

Federal Award Terms and Conditions

The U.S. Department of Labor (USDOL) is authorized to fund and administer this international project under the Consolidated and Further Continuing Appropriations Act, 2015, Pub. Law 113-235.

I. ORDER OF PRECEDENCE

In the event of any inconsistency between the terms and conditions of this cooperative agreement and other requirements, the following order of precedence shall apply:

1. Applicable program authorization
2. Applicable appropriations
3. Other applicable Federal statutes and their implementing regulations
4. These terms and conditions of award
5. Applicable Management Procedures and Guidelines (MPG)

II. FUNDING OPPORTUNITY ANNOUNCEMENT

The Funding Opportunity Announcement (FOA) and any amendments (insert hyperlink[s] to FOA) are hereby incorporated into this agreement. Recipients are bound by the authorizations, restrictions and requirements contained in the FOA. If there is any inconsistency between the FOA and any statute, regulation, guidance or cost principle, the statute, regulation, guidance or cost principle will prevail.

III. TECHNICAL AND COST PROPOSALS

The recipient's technical and cost proposals are incorporated into this agreement and will serve as the framework for project implementation until a Project Document Package is approved. If there is any inconsistency between the technical and cost proposals and any statute, regulation, guidance or cost principle, the statute, regulation, guidance or cost principle will prevail.

IV. PROJECT DOCUMENT PACKAGE

The recipient is required to carry out a review of the project strategy and budget outlined in their technical and cost proposals in consultation with the GOR within the timeframe specified in the MPG in order to produce an initial draft of the Project Document Package. If adjustments to the project and/or the budget, above thresholds established in the MPG, are deemed necessary following this review, then the awardee will be required to submit a revision request to the GOR.

V. APPROVED BUDGET

The recipient must document that all costs are allowable before expenditure. Pursuant to 2 CFR Part 2900.1, approval of the budget as awarded does not constitute prior approval of those items requiring prior approval, including those items specified in the cost principles, MPG, or terms and conditions as requiring prior approval. The Grant Officer is the only official with the authority to provide prior written approval. If there is any inconsistency between items in the budget documents and any statute, regulation, guidance or cost principle, the statute, regulation, guidance or cost principle will prevail.

VI. PROGRAM REQUIREMENTS

A. Project Implementation Requirements and Deliverables

Recipients must adhere to all post-award requirements outlined in 2 CFR Part 200, the FOA, and the Bureau of International Labor Affairs' (ILAB's) MPG, and submit all requested deliverables. The

MPG provides general management procedures and guidance for recipients of ILAB awards in areas that may not be explicitly detailed in the FOA. The MPG applicable to each award is sent as part of the award package to each recipient.

B. Key Personnel

Individuals who have been designated as key personnel in the FOA must begin work on the project no later than 45 calendar days after the award start date. The awardee is required to consult with the GOR following award and must adequately demonstrate that the proposed candidates meet all the minimum requirements listed in the FOA.

The key personnel for this award as defined in the FOA are:

- Full name: _____:
- Position
- Email address:
- Employer organization name:
- Position requirements (as listed in the FOA):

C. Funding Restrictions

All funding restrictions listed in the FOA must be followed unless prior written approval is received.

D. Site Visits

USDOL, through its authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments, financial and performance records, fiscal and administrative control systems and to provide such technical assistance as may be required. USDOL intends to make every effort to notify the awardee at least two weeks in advance of any trip to the USDOL-funded project site. If USDOL makes any site visit on the premises of a recipient or a subrecipient(s), the recipient must provide, and must require its subrecipients to provide, all reasonable facilities and assistance for the safety and convenience of government officials in the performance of their duties. All site visits and evaluations are expected to be performed in a manner designed to not unduly delay the implementation of the project.

VII. ADMINISTRATIVE REQUIREMENTS

This award is subject to all relevant regulations, including the following administrative requirements included in the CFR, and any other applicable standards that come into effect during the term of the award.

Non-Federal entities¹ are subject to 2 CFR Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards).

Profit-making Commercial Firms are subject to 2 CFR Part 200 (Administrative Requirements and Audit Requirements for Federal Awards) and 48 CFR Part 31 (Federal Acquisition Regulation, FAR, Cost Principles).

