier and Truckers (or its equivalent)

- 3. Workers' Compensation Insurance - The Grantee shall provide evidence satisfactory to DOEE of Workers' Compensation insurance in accordance with the statutory mandates of the District of Columbia or the jurisdiction in which the grant is performed.

Employer's Liability Insurance - The Grantee shall provide evidence satisfactory to DOEE of employer's liability insurance as follows: \$500,000 per accident for injury; \$500,000 per employee for disease; and \$500,000 for policy disease limit.

The Workers Compensation and Employers Liability shall be further endorsed to:

- a) Include a Waiver of Subrogation in favor of The Government of the District of Columbia.
 - b) Where applicable, include United States Longshore and Harbor Workers Compensation Act (USL&H)
 - c) Where applicable, include Jones Act Coverage for seamen or crew members on an "if any" basis.
- 4. Network Security/Privacy (Cyber) Liability Insurance covering acts, errors, omissions, breach of contract, and violation of any consumer protection laws arising out of Grantee's operations or services with a limit of \$2,000,000 per claim and in the aggregate. Such coverage shall include but not be limited to, third party and first party coverage for loss or disclosure of any data, including personally identifiable information and payment card information, network security failure, violation of any consumer protection laws, unauthorized access and/or use or other intrusions, infringement of any intellectual property rights (except patent), unintentional breach of contract, negligence or breach of duty to use reasonable care, breach of any duty of confidentiality, invasion of privacy, or violations of any other legal protections for personal information, defamation, libel, slander, commercial disparagement, negligent transmission of computer virus, or use of computer networks in connection with denial of service attacks. Such coverage shall include regulatory defense and fines/penalties in any jurisdiction anywhere in the world. Such coverage shall include contractual privacy coverage for data breach response and crisis management costs that would be incurred by Grantee on behalf of The Government of the District of Columbia in the event of a data breach including legal and forensic expenses, notification costs, credit monitoring costs, and costs to operate a call center. Grantee shall maintain coverage in force during the term of this Agreement and for an extended reporting period of not less than two (2) years after.
- 5. Professional Liability Insurance (Errors & Omissions) - The Grantee shall provide Professional Liability Insurance (Errors and Omissions) to cover liability resulting from any error or omission in the performance of professional services under this Grant. The policy shall provide limits of \$1,000,000 per claim or per occurrence for each wrongful act and \$2,000,000 annual aggregate. The Grantee warrants that any applicable retroactive date precedes the date the Grantee first performed any professional services for the Government of the District of Columbia and that continuous coverage will be

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maintained or an extended reporting period will be exercised for a period of at least ten years after the completion of the professional services. Limits may not be shared with other lines of coverage.

6. Commercial Umbrella or Excess Liability - The Grantee shall provide evidence satisfactory to DOEE of commercial umbrella or excess liability insurance with minimum limits of \$5,000,000 per occurrence and \$5,000,000 in the annual aggregate, following the form and in excess of all liability policies. **All** liability coverages must be scheduled under the umbrella and/or excess policy. The insurance required under this paragraph shall be written in a form that annually reinstates all required limits. Coverage shall be primary to any insurance, self-insurance or reinsurance maintained by The Government of the District of Columbia and the “other insurance” provision must be amended in accordance with this requirement and principles of vertical exhaustion.
7. Environmental Liability/Grantees Pollution Liability Insurance - The Grantee shall provide evidence satisfactory to DOEE of environmental liability insurance covering losses caused by pollution or other hazardous conditions arising from ongoing or completed operations of the Grantee. Such insurance shall apply to bodily injury, property damage (including loss of use of damaged property or of property that has been physically injured), clean-up costs, transit and non-owned disposal sites. Coverage shall extend to defense costs and expenses incurred in the investigation, civil fines, penalties and damages or settlements. There shall be neither an exclusion nor a sublimit for mold or fungus-related claims. The minimum limits required under this paragraph shall \$2,000,000 per occurrence and \$2,000,000 in the annual aggregate. If such coverage is written on a claims-made basis, the Grantee warrants that any retroactive date applicable to coverages under the policy precedes the Grantee’s performance of any work under the Grant and that continuous completed operations coverage will be maintained for at least ten (10) years or an extended reporting period shall be purchased for no less than ten (10) years after completion.

The Grantee also must furnish to DOEE Owner certificates of insurance evidencing environmental liability insurance maintained by third party transportation and disposal site operators(s) used by the Grantee for losses arising from facility(ies) accepting, storing or disposing hazardous materials or other waste as a result of the Grantee’s operations. Such coverages must be maintained with limits of at least the amounts set forth above.

The Environmental Liability policy shall be further endorsed to include The Government of the District of Columbia as an Additional Insured.

8. Installation-Floater Insurance - For projects not involving structural alterations, the Grantee shall provide an installation floater policy with a limit equal to the Property values being installed as part of the project. The policy shall cover property while located at the project site, at temporary locations, or in transit; deductibles will be the sole responsibility of the Grantee.

