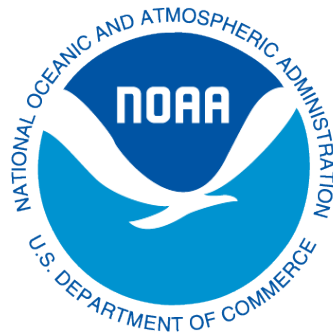


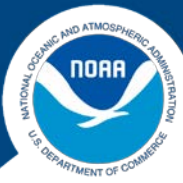
Grantee Welcome Packet

Helpful Information for Your NOAA Grant Award



NOAA FISHERIES





NOAA FISHERIES

Pacific Islands Regional Office (PIRO)

Federal Programs Office - Grants Management Helpful Hints

Congratulations on your NOAA Award!

Congratulations and welcome to the cohort of financial assistance recipients with the NOAA Pacific Islands Regional Office. This welcome packet is designed to be a resource and help answer common questions and information that you may have throughout your award. We are excited about your project and want to ensure that is as successful as possible. In addition to these series of documents, our website has additional information and resources that may be beneficial. We encourage you to continue to ask questions and seek advice throughout your award. This document contains 15 sections and two appendices that cover topics from how to set up your award in Grants Online, to how to properly close out the award after it is completed.

Please note all of the information within this packet is a plain language summary of the numerous regulations and policies affecting your award. If in doubt, you are encouraged to go back to the original text of the regulation that applies for further information. All awards issued after December 2014 are required to follow the new federal grant regulations found in 2 CFR Part 200.

There are numerous staff within NOAA who will help you and your project reach your goals. Your award is managed locally, from the PIRO Federal Programs Office, with a federal program officer to assist in award management, approval, and oversight. In addition, you may also be assigned a technical program officer who has programmatic expertise related to your project.

Your Federal Program Officers,

Scott Bloom
808-725-5055
Scott.Bloom@noaa.gov

Kara Miller
808-725-5056
Kara.Miller@noaa.gov

Penny Larin
808-725-5057
Penny.Larin@noaa.gov

Additional Resources and Links

Grants Online

[Login Page](#)

[Grant Recipient Training Resources](#)

Help Desk Phone: 1-877-662-2478 (Toll-Free) or
301-444-2112

E-mail: GrantsOnline.HelpDesk@noaa.gov

NOAA Pacific Islands Regional Office

[Federal Programs Office, Main Website](#)

[Federal Programs Office, Training Website](#)

Grant Regulations

[2 CFR Part 200](#)



NOAA FISHERIES

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NOAA FISHERIES

Pacific Islands Regional Office (PIRO)

Federal Programs Office - Grants Management Helpful Hints

New Award Checklist

Congratulations on your new NOAA Fisheries PIRO grant award! Regardless if this is your first award, or your 100th, there are a few things that need to be completed and reviewed right away. Many of these tasks must be done by the *Authorized Representative* for your entity or award. The *Authorized Representative* is noted on the SF-424 submitted with your grant application at the bottom of the last page.

1. Grants Online Access

All NOAA awards are managed online through the Grants Online system. All official correspondence, reports, approvals, and acceptance of the award is done through this system. For new grantees, who have never had a NOAA award, the *Authorized Representative*, must request their Grants Online user name and password from the Grants Online help desk. Your Username is your first initial followed by your last name (and possibly followed by a 2-digit number). The Help Desk cannot send your Password by email for security reasons, therefore it is best to call them directly or send them an email with a contact phone number.

Grants Online Information:

Email: GrantsOnline.HelpDesk@noaa.gov

Phone: Toll free at 1-877-662-2478 or at 301-444-2112

Hours: 8:00 AM to 6:00 PM Eastern Time, Monday through Friday

[Grants Online Login Page](#)

2. Review Terms and Conditions and Accept Award

The *Authorized Representative* must log into [Grants Online](#) and accept the award after reviewing all of the terms and conditions for the award. Pay special attention to the *Special Award Conditions*, which may have other conditions that are specific to the award. *The award must be accepted within 30 days of being issued.*

3. Manage Users in Grants Online

After accepting the award, the *Authorized Representative* will receive a task to “*Manage Award Users*”. Within 30 days, the *Authorized Representative* must associate or add their *Principal Investigator (PI)* in Grants Online. This step needs to be done even if these roles are filled by the same person. For more detailed information on how to do this step, review the “*Manage Award Users*” Helpful Hints document.

4. Enroll in ASAP.gov (Automated Standard Application for Payments)

Recipients that sign up for ASAP are able to electronically “draw-down” grant funds, as needed to cover allowable grant expenses. The funds are transferred electronically to a designated U.S. bank account. Most grantees are eligible to use ASAP. *The entire enrollment can take 2 – 4 weeks, so it is very important to do this as soon as the award is accepted. Do not wait until you need grant funds.* If you’ve already used ASAP.gov, more than likely, your award is already set up in the system, but may need to be manually linked. For more detailed information on how to do this step, review the “*ASAP Enrollment*” Helpful Hints document.