¹ In the DOL, *Non-Federal entity* means a state, local government, Indian tribe, institution of higher education (IHE), for-profit entity, foreign public entity, foreign organization or nonprofit organization that carries out a Federal award as a recipient or subrecipient. (See 2 CFR 200.69)

A. Universal Identifier Requirements

The recipient must adhere to 2 CFR Part 200.300 including use of Universal Identifier and Central Contractor Registration.

The recipient must maintain a current DUNS registration in SAM.gov until the final financial report is submitted or until the final payment is received, whichever is later. Information in SAM.gov must be reviewed and updated at least annually after the initial registration, and more frequently if needed.

B. Implementation of the Federal Funding Accountability and Transparency Act

Recipients are required to comply with the regulations implementing the Federal Funding Accountability and Transparency Act, Pub. L. 109-282. These requirements are found in Appendix A to 2 CFR Part 170 – Award term (located at Annex A).

C. Transparency

USDOL is committed to conducting a transparent award process and publicizing information about program outcomes. Posting applications on public websites is a means of promoting and sharing innovative ideas. As required by the FOA, the Executive Summary for all applications will be published on USDOL's website or similar location. Additionally, the Technical Proposal for all applications that are funded will also be published on USDOL's website or a similar location. No other parts of or attachments to the application will be published. The Technical Proposals and Executive Summaries will not be published until after recipients receive the awards. In addition, information about award progress and results may also be made publicly available.

USDOL recognizes that applications sometimes contain information that an applicant may consider proprietary or business confidential information, or may contain personally identifiable information.²

Executive Summaries will be published in the form originally submitted, without any redactions. However, in order to ensure that business confidential and personally identifiable information is properly protected, winning applicants will be asked to submit a redacted version of the Technical Proposal. All non-public information about the applicant's staff should be removed as well. USDOL will contact winning applicants by letter or email and provide further directions about how and when to submit the redacted version of the Technical Proposal. Submission of a redacted Technical Proposal will constitute permission by the applicant for publication. If an applicant fails to provide a redacted version of the Technical Proposal, USDOL will publish the original Technical Proposal in full, after redacting personally identifiable information. The original, unredacted version of the Technical Proposal will remain part of the complete application package, including an applicant's proprietary and confidential information and any personally identifiable information.

Successful applicants are encouraged to maximize the application information that will be publicly disclosed, and to exercise restraint and redact only information that truly is proprietary,

² Information is considered proprietary or confidential commercial/business information when it is not usually disclosed outside an organization and when its disclosure is likely to cause substantial competitive harm. Personally identifiable information is information that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records, or other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information.

confidential commercial/business information, or personally identifiable. The redaction of entire pages or sections of the Technical Proposal is not appropriate, and will not be allowed unless the entire portion merits such protection. Should a dispute arise about whether redactions are appropriate, USDOL will follow the procedures outlined in the Department's Freedom of Information Act (FOIA) regulations (29 CFR Part 70, Production or Disclosure of Information or Materials).

Redacted information in applications will be protected by USDOL from public disclosure in accordance with federal law, including the Trade Secrets Act (18 U.S.C. § 1905, Disclosure of Confidential Information Generally), FOIA, and the Privacy Act (5 U.S.C. § 552a, Records Maintained on Individuals). If USDOL receives a FOIA request, the procedures in USDOL's FOIA regulations for responding to requests for commercial/business information submitted to the government will be followed, as well as all FOIA exemptions and procedures (29 CFR § 70.26, Predisclosure Notification to Submitters of Confidential Commercial Information). It is possible that application of FOIA rules may result in the release of previously redacted information in response to a FOIA request.

D. Project Audits and External Auditing Arrangements

Organization-wide or program-specific audits shall be performed in accordance with the Single Audit Act Amendments of 1996 as implemented in 2 CFR Part 200 Subpart F. Recipients that expend \$750,000 or more in a year in Federal awards shall have an audit conducted for that year in accordance with the requirements contained in 2 CFR Part 200 Subpart F—Audit Requirements.

In accordance with U.S. Government Auditing Standards, USDOL has also contracted with an independent auditor to conduct project-specific attestation engagements at USDOL's expense. All awardees, including foreign-based, international public entities and private for-profit awardees, are subject to attestation engagements during the life of the award and must cooperate with USDOL's contract auditor if selected for examination. The attestation engagements will be conducted in accordance with U.S. Government Auditing Standards, and include the auditor's opinions on 1) compliance with USDOL regulations and the terms and conditions of the award and 2) the reliability of the awardee's financial and performance reports. For those awardees that are subject to the requirements of the Single Audit Act, the attestation engagements will supplement, not duplicate, the coverage provided by the Single Audits. Awardees scheduled for examination by USDOL's contractor usually will be notified approximately 4 weeks prior to the start of the engagement.

