

EPA General Terms and Conditions
Applicable to 40 CFR Part 30 and 31 Recipients
Effective January 13, 2014

1. Introduction

The recipient and any sub-recipient must comply with the applicable EPA general terms and conditions outlined below. These terms and conditions are in addition to the assurances and certifications made as part of the award and terms, conditions or restrictions reflected on the official assistance award document. Recipients **must** review their official award document for additional administrative and programmatic requirements. Failure to comply with the general terms and conditions outlined below and those directly reflected on the official assistance award document may result in enforcement actions as outlined in 40 CFR 30.2 and 31.43.

2. Uniform Administrative Requirements

This award is subject to the requirements of the Uniform Administrative Requirements for Grants and Agreements; Title 40 CFR, Part 30 for Institutions of Higher Education, Hospitals and Other non-Profit Organizations or Part 31 for State and Local Governments.

3. Allowable Costs

As outlined in Title 40 CFR, Parts 30.27 or 31.22, as applicable, allowable costs shall be determined in accordance with the cost-principles (i.e. OMB Circulars [A-21](#), [A-87](#), [A-122](#) or the Federal Acquisition Regulation at 48 CFR Part 31) applicable to the entity incurring the costs.

Financial Information

4. Reimbursement Limitation

EPA's financial obligations to the recipient are limited by the amount of federal funding awarded to date as reflected on the award document. If the recipient incurs costs in anticipation of receiving additional funds from EPA, it does so at its own risk.

5. Payment Methods

The Debt Collection Improvement Act of 1996 requires that Federal payments be made by electronic funds transfer. In order to comply with the Act, a recipient must receive payments via one of two electronic methods available to them:

- 5.1. Automated Standard Application for Payments (ASAP).** The ASAP system is the preferred method of payment for EPA grantees. ASAP enrollment is highly encouraged for organizations that have multiple grants/cooperative agreements and for those with a frequent need to request funds. If the recipient uses multiple bank accounts for EPA grants/cooperative agreements, the recipient must enroll in ASAP. To enroll in ASAP, please complete the ASAP Initiate Enrollment form located at: <http://www2.epa.gov/financial/forms> and email it to LVFC-grants@epa.gov or fax it to LVFC at 702-798-2423.

Under this payment mechanism, the recipient initiates an electronic payment request online via ASAP, which is approved or rejected based on the amount of available funds authorized by EPA in the recipient's ASAP account. Approved funds are credited to the account at the financial institution of the recipient organization identified on the recipient's ASAP enrollment application. Additional information concerning ASAP and enrollment can be obtained by contacting the EPA Las Vegas Finance Center, at 702-798-2485, or by visiting: www.fms.treas.gov/asap.

- 5.2. Electronic Funds Transfer (EFT).**

Under this payment mechanism, the EPA Las Vegas Finance Center will obtain the recipient's banking information from the System for Award Management (SAM). Once the agreement is awarded and no restrictions are identified by the awarding office, a Las Vegas Finance Center Representative will send the recipient an email message with the EFT Control Number and payment information. Additional information concerning EFT can be obtained by contacting the EPA Las Vegas Finance Center at 702-798-2485, or by visiting: <http://www2.epa.gov/financial/grants>.

NOTE: If the banking information is not correct or changes at any time prior to the end of this agreement, the recipient must update the organization's SAM registration and notify the EPA Las Vegas Finance Center as soon as possible. This is vital to ensure proper and timely deposit of funds.

6. Payment Drawdown

The recipient agrees to draw cash only as needed for its disbursement. Failure on the part of the recipient to comply with this condition may cause the undisbursed portions of the assistance agreement to be revoked or financing method changed to a reimbursable basis.

Selected Items of Cost

7. Consultant Cap

EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule, available at: <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>, to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices).

Subagreements with firms for services which are awarded using the procurement requirements in 40 CFR 30 or 31, are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See 40 CFR 30.27(b) or 31.36(j).