5. Identify Financial and Progress Report Due Dates

Don’t let the required reports sneak up on you! Note in your project calendar the reporting due dates to ensure that you are on track. Please check with your Federal Program Officer if you have questions. Reports are due, regardless of activities completed or dollar amount spent. Delinquent or late reports can jeopardize future funding from NOAA. All awards must submit semi-annual financial and progress reports, which most likely are due at different times of the year. *Do not wait until the last day that a report is due.*

Financial Reports are due *April 30* and *October 30*, and *90 days* after the award end date.

Progress Reports are due *30 days* after each 6 month reporting period, with final reports due *90 days* after the award end date.



NOAA FISHERIES

Pacific Islands Regional Office (PIRO)

Federal Programs Office - Grants Management Helpful Hints

Managing Recipient Personnel

The following roles must be added or identified in Grants Online by the *Authorized Representative*, and must be maintained and kept current throughout the award. Changes to “key personnel” generally, the *Principal Investigator* for an award, requires prior approval from NOAA.

AUTHORIZED REPRESENTATIVE: This person has access to all awards for the entity. They are responsible for submitting all financial and progress reports, award action requests, accepting the awards, or re-assigning tasks. They are also responsible for adding or creating Grants Online accounts. This person has been designated to represent the entity. This is generally NOT the Principal Investigator.

PRINCIPAL INVESTIGATOR: This is the person responsible for the day-to-day activities on the award, and generally they are considered a “key personnel”. They can only see specific awards in Grants Online, not all awards within the entity. While they are often the primary contact to NOAA, they can NOT submit award action requests or progress reports, unless they have submitting authority designated in Grants Online. They are allowed to initiate or create financial and progress reports, and award action requests.

BUSINESS/FINANCIAL REPRESENTATIVES: This person has access to all awards for the entity and is responsible for creating financial reports.

RECIPIENT ADMINISTRATORS: This person has access to all awards, and is responsible for adding personnel in the system. They can also create financial and progress reports, award action requests, or reassign tasks.

RECIPIENT USERS (ADDITIONAL KEY PERSONAL): This person can see only the specific award designated in Grants Online and have view only access. They cannot submit or create reports or award action requests.

How do I set up personnel for a new award?

For entities with a Grants Online account, the *Authorized Representative* must add the *Principal Investigators* (PI) and other key personnel that are listed in your award. This is not automatic. After the *Authorized Representative* accepts an award, they need to log into [Grants Online](#) within 30 days and complete the following steps:

1. Click on the “*Inbox*” tab at the top menu. Another menu bar along the left hand side will appear. Click on the “*Tasks*” to find all items waiting for your action.
2. Click “*View*” on the task named “*Manage Recipient Users*”. This will launch a new page with a drop down menu.
3. Select “*View Manage Award Screen*” within the drop down menu and click “*Submit*”.
4. The “*Manage Award Screen*” displays all the *Authorized Representatives, PI/Co-PIs/Other Investigators, Business/Financial Representatives, Recipient Administrators, and Other Key Personnel* that are associated with this Award within your organization.
 - a. You may un-assign a user from this Award by selecting the “*UnAssign*” link in the Action column.
 - b. You may also add another user that is not listed. For example, if you would like to add another PI, in the “*PI/Co-PIs/Other Investigators*” section select the “*Add another Investigator*” link. Please note, the initial *Principal Investigator(s)* and *Key Personnel* should match the personnel who were submitted as part of the application.
 - c. A minimum of one (1) *Principal Investigator* and one (1) *Authorized Representative* is required for each award.
 - d. Once all the changes are complete select the “*Done*” button.
5. Once all changes have been made, select “*Manage Award Complete*” from the drop down menu and hit “*Submit*”.

How Do I request a change to the Principal Investigator?

Please discuss the request for a Change in Principal Investigator with your NOAA Federal Program Officer early in the planning stages. Selection of applications for award are made partly on the qualifications of the Principal Investigator. NOAA may wish to consider alternative remedies, e.g. transferring the award to the current Principal Investigator’s new

organization. NOAA must first approve any change of the official Principal Investigator (s) or Key Personnel through the submission of an *"Award Action Request"*. The Authorized Representative must do the following to request a change in PI:

1. Log in to Grants Online.
2. Click the *"Award"* tab.
3. Click the *"Search"* or the *"Search Award"* link. The *"Search Award"* page is displayed.
4. Click the *"Search"* button on the *"Search Award"* page. When your search results populate, click the award number for which you are requesting the change in Principal Investigator.
5. On the *"Grants File"* launch page, select the *"Create Award Action Request"* action from the action drop down menu then click the *"Submit"* button.
6. The *"Award Action Request Index"* page is displayed with the available *Award Action Requests*. Click the link for *"Change in Principal Investigator/Project Director"*.
7. The requested page will be displayed for you to complete. Enter the required fields, proposed principal investigator, short justification, and click the *"Save"* button.
8. The *"Award Action Request"* page is re-displayed with the attachment link and other fields. You can upload supporting documents at this time. After completing the required information, click the *"Save and Return to Main"* button. Another message will display where you can confirm your request and start workflow, click the *"Yes"* button.
9. A review task is sent to your *"Task"* inbox.
10. The review task will go first to the creator of the document and who then must send it to their *Recipient Authorized Representative(s)*. The creator will review and approve the action and either *"Forward to Agency"* or *"Forward to Recipient Authorized Representative"* and then *"submit"*, depending on your roles and access.
11. The Recipient Authorized Representative must then log in and select *"Forward to Agency"* and then *"submit"*. If you have the role of *Recipient Authorized Representative* you will have to submit the request to the appropriate Federal Agency, thus you will have processed two tasks.