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9. Sexual/Physical Abuse & Molestation - The Grantee shall provide evidence satisfactory to DOEE with respect to the services performed that it carries \$1,000,000 per occurrence limits; \$2,000,000 aggregate of affirmative abuse and molestation liability coverage. Coverage should include physical abuse, such as sexual or other bodily harm and non-physical abuse, such as verbal, emotional or mental abuse; any actual, threatened or alleged act; errors, omission or misconduct. This insurance requirement will be considered met if the general liability insurance includes an affirmative sexual abuse and molestation endorsement for the required amounts or through a separate stand alone sexual abuse and molestation policy with confirmation that there are no exclusions for abuse or assault & battery under the General Liability. So called "silent" coverage or "shared" limits under a commercial general liability or professional liability policy will not be acceptable. Limits may not be shared with other lines of coverage. The applicable policy may need to be submitted to the ORM for compliance review. **(APPLICABLE IF THE GRANTEE WILL BE WORKING ONSITE AT ANY DCPS LOCATION, HAVE CONTACT WITH CHILDREN, ELDERLY OR THE DISABLED)**

C. SUBRECIPIENT INSURANCE REQUIREMENTS

Any and all subrecipients engaged by Grantee for work under this agreement shall be required to have the same insured required of Grantee. Should the Grantee wish to propose different insurance requirements than outlined below, then, prior to the commencement of work by the subrecipient, the Grantee shall submit in writing the name and brief description of work to be performed by the subrecipient on the Subcontractors Insurance Requirement Template provided to the Office of Risk Management (ORM). ORM will determine the insurance requirements applicable to the subrecipient and promptly deliver such requirements in writing to the Grantee. In either instance, the Grantee must provide proof of the subrecipient's required insurance prior to the commencement of work by the subrecipients.

D. PRIMARY AND NONCONTRIBUTORY INSURANCE

The insurance required herein shall be primary to and will not seek contribution from any other insurance, reinsurance or self-insurance, including any deductible or retention, maintained by the Government of the District of Columbia.

- E. **DURATION.** The Grantee shall carry all required insurance until all grant work is accepted by The Government of the District of Columbia and shall carry listed coverages for ten years for construction projects following final acceptance of the work performed under this grant and two years for non-construction related grants.

- F. **LIABILITY.** These are the required minimum insurance requirements established by The Government of the District of Columbia. However, it is understood that The Government of the District of Columbia does not in any way represent that the insurance or the limits of insurance specified herein are sufficient or adequate to protect your interests or liabilities and will not in any way limit the Grantee's liability under this grant.

- G. **GRANTEE'S PROPERTY.** Grantee and subrecipient are solely responsible for any loss or damage to their personal property, including but not limited to tools and equipment, scaffolding and temporary structures, rented machinery, or owned and leased equipment.

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A waiver of subrogation shall apply in favor of The Government of the District of Columbia.

- H. MEASURE OF PAYMENT. The Government of the District of Columbia shall not make any separate measure or payment for the cost of insurance and bonds. The Grantee shall include all of the costs of insurance and bonds in the grant price.
- I. NOTIFICATION. The Grantee shall ensure that all policies provide that DOEE shall be given thirty (30) days prior written notice in the event of cancellation, non-renewal, or material changes to the extent such cancellation or material changes results in Grantee no long complying with the above requirements. The Grantee shall provide DOEE with ten (10) days prior written notice in the event of non-payment of premium. The Grantee will also provide DOEE with an updated Certificate of Insurance should its insurance coverages renew during the grant. The Government of the District of Columbia may reasonably change the above insurance coverage requirements during the Term by giving Grantee at least 30 days' notice of the change. Grantee must comply, at your expense, and deliver to DOEE evidence of compliance before the change becomes effective.
- J. CERTIFICATES OF INSURANCE. The Grantee must send to GA, at least 10 days after execution of this Agreement, certificates of insurance evidencing the required insurance coverage and endorsements required herein. Grantee must also provide us with evidence of renewal before the expiration date of each insurance policy. Grantee is responsible for providing us with 30 days' advanced written notice if the certificate of insurance by the insurer has been canceled, reduced in coverage, or otherwise altered. Certificates of insurance must reference the corresponding grant number. Evidence of insurance shall be submitted to:

The Government of the District of Columbia

Daniel White
Department of Energy & Environment
1200 First Street NE, 5th Floor
Washington, DC 20002
Desk: (202) 299-2163
Cell: (202) 380-6584
daniel.white2@dc.gov

DOEE may request, and the Grantee shall promptly deliver updated certificates of insurance, endorsements indicating the required coverages, and/or certified copies of the insurance policies. If the insurance initially obtained by the Grantee expires prior to completion of the grant, renewal certificates of insurance and additional insured and other endorsements shall be furnished to DOEE prior to the date of expiration of all such initial insurance. For all coverage required to be maintained after completion, an additional certificate of insurance evidencing such coverage shall be submitted to DOEE on an annual basis as the coverage is renewed (or replaced).

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- K. DISCLOSURE OF INFORMATION. The Grantee agrees that The Government of the District of Columbia may disclose the name and contact information of its insurers to any third party which presents a claim against The Government of the District of Columbia for any damages or claims resulting from or arising out of work performed by the Grantee, its agents, employees, servants or subrecipients in the performance of this grant.

- L. CARRIER RATINGS. All Grantee's and its subrecipients' insurance required in connection with this grant shall be written by insurance companies with an A.M. Best Insurance Guide rating of at least A- VII or better (or the equivalent by any other rating agency) and licensed in the District of Columbia.

- M. WARRANTIES. When applicable, the Grantee should be named as an additional insured on the applicable manufacturer's/distributor's Commercial General Liability policy using Insurance Services Office, Inc. ("ISO") form CG 20 15 04 13 (or another occurrence-based form with coverage at least as broad). GA should collect, review for accuracy, and maintain all warranties for goods and services.