8. Establishing and Managing Subawards

The recipient agrees to:

- 8.1.** Obtain approval from EPA for any new subaward work that is not outlined in the approved work plan in accordance with 40 CFR Parts 30.25 and 31.30, as applicable.
- 8.2.** Establish all subaward agreements in writing;
- 8.3.** Maintain primary responsibility for ensuring successful completion of the EPA-approved project (this responsibility cannot be delegated or transferred to a subrecipient);
- 8.4.** Ensure that any subawards comply with the standards in Section 210(a)-(d) of OMB Circular A-133 and are not used to acquire commercial goods or services for the recipient;
- 8.5.** Ensure that any subawards are awarded to eligible subrecipients and that proposed subaward costs are allowable, reasonable and allocable;
- 8.6.** Ensure that any subawards to 501(c)(4) organizations do not involve lobbying activities;
- 8.7.** Monitor the performance of their subrecipients and ensure that they comply with all applicable regulations, statutes, and terms and conditions which flow down in the subaward;
- 8.8.** Obtain EPA's consent before making a subaward to a foreign or international organization, or a subaward to be performed in a foreign country; and
- 8.9.** Ensure that any questions about subrecipient eligibility or other issues pertaining to subawards are addressed to the recipient's EPA Project Officer, as appropriate. Additional information regarding subawards may be found at <http://www.epa.gov/ogd/guide/subaward-policy-part-2.pdf>. Guidance for distinguishing between vendor and subrecipient relationships and ensuring compliance with Section

210(a)-(d) of OMB Circular A-133 can be found at <http://www.epa.gov/ogd/guide/subawards-appendix-b.pdf> and http://www.whitehouse.gov/omb/financial_fin_single_audit.

- 8.10.** Be responsible for selecting its subrecipients and, if applicable, for conducting subaward competitions.

9. Management Fees

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses; unforeseen liabilities; or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

Reporting and Additional Post-Award Requirements

10. Central Contractor Registration/System for Award Management and Universal Identifier Requirements

- 10.1. Requirement for System for Award Management (SAM)** Unless exempted from this requirement under 2 CFR 25.110, the recipient must maintain the currency of the organization's information in SAM until the submittal of the final financial report required under this award or receive the final payment, whichever is later. This requires that the recipient reviews and updates the information at least annually after the initial registration, and more frequently if required by changes in the information or another award term.
- 10.2. Requirement for Data Universal Numbering System (DUNS) numbers.** If the recipient is authorized to make subawards under this award, the recipient:
- 10.2.1.** Must notify potential subrecipients that no entity (definition paragraph 10.3 of this award term) may receive a subaward unless the entity has provided its DUNS number.
- 10.2.2.** May not make a subaward to an entity unless the entity has provided its DUNS number.
- 10.3. Definitions.** For the purposes of this award term:
- 10.3.1. System for Award Management (SAM)** means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the System for Award Management (SAM) Internet site: <https://www.sam.gov>.
- 10.3.2. Data Universal Numbering System (DUNS) number** means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).
- 10.3.3. Entity**, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
- 10.3.3.1.** A Governmental organization, which is a State, local government, or Indian tribe;
- 10.3.3.2.** A foreign public entity;
- 10.3.3.3.** A domestic or foreign nonprofit organization;
- 10.3.3.4.** A domestic or foreign for-profit organization; and
- 10.3.3.5.** A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
- 10.3.4. Subaward:**
- 10.3.4.1.** This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which the recipient received this award and that the recipient awards to an eligible subrecipient.

10.3.4.2. The term does not include procurement of property and services needed to carry out the project or program (for further explanation, see Sec. __.210 of the attachment to OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations”).

10.3.4.3. A subaward may be provided through any legal agreement, including an agreement that the recipient considers a contract.

10.3.5. Subrecipient means an entity that:

10.3.5.1. Receives a subaward from the recipient under this award; and

10.3.5.2. Is accountable to the recipient for the use of the Federal funds provided by the subaward.

11. Reporting Subawards and Executive Compensation

11.1. Reporting of first-tier subawards.

11.1.1. Applicability. Unless the recipient is exempt as provided in paragraph 11.4. of this award term, the recipient must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph 11.5 of this award term).