See the MPG section on Implementation Evaluations and Audits for more information.

E. Information Dissemination and Intellectual Property

The awardee shall make select project materials and research outputs available to the public via the awardee's website or other means within 45 days of: availability of project materials, completion of each output, or confirmation of USDOL approval. At the same time, the awardee will inform the GOR of the dissemination via email. Select materials and research outputs include but are not limited to 1) project abstracts, 2) baseline studies, 3) training manuals developed by the project, and 4) rapid assessments.

The awardee retains copyright ownership of works created or purchased with USDOL funds, however USDOL reserves a royalty-free non-exclusive and irrevocable right to obtain, copy, publish, or otherwise use such works for Federal purposes and to authorize others to do so. See 2 CFR Part

200.315, and 2 CFR Part 2900.13³, Intangible Property.

See the MPG Communication section for more information.

F. Acknowledgement of Federal Funding

Unless otherwise agreed upon by USDOL and the awardee, all publicly disseminated print or electronic materials prepared with USDOL/ILAB award funds must contain an acknowledgment of such funding through the following language: **“Funding provided by the United States Department of Labor under cooperative agreement number IL-XXXXX. These statements do not necessarily reflect the views or policies of United States Department of Labor, nor does mention of trade names, commercial products, or organizations imply endorsement by the United States Government.”**

Prior to using the USDOL seal and/or other federal logos or marks, the awardee must submit a request to USDOL and receive written permission. USDOL will consider requests from the awardee to apply the seal and/or other federal logos or markers to USDOL-funded material prepared for world-wide distribution, including posters, videos, pamphlets, research documents, national survey results, impact evaluations, best practice reports, and other publications of global interest. The awardee must obtain written approval prior to final draft or final preparation for distribution.

G. Program Income

The recipient is required to utilize the addition method if any program income is generated throughout the duration of this award. The recipient is allowed to deduct costs incidental to generating program income to arrive at the amount of program income. Recipient activities (including activities conducted by subrecipients) that result in the generation of program income must conform to 2 CFR Part 200.307, Program Income.

H. Procurement

All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of 2 CFR Part 200.319-326, Procurement Standards. Full and open competition is not required for small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold. The simplified acquisition threshold is set by the FAR at 48 CFR Subpart 2, Definitions of Words and Terms. In addition, the awardee must give USDOL its procurement documentation, upon request, when making a non-competitive award over the simplified acquisition threshold.

The simplified acquisition threshold currently is set at \$150,000, see 48 CFR Part 2 Definitions of Words and Terms.

I. Property

2 CFR Part 200.311-316 must be followed in the acquisition of, accounting for, and disposition of property, equipment and supplies.

³ § 2900.13 Intangible property.

In addition to the guidance set forth in 2 CFR 200.315(d)(3), the Department of Labor requires intellectual property developed under a competitive Federal award process to be licensed under a Creative Commons Attribution license. This license allows subsequent users to copy, distribute, transmit and adapt the copyrighted work and requires such users to attribute the work in the manner specified by the grantee.

VIII. PUBLIC POLICY REQUIREMENTS

This award is subject to all relevant federal laws and executive orders, including the following public policy requirements, and any other applicable standards that come into effect during the term of the award.

A. Equal Treatment in Department of Labor Programs for Religious Organizations; Protection of Religious Liberty of Department of Labor Social Service Providers and Beneficiaries.

Recipients and their subrecipients must adhere to this requirement as described in 29 CFR Part 2 Subpart D.

B. Nondiscrimination in Federally Assisted Programs of the Department of Labor-- Effectuation of Title VI of the Civil Rights Act of 1964.

Recipients and their subrecipients must adhere to this requirement as described in 29 CFR Part 31.

C. Nondiscrimination on the Basis of Handicap In Programs and Activities Receiving or Benefiting from Federal Financial Assistance.

Recipients and their subrecipients must adhere to this requirement as described in 29 CFR Part 32.

D. Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from the Department of Labor.