Changing the PI after the Request is Approved

After approval of a *Change in Principal Investigator* request, the *Recipient Administrator(s)* will be notified and assigned a task to *"Manage Recipient Users"*. They should complete this task by assigning the new *Principal Investigator* to the Award and removing the old assignment, using the steps outlined above. NOAA personnel cannot perform this task. The assigned *Principal Investigator(s)* will receive notifications of required project progress reports, so it is important that they be assigned to their awards.

Can I add other people in Grants Online?

Adding *Recipient Investigators* (who are not *Principal Investigators*) to the award through the Grants Online *Manage Recipient Users* or *View/Manage Award-related Personnel* features is not prohibited and does not require NOAA permission. Note that these recipient users can not create or approval financial or progress reports.

What if my entity has not used Grants Online before?

For new grantees, who have never had a NOAA award, the *Authorized Representative*, must request their Grants Online user name and password from the Grants Online help desk. Your username is your first initial followed by your last name (and possibly followed by a 2-digit number). The Help Desk cannot send your Password by email for security reasons, therefore it is best to call them directly or send them an email with a contact phone number.

Grants Online Information:

Email: GrantsOnline.HelpDesk@noaa.gov

Phone: Toll free at 1-877-662-2478 or at 301-444-2112

Hours: 8:00 AM to 6:00 PM Eastern Time, Monday through Friday

[Grants Online Login Page](#)

More information on Managing Key Personnel

Grants Online Help Pages:

[Change in Principal Investigator](#)

[Managing Award Users](#)



NOAA FISHERIES

Pacific Islands Regional Office (PIRO)

Federal Programs Office - Grants Management Helpful Hints

ASAP.gov (Automated Standard Application for Payments)

Why do I need to sign up for ASAP.gov?

Recipients that sign up for [ASAP.gov](#) are able to electronically “draw-down” grant funds, as needed to cover allowable grant expenses. The funds are transferred electronically to a designated U.S. bank account. Most grantees are eligible to use ASAP.gov. ASAP.gov is only for entities with a US bank account. **If your entity does not have a US bank account, you must use the SF-270 feature to request draw downs and should not enroll in ASAP.gov.**

The entire enrollment can take 2 – 4 weeks at a minimum, so it is very important to do this as soon as the award is accepted. Do not wait until you need grant funds.

Do we have to enroll in ASAP.gov?

Recipients who are not signed up for [ASAP.gov](#) will have to submit a *SF-270* form (Request for Reimbursement) to request grant funds. Enrolling in ASAP is the preferred method, but some entity are either not eligible or choose not to use this system. You must submit reimbursement forms (SF-270) if one of the following apply to your award:

- Grantees is designated as *High Risk*. This information will be in your Special Award Conditions.
- Individuals without a SAM.gov account.
- Entities/Individuals without a U.S. Bank Account.

How do I sign up for ASAP.gov?

ASAP enrollment is a multi-step online process. The first task is completed by the grantee in [Grants Online](#), and second set of tasks are completed by the grantee within the ASAP.gov system, and the last set of tasks are completed by NOAA in Grants Online. Enrollment includes adding all required personnel and bank account information in an ASAP.gov account. See below for more detailed instructions on each step.

ASAP.gov Roles

POINT OF CONTACT (POC) is responsible for adding, modifying, and deleting the organization officials in ASAP.gov. This role is set in the initial enrollment request through Grants Online.

HEAD OF ORGANIZATION (HOO) is the management official who approves or rejects the officials named by the Point of Contact. The HOO can also add officials but not delete officials. Only one person may be designated as the Head of Organization.

RE-DELEGATED HEAD OF ORGANIZATION (RHOO) can act on behalf of the Head of Organization to approve officials.

AUTHORIZING OFFICIAL (AO) is responsible for completing the organization's basic information and naming the payment requestors.

FINANCIAL OFFICIAL (FO) adds the bank account information for the organization.

PAYMENT REQUESTORS (PR) can request funds from their ASAP.gov account

Grants Online ASAP Initiation Process

1. The *Authorized Representative* for the award needs to log into the [Grants Online](#) system
2. On the top menu bar, click on "Awards". It is the second tab, the one right next to "Inbox".
3. On the left hand side will be a series of links. Click on the second link, "*Organizational Profile Change Request*".
4. Near the bottom of this new screen is the field "*ASAP ID*" and with a link that reads "*Enroll in ASAP*" just to the right. Click on the "*Enroll in ASAP*" link.
5. A new screen will appear. Enter your ASAP *Point of Contact* Information. After you enter your information, click the "*Save and Start Workflow*" button at the bottom. On the next screen, choose the drop down "*Forward to Agency*" and then click "*Submit*". This will complete the first phase of the enrollment process.