11.1.2. Where and when to report. (1) The recipient must report each obligating action described in paragraph 11.1.1 of this award term to www.frs.gov. (2) For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on any date during the month of November of a given year, the obligation must be reported by no later than December 31 of that year.)

11.1.3. What to report. The recipient must report the information about each obligating action as described in the submission instructions available at: <http://www.frs.gov>.

11.2. Reporting Total Compensation of Recipient Executives.

11.2.1. Applicability and what to report. The recipient must report total compensation for each of their five most highly compensated executives for the preceding completed fiscal year, if:

11.2.1.1. the total Federal funding authorized to date under this award is \$25,000 or more;

11.2.1.2. in the preceding fiscal year, the recipient received:(i.) 80 percent or more of their annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); (ii.) and \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

11.2.1.3. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

11.2.2. Where and when to report. The recipient must report executive total compensation described in paragraph 11.2.1 of this award term: (i.) As part of the registration Central System for Award Management profile available at www.sam.gov. (ii.) By the end of the month following the month in which this award is made, and annually thereafter.

11.3. Reporting of Total Compensation of Subrecipient Executives.

11.3.1. Applicability and what to report. Unless exempt as provided in paragraph 11.4. of this award term, for each first-tier subrecipient under this award, the recipient shall report the names and total compensation of each of the subrecipient’s five most highly compensated executives for the subrecipient’s preceding completed fiscal year, if:

11.3.1.1. in the subrecipient's preceding fiscal year, the subrecipient received: (i.) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and

Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and (ii.) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

11.3.1.2. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

11.3.2. Where and when to report. The recipient must report subrecipient executive total compensation described in paragraph 11.3.1. of this award term:

11.3.2.1. To the recipient.

11.3.2.2. By the end of the month following the month during which the recipient makes the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), the recipient must report any required compensation information of the subrecipient by November 30 of that year.

11.4. Exemptions

11.4.1. If, in the previous tax year, the recipient had gross income, from all sources, under \$300,000, the recipient is exempt from the requirements to report:

11.4.1.1. subawards, and the total compensation of the five most highly compensated executives of any subrecipient.

11.5. Definitions. For purposes of this award term:

11.5.1. Entity means all of the following, as defined in 2 CFR part 25: (i.) A Governmental organization, which is a State, local government, or Indian tribe; (ii.) A foreign public entity; (iii.) A domestic or foreign nonprofit organization; (iv.) A domestic or foreign for-profit organization; (v.) A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

11.5.2. Executive means officers, managing partners, or any other employees in management positions.

11.5.3. Subaward:

11.5.3.1. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that the recipient award to an eligible subrecipient.

11.5.3.2. The term does not include procurement of property and services needed to carry out the project or program (for further explanation, see Sec. __.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").

11.5.3.3. A subaward may be provided through any legal agreement, including an agreement that the recipient or a subrecipient considers a contract.

11.5.4. Subrecipient means an entity that:

11.5.4.1. Receives a subaward from the recipient under this award; and

11.5.4.2. Is accountable to the recipient for the use of the Federal funds provided by the subaward.

11.5.5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

11.5.5.1. Salary and bonus.

11.5.5.2. Awards of stock, stock options and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

11.5.5.3. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

- 11.5.5.4.** Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- 11.5.5.5.** Above-market earnings on deferred compensation which is not tax-qualified.
- 11.5.5.6.** Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

12. Final Federal Financial Report (FFR)

Pursuant to 40 CFR 30.52(a)(1) and 30.71(a) or 40 CFR 31.41(b) and 31.50(b), EPA recipients shall submit a final Federal Financial Report (FFR, SF-425) to EPA no later than 90 calendar days after the end of the project period. The form is available on the internet at: <http://www2.epa.gov/financial/forms>. All FFRs must be submitted to the Las Vegas Finance Center (LVFC) via email LVFC-grants@epa.gov or fax at 702-798-2423.

The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement.

13. Audit Requirements

In accordance with OMB Circular A-133, which implements the Single Audit Act, the recipient hereby agrees to obtain a single audit from an independent auditor, if their organization expends \$500,000 or more in total Federal funds in their fiscal year.