Recipients and their subrecipients must adhere to this requirement as described in 29 CFR Part 35.

E. Federal Standards for Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance.

Recipients and their subrecipients must adhere to this requirement as described in 29 CFR Part 36.

F. Fly America Act

Recipients and their subrecipients must adhere to the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act). See the MPG for more details.

G. Restrictions on Lobbying

Recipients and their subrecipients must adhere to this requirement as described in 29 CFR Part 93. See the MPG for more details.

H. Government-wide Requirements for Drug-Free Workplace

Recipients and their subrecipients must adhere to this requirement as described in 29 CFR Part 94.

I. Government-wide Debarment and Suspension

Recipients and their subrecipients must adhere to this requirement as described in 29 CFR Part 98. See the MPG for more details.

J. Trafficking in Persons, Commercial Sex Acts, and Forced Labor

Recipients and their subrecipients must adhere to this requirement as described in the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)). See the MPG for more details.

K. Prostitution

The U.S. Government is opposed to prostitution and related activities which are inherently harmful and dehumanizing and contribute to trafficking in persons. Non-Federal entities cannot use funds provided by USDOL to lobby for, promote, or advocate the legalization or regulation of prostitution as a legitimate form of work. See the MPG for more details.

L. Terrorism

U.S. law, including Executive Orders, prohibits transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. See the MPG for more details.

IX. AWARD ADMINISTRATION

A. Grant Officer's Representative

Name: _____

Telephone:

Email:

The Grant Officer's Representative (GOR) shall monitor performance by the awardee. The GOR is authorized to approve:

- Technical matters not involving a change in the scope, cost, or conditions of this award.
- Technical and financial progress reports, and the applicable monitoring and evaluation document.
- Other project deliverables as defined in Annex B that do not result in a change in scope, cost, or terms or conditions of the award.

The GOR is authorized to review and recommend approval of requests for payment.

The GOR is not authorized to direct any action that results in a change in scope, cost, terms or conditions of this award.

B. Grant Officer

Requests for actions requiring Grant Officer approval, such as requests for budget revisions and administrative modifications, shall be submitted by the awardee to the GOR, who shall include recommendations with the request and forward them both to the Grant Officer.

C. Payments

Advances/reimbursements must be drawn down by the awardee through the Health and Human Services (HHS) Payment Management System via computer with SMARTLINK capability. When approved, requests for funds may be transferred electronically to the awardee's financial institution as arranged with HHS. A revised direct deposit form must be submitted whenever there are changes in financial institutions and/or approved signatures.

1. Advance payments are authorized provided the awardee maintains or demonstrates the willingness to maintain:
 - a) Written procedures that minimize the time elapsing between the transfer of funds and disbursement by the awardee.

- b) Financial management systems that meet the standards for fund control and accountability as established in 2 CFR Part 200 and 2 CFR Part 2900 Subpart D—Post Federal Award Requirements Standards for Financial and Program Management. Cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs.
2. Awardee financial management systems shall provide for the following:
- a) Accurate, current, and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in 2 CFR Part 200.302, Financial Management. Though USDOL requires reporting on an accrual basis, the awardee may not be required to establish an accrual accounting system. The awardee may develop such accrual data for its reports on the basis of an analysis of the documentation on hand.
 - b) Records that identify adequately the source and application of funds for Federally-sponsored activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.
 - c) Effective control over and accountability for all funds, property and other assets. The awardee must adequately safeguard all such assets and assure they are used solely for authorized purposes.
 - d) Comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.
 - e) Written procedures to minimize the time elapsing between the transfer of funds to the awardee from the U.S. Treasury and the issuance or redemption of checks, warrants or payments by other means for program purposes by the awardee.
 - f) Written procedures for determining the allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.
 - g) Accounting records including cost accounting records that are supported by source documentation.
3. The amount of advances requested must be based on actual and immediate cash needs in order to minimize federal cash on hand in accordance with policies established in 2 CFR Part 200.305 and 2 CFR Part 2900.7, Payment. In the event that the awardee accrues interest above \$500 per year on funds from this award, such interest must be returned to USDOL.