After the grantee completes the initiation process in Grants Online, there are a few additional initiation steps that must be completed by NOAA and ASAP.gov. Within 2 weeks, ASAP.gov system will mail the *Point of Contact* a user name and password through the U.S. Post Office. If you do not receive your user name and password within 10 day of it being mailed, please call ASAP Customer Service line at (855) 868-0151 to obtain your user name and password.

ASAP.gov Enrollment Process

1. Once the *Point of Contact* receives their ASAP.gov log in information, there are a series of additional steps to add all required personnel, and bank account information. Enrollment steps must be completed within 30 from when the enrollment was initiated. The *Point of Contact* must log into ASAP.gov and complete the following:
 - i) Accept the role as ASAP *Point of Contact* and,
 - ii) Add personnel for the *Head of Organization*, *Authorizing Official*, and *Financial Official* roles. Individuals can have more than one role.
2. The *Head of Organization* must now log into ASAP.gov and approve the *Authorizing Official* and *Financial Official* added by the *Point of Contact*.
3. The *Authorizing Official* must now log in and complete the organization's basic information and add the *Payment Requestor(s)*.
4. The *Financial Official* must log in and add the bank account information for the entity. This must be a U.S. Bank account.
5. The U.S. Department of Treasury will then validate the account information (up to 7 days). After validation, NOAA will finalize the ASAP enrollment in Grants Online.
6. After all final steps have been completed, the grantee

How do I get my money? How often can I request funds?

Those with the *payment requestor* role can log into ASAP.gov throughout the award and request monies as needed to pay for allowable grant costs. Please remember to only draw down the funds that are needed to cover costs immediately. All funds must be spent within 5 business days. Do not draw down the entire award amount at once.

Grants Online Training Pages

[ASAP Enrollment and Organization Profile Change Requests](#)
[Grants Management Division Workshop ASAP Enrollment Presentation](#)

ASAP Customer Service - Bureau of the Fiscal Service - Kansas City Financial Center

Phone: (855) 868-0151 E-mail: <mailto:mkfc.asap@fms.treas.gov>

Hours of Operation: 6:30 AM - 5:30 PM Central Time (Monday – Friday).

Please listen and follow the prompts for ASAP.



NOAA FISHERIES

Pacific Islands Regional Office (PIRO)

Federal Programs Office - Grants Management Helpful Hints

Progress Reports

How often do I need to submit a progress report?

NOAA PIRO grant recipients must submit semi-annual interim reports and a final report for each award. Interim reports cover a 6 month period and are due *30 days* after the reporting period. Final reports are due *60 days* after the award ends and covers the entire award. Reports need to be submitted using the [Grants Online](#) system.

What should the report include?

The report should be a stand-alone document (Microsoft Word or PDF format) and can include attachments. While there is no specific format required for the report, they should include, at a minimum, the following information:

AWARD INFORMATION: Award Number, Project Title, Agency, Principal Investigator, Award Period, and Reporting Period.

PROJECT SUMMARY: A brief description of the activities in the approved award and project narrative, focusing on the activities that were to be completed within the reporting period.

PROGRESS AND OUTCOMES: A brief description of the activities and progress of the project that occurred within the reporting period, including data and results of any monitoring or data collection activities. For example, if your award included a public outreach day, include the date and location of the event, number of participants, and outcomes/goals obtained during the event.

CHALLENGES: Any challenges or anticipated problems with the project. If activities are delayed, please explain why.

ATTACHMENTS: Photos with captions and photo releases, spreadsheets with data, presentations, news articles, or similar attachments should be included. Please also review your Grant *Special Award Conditions* to see if there are other reporting requirements, such as including data or photo documentation of your award.

How do I submit the report?

The report needs to be uploaded and submitted in [Grants Online](#), and must be approved by an *Authorized Representative* for your entity. Reports need not be e-mailed to the Federal Program Officer.

1. The *Authorized Representative* or *Key Personnel/Principal Investigator* will log into [Grants Online](#).
2. Click on the “Award” tab at the top menu bar.
3. Click on the “Search” button to locate your award and the progress report submission form. Enter the award number, if you know it, or leave it blank and hit “Submit” to find all of the NOAA awards available to you.
4. Click on the “Award Number” in the search results.
5. Scroll down to the bottom of the “Grants File” to the “Associated Documents” section. Click on the link in the “ID” column to get to the progress report screen.
6. Click the text link, “Go to Performance Progress Report Details Page”.
7. Enter the required information and upload the report document and any attachments. Once completed, select “Complete Report” at the bottom.
8. Navigate to your “Inbox” to finish the submission. Click on the “Inbox” tab at the top menu bar and click on “Tasks” on the left hand menu bar.
9. “View” the task. It will take you to a new window. Using the drop down menu, click on “View Progress Report”, and hit the “Submit” button. The report and attachments will now appear, please double check to ensure the report and attachment is complete. Once you are finished click the “Complete Report” button at the bottom of the page.
10. Choose the drop down menu “Forward Progress Report to Authorized Representative” and click “Submit”.
11. The *Authorized Representative* must now log in and approve the report. Most entities are set up in a manner that *Principal Investigators* can *NOT* submit directly to agency, therefore they will not have the “Forward to Agency” option listed below.