The recipient must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the recipient's fiscal year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse's Internet Data Entry System available at: <https://harvester.census.gov/fac/collect/ddeindex.html>. For complete information on how to accomplish the single audit submissions, you will need to visit the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>.

14. Equipment Disposition

- 14.1. Most Recipients.** Unless instructed otherwise on the official award document or this award term, the recipient may keep the equipment and continue to use it on the project originally funded through this assistance agreement or on other federally funded projects whether or not the project or program continues to be supported by Federal funds. The provisions of 40 CFR Parts 30.34 and 31.32 remain, as applicable.
- 14.2. State Agencies.** Per 40 CFR Part 31.32, state agencies may manage and dispose of equipment acquired under this assistance agreement in accordance with state laws and procedures.
- 14.3. Superfund Recipients.** Equipment purchased under Superfund projects is subject to specific disposal options in accordance with 40 CFR Part 35.6345.

15. Suspension and Debarment

Recipients shall fully comply with Subpart C of 2 CFR Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business with Other Persons," as implemented and supplemented by 2 CFR Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information required under 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Recipients may access suspension and debarment information at: <http://www.sam.gov>. This system allows recipients to perform searches determining whether an entity or individual is excluded from receiving Federal assistance. This term and condition supersedes EPA Form 5700-49, “Certification Regarding Debarment, Suspension, and Other Responsibility Matters.”

Programmatic General Terms and Conditions

16. Sufficient Progress

EPA will measure sufficient progress by examining the performance required under the workplan in conjunction with the milestone schedule, the time remaining for performance within the project period and/or the availability of funds necessary to complete the project. EPA may terminate the assistance agreement for failure to ensure reasonable completion of the project within the project period.

17. Copyrighted Material and Data

In accordance with 40 CFR 30.36 and 31.34, EPA has the right to reproduce, publish, use and authorize others to reproduce, publish and use copyrighted works or other data developed under this assistance agreement for Federal purposes.

Examples of a Federal purpose include but are not limited to: (1) Use by EPA and other Federal employees for official Government purposes; (2) Use by Federal contractors performing specific tasks for the Government; (3) Publication in EPA documents provided the document does not disclose trade secrets (e.g. software codes) and the work is properly attributed to the recipient through citation or otherwise; (4) Reproduction of documents for inclusion in Federal depositories; (5) Use by State, tribal and local governments that carry out delegated Federal environmental programs as “co-regulators” or act as official partners with EPA to carry out a national environmental program within their jurisdiction and; (6) Limited use by other grantees to carry out Federal grants provided the use is consistent with the terms of EPA’s authorization to the other grantee to use the copyrighted works or other data.

Under Item 6, the grantee acknowledges that EPA may authorize another grantee(s) to use the copyrighted works or other data developed under this grant as a result of:

- the selection of another grantee by EPA to perform a project that will involve the use of the copyrighted works or other data or;
- termination or expiration of this agreement.

In addition, EPA may authorize another grantee to use copyrighted works or other data developed with Agency funds provided under this grant to perform another grant when such use promotes efficient and effective use of Federal grant funds.

18. Electronic and Information Technology Accessibility

Recipients are subject to the program accessibility provisions of Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7, which includes an obligation to provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology (“EIT”). In compliance with Section 504, EIT systems or products funded by this award must be designed to meet the diverse needs of users (e.g., U.S. public, recipient personnel) without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology. At this time, the EPA will consider a recipient’s websites, interactive tools, and other EIT as being in compliance with Section 504 if such technologies meet standards established under Section 508 of the Rehabilitation Act, codified at 36 CFR Part 1194. While Section 508 does not apply directly to grant recipients, we encourage recipients to follow either the 508 guidelines or other comparable guidelines that concern accessibility to EIT for individuals with disabilities. Recipients may wish to consult the latest Section 508 guidelines issued by the U.S. Access Board or W3C’s Web Content Accessibility Guidelines (WCAG) 2.0 (see <http://www.access-board.gov/sec508/guide/index.htm>).