4. The awardee may not exceed budget line-items outlined in SF 424 and SF 424A without prior approval by the Grant Officer, unless within acceptable parameters outlined by the MPG. In the case that an awardee anticipates exceeding a budget line-item in an amount more than the acceptable parameters outlined by the MPG, a Project Revision request should be submitted to the GOR following the guidelines in the MPG.
5. The Grant Officer may, after providing due notice to the awardee, discontinue the advance payment method and allow payments only by reimbursement, when an awardee receiving advance payments demonstrates unwillingness or inability to establish procedures to minimize the time elapsing between the receipt of the cash advance and the disbursement thereof. See 2 CFR Part 200.305 and 2 CFR Part 2900.7, Payment.

D. Subawards

Subawards established after the award is funded, and not proposed in the application, require prior approval from USDOL and must comply with requirements of 2 CFR Part 200.201 and 2 CFR Part 200.330-332. Subawards are subject to audit.

The debarment and suspension rule, as outlined in 2 CFR Part 180, applies to all subawards. The awardee is responsible for ensuring that all subrecipients are eligible for participation in Federal assistance programs. The awardee must check the following website to assess available information on parties that are excluded from receiving Federal financial and nonfinancial assistance and benefits, pursuant to the provisions of 31 U.S.C. 6101, Definitions; E.O. 12549, Debarment and Suspension; E.O. 12689, Debarment and Suspension; 48 CFR Part 9.404, Excluded Parties; and <http://www.sam.gov/>.

The provisions of the Terms and Conditions of this award will be applied to any subrecipient under this award. The recipient is responsible for the monitoring of the subrecipient, ensuring that the terms and conditions are in all subaward packages and that the subrecipient is in compliance with all applicable regulations and the terms and conditions of this award (2 CFR Part 200.101(b)(1) Applicability).

E. Indirect Costs (The Grant Specialist will use the language which applies and delete the other options)

- ___ A. A current federally approved Negotiated Indirect Cost Rate Agreement (NICRA) or current federally approved Cost Allocation Plan (CAP) has been provided – copy attached.

Estimated Indirect Costs are shown on the SF-424A budget form. If a new NICRA is issued during the life of the award, it must be provided to USDOL within 30 days of issuance. Funds may be re-budgeted as necessary between direct and indirect costs consistent with institutional requirements and USDOL regulations for prior approval, however the total amount of funding will not be increased. Any budget changes impacting the Statement of Work and agreed upon outcomes or deliverables require a request for modification and prior approval from the Grant Officer.

- ___ B. (1) ___ Latest NICRA or CAP approved by the Federal Cognizant Agency⁴ (FCA) is

⁴ The Federal agency providing the organization the preponderance of direct Federal funds.

not current, or

(2) _____ No NICRA or CAP has ever been approved by an FCA.

URGENT NOTICE: Estimated indirect costs have been specified on the SF-424A, Section B, Object Class Category “j”, however only \$ [*N/A or 10% of the Personnel line*] will be released to support indirect costs in the absence of a NICRA or CAP approved by the cognizant agency. The remaining funds which have been awarded for Indirect Costs are restricted and may not be used for any purpose until the awardee provides a signed copy of the NICRA or CAP and the restriction is lifted by the Grant Officer. Upon receipt of the NICRA or CAP, ETA will issue a modification to the award to remove the restriction on those funds.

The awardee must submit an indirect cost rate proposal or CAP. These documents should be submitted to USDOL’s Division of Cost Determination (DCD), or to the awardee’s FCA. In addition, the awardee must notify the GOR that the documents have been sent. Contact information for the DCD is available at <http://www.dol.gov/oasam/boc/dcd/>. If this proposal is not submitted **within 90 days of the effective date of the award**, no funds will be approved for the reimbursement of indirect costs. Failure to submit an indirect cost proposal by the above date means the awardee will not receive further reimbursement for indirect costs until a signed copy of the federally approved NICRA or CAP is provided and the restriction is lifted by the Grant Officer. All indirect charges must be returned through the Payment Management System and no indirect charges will be reimbursed.

The total amount of USDOL’s financial obligation under this award will not be increased to reimburse the awardee for higher negotiated indirect costs.

- ____ C. The organization elected to exclude indirect costs from the proposed budget. Please be aware that incurred indirect costs must not be classified as direct costs. Only direct costs, as defined by the applicable cost principles, will be charged. Audit disallowances may occur if indirect costs are misclassified as direct.