A report is not considered submitted until the “Forward to Agency” action has been completed. Please submit your report in enough time to allow the Authorized Representative to review and submit the report.

12. The Authorized Representative must click on the “Inbox” tab at the top menu bar, and click on “Tasks” on the left hand menu bar. Click on the report in the list. To review the report, choose “View” in the drop down menu and select “Submit”. The report will then open to be reviewed or modified. To send the report to NOAA, select “Forward to Agency” in the drop down menu and then the “Submit” button. The report will then be sent to NOAA to review and accept.

Make sure that the “Forward to Agency” option is selected and hit Submit!

What if my report is late?

Please contact your Federal Program Officer as soon as possible if you are having problems with the reporting deadline. NOAA can begin enforcement actions if the report is more than *15 days late*, or if late reports are an on-going problem. *Enforcement actions can include designating the recipient as “High Risk”, not allowing any funds to be drawn down, or even keep your organization from receiving a future NOAA award.* Please discuss all challenges as soon as possible with your Federal Program Officer to keep your award in good standing.

Grants Online Training Pages

[Grantee Quick Reference Guide](#)

[Performance Progress Reports Grantee Training Manual](#)



NOAA FISHERIES

Pacific Islands Regional Office (PIRO)

Federal Programs Office - Grants Management Helpful Hints

Financial Reports

How often do I need to submit a financial report?

Interim financial reports are due *semi-annually*, and the final financial report is due *90 days* after the end of the award period. Grantees designated as *High Risk* or with other *Special Award Conditions* may be required to submit additional reports.

Regardless of the award start date, all interim financial reports are due *October 30* (covering a period of April 1 – September 30) and *April 30* (October 1 – March 31) each year. Reports are due regardless if funds were spent, or how long the award was active within that 6 month reporting period. For example, if your award start date is June 1, you must submit a report by October 30 for the time period of June 1- September 30.

If you are currently submitting the form *SF-270* to receive reimbursements (and not on ASAP.gov), each submission of the SF-270 is considered your financial report and a separate financial report is not required.

How do I submit financial reports?

NOAA requires electronic grant recipients to submit financial reports, *SF-425*, through the [Grants Online](#) system. The report is a fillable form within [Grants Online](#) system, and can be submitted anytime within the 30 days after the reporting period (or 90 days after the award ends for the final report).

- 1) Log into Grants Online. The *Authorized Representative*, *Principal Investigator*, *Business/Financial Representative*, or the *Recipient Administrator* can create the financial report. Only the *Authorized Representative* can approve the financial report.
- 2) Select the “Award” tab from the navigation panel, located at the top of the webpage.
- 3) Select the “Search Reports” link from the left hand menu.
- 4) The “Search Financial and Project Progress Reports” page will appear. From this page, there are several report search options available using various search criteria.
- 5) Select the “Financial Reports” radio button, and check the box to “include reports with no Start Date (SF425)”. Then click the “Search” button. This will return all financial reports for all awards to which you have access. To narrow your search you can enter additional data into the query boxes and/or select one of the radio buttons for “Report Status”. Use the “Delinquent and Not Delinquent” radio button to retrieve reports which still need to be submitted to NOAA.
- 6) The search results will be displayed at the bottom of the page. Notice the status of each report located in the “Status” column.
- 7) Locate the report to be viewed or completed and select the report name link from the “Report” column.
- 8) The *Federal Financial Report* launch page will be displayed. The title will indicate the type of report (i.e. SF-425 Cash Flow, SF-425 Full Report, SF425A, SF-269, SF-272 and SF272A) and the Award Number. If it is a FINAL report, that will also be indicated in the title. Review the “Report Header Information” section verifying the reporting period, report type and the report due date.
- 9) Click on the “Go to SF-425 Details Page” link to access the form for data entry.
- 10) Enter all required information. Enter the required information directly into the form. Do not complete the financial report outside of [Grants Online](#).
- 11) Select “Save” to capture all data entered and validate the form. If there are no validation issues found, select “Save and Return to Main” to start workflow. A review task will be sent to the creator’s inbox for review.
- 12) Next, you must now review and approve the report that was just created. Select the “Inbox” tab on the top, followed by the “Task” link on the left hand side.

- 13) Select the “*View*” link, next to the review task. In the drop down menu, select one of two options:
- (a) “*Forward SF-425 Report to Agency*” and “*Submit*”. This option will only be seen if you are the *Authorized Representative* or *Financial Representative* with submitting roles.
 - (a) If you do not have this option, select the option “*Forward SF-425 Report to Authorized Representative*” and click “*Submit*”. Once this is complete, the authorized representative will have to log in, navigate to their “*Inbox*” and “*Tasks*” and forward the report to the Agency. The report is not submitted until it has been sent to the agency.