19. Light Refreshments and/or Meals

Unless the event(s) and all of its components are described in the approved workplan, the recipient agrees to obtain prior approval from EPA for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops and outreach activities (events). The recipient must send requests for approval to the EPA Project Officer and include:

- (1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s);
- (2) A description of the purpose, agenda, location, length and timing for the event; and
- (3) An estimated number of participants in the event and a description of their roles.

Recipients may address questions about whether costs for light refreshments, and meals for events may be allowable to the recipient's EPA Project Officer; however, the Agency Award Official or Grant Management Officer will make final determinations on allowability. Agency policy prohibits the use of EPA funds for receptions, banquets and similar activities that take place after normal business hours unless the recipient has provided a justification that has been expressly approved by EPA's Award Official or Grants Management Officer.

Note: U.S. General Services Administration regulations define light refreshments for morning, afternoon or evening breaks to include, but not be limited to, coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips, or muffins. (41 CFR 301-74.11)

Public Policy Requirements

20. Civil Rights Obligations

This term and condition incorporates by reference the signed assurance provided by the recipient's authorized representative on: 1) EPA Form 4700-4, "Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance"; and 2) Standard Form 424B or Standard Form 424D, as applicable. These assurances and this term and condition obligate the recipient to comply fully with applicable civil rights statutes and implementing EPA regulations.

20.1. Statutory Requirements

20.1.1. In carrying out this agreement, the recipient must comply with:

- 20.1.1.1.** Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP), by entities receiving Federal financial assistance.
- 20.1.1.2.** Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities by entities receiving Federal financial assistance; and
- 20.1.1.3.** The Age Discrimination Act of 1975, which prohibits age discrimination by entities receiving Federal financial assistance.

20.1.2. If the recipient is conducting an education program under this agreement, it must also comply with:

- 20.1.2.1.** Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities operated by entities receiving Federal financial assistance.

20.1.3. If this agreement is funded with financial assistance under the Clean Water Act (CWA), the recipient must also comply with:

- 20.1.3.1.** Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex in CWA-funded programs or activities.

20.2. Regulatory Requirements

20.2.1. The recipient agrees to comply with all applicable EPA civil rights regulations, including:

- 20.2.1.1.** For Title IX obligations, 40 C.F.R. Part 5; and

- 20.2.1.2.** For Title VI, Section 504, Age Discrimination Act, and Section 13 obligations, 40 C.F.R. Part 7.
- 20.2.1.3.** As noted on the EPA Form 4700-4 signed by the recipient's authorized representative, these regulations establish specific requirements including maintaining compliance information, establishing grievance procedures, designating a Civil Rights Coordinator and providing notices of non-discrimination.

20.3. TITLE VI – LEP, Public Participation and Affirmative Compliance Obligation

- 20.3.1.** As a recipient of EPA financial assistance, you are required by Title VI of the Civil Rights Act to provide meaningful access to LEP individuals. In implementing that requirement, the recipient agrees to use as a guide the Office of Civil Rights (OCR) document entitled "Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons." The guidance can be found at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2004_register&docid=fr25jn04-79.pd.
- 20.3.2.** If the recipient is administering permitting programs under this agreement, the recipient agrees to use as a guide OCR's Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs. The Guidance can be found at <http://edocket.access.gpo.gov/2006/pdf/06-2691.pdf>.
- 20.3.3.** In accepting this assistance agreement, the recipient acknowledges it has an affirmative obligation to implement effective Title VI compliance programs and ensure that its actions do not involve discriminatory treatment and do not have discriminatory effects even when facially neutral. The recipient must be prepared to demonstrate to EPA that such compliance programs exist and are being implemented or to otherwise demonstrate how it is meeting its Title VI obligations.

21. Drug-Free Workplace

The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 2 CFR Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provisions set forth in Title 2 CFR Part 1536 Subpart C.

The consequences for violating this condition are detailed under Title 2 CFR Part 1536 Subpart E. Recipients can access the Code of Federal Regulations (CFR) Title 2 Part 1536 at <http://ecfr.gpoaccess.gov/>.

22. Hotel-Motel Fire Safety

Pursuant to 40 CFR 30.18, if applicable, and 15 USC 2225a, the recipient agrees to ensure that all space for conferences, meetings, conventions or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance, or to find other information about the Act.