- ____ D. The organization has never received a negotiated indirect cost rate and pursuant to the exceptions noted at 2 CFR Part 200.414(f) in the Cost Principles, has elected to charge a de minimis rate of 10% of modified total direct costs (see 2 CFR Part 200.68 for definition) which may be used indefinitely. This methodology must be used consistently for all Federal awards until such time as you choose to negotiate for an indirect cost rate, which you may apply to do at any time. (See 2 CFR Part 200.414(f) for more information on use of the de minimis rate.)

If USDOL is your FCA, you should work with USDOL’s DCD, which has delegated authority to negotiate and issue a NICRA or CAP on behalf of the Federal Government. More information about USDOL’s DCD is available at <http://www.dol.gov/oasam/boc/dcd/>. This website has guidelines to develop indirect cost rates, links to the applicable cost principles, and contact information. The DCD also has Frequently Asked Questions providing general information about the indirect cost rate approval process and due dates for provisional and final indirect cost rate proposals at

F. Revisions and Modifications

1. Unilateral Modifications by Grant Officer

The Grant Officer may unilaterally modify this cooperative agreement in writing whenever there has been a change in any Federal statute, regulation, Executive Order, or other Federal law, which USDOL determines is relevant to the financial assistance provided under the award.

2. Modifications Requiring Grant Officer Approval

2 CFR Part 308 and 2 CFR Part 2900.11, Revision of budget and program plans, sets forth requirements for obtaining Grant Officer approval for deviations from the approved objectives, scope, or budget. See also 2 CFR Part 200.420 Considerations for Selected Items of Cost and the MPG for information on actions requiring prior written approval.

G. Allowable Costs

Payment up to the amount awarded shall be made only for allowable, allocable, and reasonable costs actually incurred in conducting project activities. The determination of allowable costs shall be made in accordance with the applicable Federal Cost Principles as described in 2 CFR Part 200.

Approval of the requested budget does not release the awardee from the responsibility to support only allowable costs from awarded funds throughout the life of the award.

H. Closeout

At the end of the award period, the recipient will be required to complete closeout activities. Information concerning the recipient's responsibilities at closeout may be found in 2 CFR Part 200.343, 2 CFR Part 2900.15, and in the MPG. All closeout activities must be completed no later than 90 days after the end of the award period unless prior approval is received from USDOL.

I. Encumbrance of Award Funds

Award funds may not be encumbered or obligated by the awardee prior to or after the award period. Encumbrances or obligations outstanding as of the end of the award period may be liquidated (paid out) after the end of the award period. Such encumbrances or obligations shall involve only specified commitments for which a need existed during the award period and that are supported by approved contracts, purchase orders, requisitions, invoices, bills, or other evidence of liability consistent with the awardee's purchasing procedures and incurred within the award period. All encumbrances/obligations incurred during the award period shall be liquidated no later than 90 days after the end of the award period or prior to the expiration of the awarded funds, whichever is sooner.

Annex A

2 CFR Part 170 Appendix A to Part 170 – Award term

Reporting Subawards and Executive Compensation

a. Reporting of first-tier subawards.

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you 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 e. of this award term).

2. *Where and when to report.*

i. You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.

ii. 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 November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. *What to report.* You must report the information about each obligating action specified in the submission instructions posted at <http://www.fsrs.gov>.

b. Reporting Total Compensation of Recipient Executives.

1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

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

ii. in the preceding fiscal year, you received—

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR Part 170.320 (and subawards); and

(B) \$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 Part 170.320 (and subawards); and

iii. 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>.)

2. *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term:

- i. As part of your registration profile at <http://www.SAM.gov>.
- ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1. *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you 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—

- i. in the subrecipient's preceding fiscal year, the subrecipient received—
 - (A) 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 Part 170.320 (and subawards); and
 - (B) \$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
- ii. 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>.)

2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

- i. To the recipient.
- ii. By the end of the month following the month during which you make 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), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- i. Subawards, and
- ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

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.

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

3. *Subaward*:

- i. 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 you as the recipient award to an eligible subrecipient.
- ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR Part 200.330, Subrecipient and Contractor Determinations).
- iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. *Subrecipient* means an entity that:

- i. Receives a subaward from you (the recipient) under this award; and
- ii. Is accountable to you for the use of the Federal funds provided by the subaward.

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 Part 229.402(c)(2)):

- i. *Salary and bonus.*
- ii. *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.

iii. *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.

iv. *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.

v. *Above-market earnings on deferred compensation which is not tax-qualified.*

vi. 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.