What if my financial report is late?

Late financial reports can be very problematic. NOAA may begin enforcement actions after reports are *delinquent 15 days* or more stating. *Enforcement actions can include: a suspension of payments, designation as high risk, or additional reporting requirements, and even factor into approval of future awards. Suspension of payments may affect all of the federal NOAA awards that the entity has, not just the award in which the report is due.* Reversal of suspension of payments can take 1 – 2 weeks after the report has been submitted.

If you anticipate a late progress or financial report, please contact your federal program officer (FPO) to advise you of the appropriate action needed to keep your award in good standing.

More information on Financial Reports

Grants Online Help Pages

[Financial Report Grantee Training Manual](#)

Form and Instructions

[SF-425 PDF Form](#) NOTE: Do not use this form for submission. This is for reference only.

[SF-425 Form Instructions](#)



NOAA FISHERIES

Pacific Islands Regional Office (PIRO)

Federal Programs Office - Grant Management Helpful Hints

Reimbursement of Funds (SF-270)

Grantees can obtain funds in one of two ways, draw down as needed via ASAP.gov or reimbursement method via an SF-270. If a grantee is not enrolled in ASAP.gov (Automated Standard Application for Payment), an *SF-270* form will need to be submitted. Requests for reimbursements need to be completed in [Grants Online](#) and can be submitted no more frequently than a monthly basis. Grantees should request reimbursements throughout their award as they are completing grant activities. Entities without a US bank account must use this reimbursement method.

How do I request a reimbursement?

NOAA requires grant recipients to submit the request (*SF-270*) through the [Grants Online](#) system.

1. The *Financial Representative* or *Authorized Representative* must log into Grants Online.
2. Select the “*Award*” tab from the navigation panel, located at the top of the webpage.
3. Select the “*Search Awards*” link from the left hand menu.
4. Enter the Award Number (or blank to see all awards for your organization) and hit “*Search*”.
5. The search results will populate at the bottom of the page. Locate the Award and click on the Award Number link to access the Grants File page.
6. The Grants File page will be displayed. From the “*Action*” dropdown options, select “*Create SF-270*”, then click on the “*Submit*” button.
7. The SF-270 launch page will be displayed. Click on the “*Go to SF-270...Details Page*” link to access the form for data entry.
8. The funding request data fields will not be available until the “Type of Payment Requested” field on the first page are entered. Click “*Reimbursement*” and then the “*Save*” button at the bottom.
9. Section “*11. Computation*” will now be available to enter the amount of federal funds that are being requested.
10. When all information has been entered, click “*Save and Return to Main*”, and enter all remaining information on the main page.
11. Click “*Save and Certify*” to start the workflow, and click “*Agree – Start Workflow*” if all information is correct.
12. Next, you must now review and approve the request that was just created. Select the “*Inbox*” tab on the top menu, followed by the “*Task*” link on the left hand side.
13. Select the “*View*” link, next to the review task.
14. In the drop down menu, select one of two options:
 - a. “*Forward SF-270 to Agency*” and “*Submit*”. This option will only be seen if you are the *authorized representative* or *financial representative* with submitting roles. If you do not have this option, select the option below to send it to your point of contact who can submit it for the agency.
 - b. “*Forward SF-270 to Authorized Representative*” and click “*Submit*”. Once this is complete, the authorized representative will have to log in, navigate to their “*Inbox*” and “*Tasks*” and forward the request to the Agency. The request is not submitted until it has been sent to the agency.

For More Information on Submitting a Request for Reimbursement

[Grants Online Help Pages](#)

[Financial Report and SF-270 Grantee Manual](#) Note: The section on how to submit a SF-270 starts on page 26.



NOAA FISHERIES

Pacific Islands Regional Office (PIRO)

Federal Programs Office - Grants Management Helpful Hints

No Cost Extensions

Recipients may receive an unfunded (“no-cost”) extension of their award beyond the original expiration date if they need more time to finish the sponsored project with a valid reason. *Grants may not be extended merely to allow recipients to spend unobligated funds, or do new activities not already described in the approved project narrative.* Requests must be submitted at least *30 days prior* to the expiration of the award in Grants Online. There are two slightly different ways to obtain a no cost extension, depending if your project has “*expanded authority*” which is discussed more in detail below.

What should my request include?

Requests should include a letter or document outlining the need for a no cost extension with the following required information:

- What work in the approved proposal remains to be completed? (*NOTE: Do NOT request to do any work that is “new” and not in the current approved proposal, it will be denied.*)
- What is the requested new expiration date?
- Explain why the work was not completed during the original award period.
- How much unobligated funds remain?
- Provide a budget for work to be completed during the extended period, including federal and nonfederal share.

How do I submit the request?