23. Lobbying and Litigation

23.1. All Recipients.

- 23.1.1.** The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the U.S. unless authorized under existing law. The recipient shall abide by their respective Cost Principles (OMB Circulars A-21, A-87 and A-122), which generally prohibits the use of federal grant funds for litigation against the U.S. or for lobbying or other political activities.

- 23.1.2.** The recipient agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying. The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000, and require that subrecipients submit certification and disclosure forms accordingly.
- 23.1.3.** In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

23.2. 40 CFR Part 30 recipients. Institutions of Higher Education, Hospitals and Other non-Profit Organizations.

- 23.2.1.** All contracts awarded by a recipient shall contain, when applicable, the anti-lobbying provision as stipulated in the Appendix at Title 40 CFR Part 30.
- 23.2.2.** Pursuant to Section 18 of the Lobbying Disclosure Act, the recipient affirms that it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or that it is a nonprofit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act.

24. Recycled Paper

When directed to provide paper documents, the recipient agrees to use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA.

25. Resource Conservation and Recovery Act

Consistent with section 6002 of RCRA, 42 U.S.C. 6962, and 40 CFR 30.16, State and local institutions of higher education, hospitals and non-profit organization recipients agree to give preference in procurement programs to the purchase of specific products containing recycled materials, as identified in 40 CFR Part 247.

Consistent with section 6002 of RCRA, State agencies or agencies of a political subdivision of a State are required to purchase certain items made from recycled materials, as identified in 40 CFR Part 247, when the purchase price exceeds \$10,000 during the course of a fiscal year or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. Pursuant to 40 CFR 247.2 (d), the recipient may decide not to procure such items if they are not reasonably available in a reasonable period of time; fail to meet reasonable performance standards; or are only available at an unreasonable price.

26. Trafficking in Persons

26.1. Provisions applicable to a recipient that is a private entity.

- 26.1.1.** The recipient, the recipient's employees, subrecipients under this award, and subrecipients' employees may not—
- 26.1.1.1.** Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - 26.1.1.2.** Procure a commercial sex act during the period of time that the award is in effect; or
 - 26.1.1.3.** Use forced labor in the performance of the award or subawards under the award.
- 26.1.2.** We as the Federal awarding agency may unilaterally terminate this award, without penalty, if the recipient or a subrecipient that is a private entity —
- 26.1.2.1.** Is determined to have violated a prohibition in paragraph 26.1 of this award term; or
 - 26.1.2.2.** Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph 26.1 of this award term through conduct that is either—
 - 26.1.2.2.1.** Associated with performance under this award; or
 - 26.1.2.2.2.** Imputed to the recipient or subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part

180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our Agency at 2 CFR 1532.

- 26.2. Provision applicable to a recipient other than a private entity.** EPA may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—
- 26.2.1.** Is determined to have violated an applicable prohibition in paragraph 26.1. of this award term; or
 - 26.2.2.** Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph 26.1 of this award term through conduct that is either—
 - 26.2.2.1.** Associated with performance under this award; or
 - 26.2.2.2.** Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by EPA at 2 CFR 1532
- 26.3. Provisions applicable to any recipient.**
- 26.3.1.** The recipient must inform the EPA immediately of any information received from any source alleging a violation of a prohibition in paragraph 26.1 of this award term.
 - 26.3.2.** Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - 26.3.2.1.** Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - 26.3.2.2.** Is in addition to all other remedies for noncompliance that are available to us under this award.
 - 26.3.3.** The recipient must include the requirements of paragraph 26.1 of this award term in any subaward made to a private entity.
- 26.4. Definitions.** For purposes of this award term:
- 26.4.1.** “Employee” means either:
 - 26.4.1.1.** An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - 26.4.1.2.** Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
 - 26.4.2.** “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
 - 26.4.3.** “Private entity”:
 - 26.4.3.1.** Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
 - 26.4.3.2.** Includes:
 - 26.4.3.2.1.** A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
 - 26.4.3.2.2.** A for-profit organization.
 - 26.4.4.** “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).