The no cost extension request (or notification of extension if you have expanded authority) needs to be completed in Grants Online as an “Award Action Request”. This needs can be created by either the *Authorized Representative* or the *Principle Investigator* for the award, and must be approved and forwarded to NOAA by the *Authorized Representative* in [Grants Online](#).

1. Log into [Grants Online](#).
2. Click the “Award” tab.
3. Click the “Search” or the “Search Award” link. The “Search Award” page is displayed.
4. Click the “Search” button on the “Search Award” page. When your search results populate, click the award number for which you are submitting the no cost extension.
5. On the “Grants File” launch page, select the “Create Award Action Request” action from the action drop down menu then click the “Submit” button.
6. The “Award Action Request Index” page is displayed with the available *Award Action Requests*. Click the link for “No Cost Extension – Prior Approval Required”. The requested page will be displayed for you to complete. Enter the required fields, new project end date, short justification, and click the “Save” button.
Note: If your award has expanded authority, choose the “Award Action Request” titled “No Cost Extension - Prior Approval Waived (Research Terms and Conditions)”
7. The “Award Action Request” page is re-displayed with the attachment link and other fields. You can upload supporting documents at this time. After completing the required information, click the “Save and Return to Main” button. Another message will display where you can confirm your request and start workflow, click the “Yes” button.
8. A review task is sent to your “Task” inbox for this request. The review task will go first to the creator of the document and then to the Recipient Authorized Representative(s) in the organization. If you have the role of “Recipient Authorized Representative” you will have to submit the request to the appropriate Federal Agency, thus you will have processed two tasks.

What is “Expanded Authority”?

If your award is a research award and you are a university or non-profit, you may have *expanded authority*. This allows you to notify NOAA (via an *award action request* in Grants Online at least 10 days prior to the award end date) that you are extending the award for 12 months. After notification is entered in Grants Online, your award will be automatically amended with the new end date. Not all awards have expanded authority, and this authority can only be used once.

Ek, my award already expired. Can I reopen it?

Unfortunately, no. *Requests need to be made prior to the award end date.* If you have an extreme circumstances, please talk to your Federal Program Officer and Grant Officer to discuss options, but please don't expect miracles. Due to this factor, it is very important that you submit the no cost extension at least *30 days* before the end of the award.

More Information on No Cost Extensions

Grants Online Help Page

[No Cost Extension Grantee Guidance](#)

2 CFR, Chapter 2, PART 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements
For Federal Awards

[Section §200.308 Revision of budget and program plans](#)



NOAA FISHERIES

Pacific Islands Regional Office (PIRO)

Federal Programs Office - Grants Management Helpful Hints

Budget Reprogramming

As projects are underway, it may be necessary to modify or deviate from the planned and approved budget for the project. While we always want your project to be successful, discussions with your Federal Program Officer (FPO) is necessary, and approval of this change in the Grants Online system may be required. All changes should be discussed in your semi-annual and final progress reports. Requests are not guaranteed to be approved.

Note: If your award requires a modification to the budget due to a change in activities, requesting a “Change of Scope” is the correct course of action. Please talk to your Federal Program Officer if you have any doubts and discuss the options.

Budget Categories

PERSONNEL: All employees of the organization that will be working on the project.

FRINGE BENEFITS: Generally a percentage of salary that includes health benefits and other benefits for employees.

TRAVEL: All travel expenses must fall within the federal travel guidance. Travel should be for employees only and directly related to the project and award.

EQUIPMENT: Equipment is defined as anything over \$5,000 in value. When determining the value, include the costs of all pieces and shipping for the equipment. Items, such as a computer or laptop is generally NOT listed under *equipment*, since routine business computers are less than \$5,000.

SUPPLIES: This includes all items purchased in order to complete the project, and with a unit cost of under \$5,000. Items such as computers, printer toner, paper and workshop flip charts are generally considered supplies.

CONTRACTUAL: Include all sub-awards or contracts that are required to complete the award. This may include a contract for services, such as a website designer who will be developing the program website, or a contractor to help work on the project with a key skill.

CONSTRUCTION: Please check with the Federal Program Officer for the competition if your project requires construction. Construction costs including building a building or renovating an asset is only allowable on certain funding programs.

INDIRECT CHARGES: Entities must have a negotiated indirect cost rate agreement with the federal government in order to charge an indirect rate. Indirect charges are generally a percentage of the total award and will cover items including basic operational functions such as lights, rent, water, and insurance. It may also include hours for project accountants or senior management staff. For entities that have never had an indirect cost rate with the federal government, there is a new rule that allows an entity to apply a 10% rate. See the section on *Indirect Cost Rates* for more specific information.

OTHER: All items that do not fit within a category above will fall into the “other” category. Sub-awards may also fall into this category. If your entity does not have an indirect cost rate agreement, items such as a portion of your rent may fall into this category. If you are direct charging these “overhead” type costs, make sure the amount charged is proportionate to your project. For example, if the NOAA project is just one of five projects for your entity, you can only charge 1/5 of your rent to this project.

Rebudgeting for awards less than \$150,000

Recipients with awards with a total award amount less than \$150,000 have more flexibility in reprogramming their budget. Recipients are allowed to move funds between direct cost categories, or within cost categories, as long as they are not creating a new budget category, or completely “zeroing” out a category. Keep in mind that the federal budget categories may be different than used for your organization, and the federal budget categories should be used.

EXAMPLE 1: The specialty supply that you needed to build the monitoring device went up by \$500 from when you did your budget and received the original quote. This item was listed in the “supplies” category in your original approved budget. Luckily, you were able to partner with another entity and get a free venue space for your workshop, so the \$500 you had in your approved budget under “other” will not be needed. You are allowed to move the funds from the “other” into the “supplies” to cover the increase cost of the item. This change should be documented and discussed in your progress report.

EXAMPLE 2: Printing your waterproof outreach flyers for fisherman went up in price by \$500 since you did the quotes when you prepared your award. This item is listed in “other”. Your venue space to hold your meeting is \$500 less than you budgeted, so there is no net change in the “other” category. This is allowable without written approval and the change should be noted in your progress report.

Rebudgeting for awards that are equal to or more than \$150,000.

Recipients with awards equal to or greater than \$150,000 will apply the “10% rule” to determine if they are allowed to rebudget without prior approval. Simply put, recipients are allowed to rebudget without written approval of the grant officer if they are moving less than 10% of the entire award (for the entire life of the award) to another direct cost category. Adding funds to a new budget category, or completely “zeroing” out a category would require written approval.

EXAMPLE 3: An award with a total dollar amount of \$200,000 (federal plus non-federal match) can reprogram up to \$20,000 without prior approval between direct categories. Six months into the award, the project decides to move \$20,000 from “supplies” to “other”, because instead of doing the portion of the project themselves, they are going to issue a sub-award to a non-profit to conduct a portion of the workshops. This change is allowable, although they can NOT make any other changes for the life of the award after that without approval, since they’ve reached their 10% limit. This change should be documented and discussed in your progress report.

What if I need a new category or don’t need the entire category in my approved budget?

Regardless of the dollar amount, if you wish to add funds to a category that was previously zero, or removing all funds in the budget for a category, you must request approval for the change in Grants Online.

What if my request is for a new activity not included in the original award?

A change in budget to support a new activity or something that is not included in the original award would need to be submitted and approved as a “*Change in Scope*”. If a rebudget is required in addition to this change in scope, it can be done in one step by submitting the *Award Action Request “Change in Scope”* in Grants Online.

EXAMPLE 4: Your project didn’t originally include a field component so you didn’t include field equipment costs. The equipment is only going to cost a \$100, and you have savings from other areas where you were able to get volunteers. The field component is going to provide a lot of valuable data and is important for the science. *Unfortunately, this example describes a “Change of Scope” since you are adding a new activity to your award. This is not a simple rebudget request and cannot be done without written approval in Grants Online. Talk to your Federal Program Officer, as prior approval is required.*

What needs to be included in my request?

The request needs to include the following items and must be submitted in Grants Online.

1. Justification for the change. This will describe why the rebudget is necessary and any programmatic implications of the change. This can be a separate PDF or MS Word file.
2. A revised budget narrative. This can either be a PDF or MS Word file and can be included in the justification.
3. A revised SF-424a (PDF). A fillable PDF of the SF-424a can be downloaded from the [PIRO website](#).

How do I submit the request?

The budget reprogramming request needs to be completed in Grants Online as an *“Award Action Request”*. A request can be entered by either the *Authorized Representative* or the *Principle Investigator*, but will need to be approved in Grants Online by the *Authorized Representative* prior to being reviewed by NOAA.

1. Click the *“Award”* tab.
2. Click the *“Search”* or the *“Search Award”* link. The *“Search Award”* page is displayed.
3. Click the *“Search”* button on the *“Search Award”* page. When your search results populate, click the award number for which you are submitting the change of budget.
4. On the *“Grants File”* launch page, select the *“Create Award Action Request”* action from the action drop down menu then click the *“Submit”* button.
5. The *“Award Action Request Index”* page is displayed with the available *Award Action Requests*. Click the link for *“Reprogram or Rebudget”*. The requested page will be displayed for you to complete. Enter a short justification, and click the *“Save”* button.
6. The *“Award Action Request”* page is re-displayed with the attachment link and other fields. You can upload supporting documents at this time. You must submit a revised budget narrative document and SF-424A. After completing the required information, click the *“Save and Return to Main”* button. Another message will display where you can confirm your request and start workflow, click the *“Yes”* button.
7. A review task is sent to your *“Task”* inbox for this request. The review task will go first to the creator of the document and then to the Recipient Authorized Representative(s) in the organization. If you have the role of *“Recipient Authorized Representative”* you will have to submit the request to the appropriate Federal Agency, thus you will have processed two tasks.

More information on budget reprogramming

Grants Online Help Page:

[Reprogram and Rebudget Grantee Manual](#)

2 CFR, Chapter 2, PART 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements For Federal Awards

[Section §200.308 - Revision of Budget and Program Plans](#)



NOAA FISHERIES

Pacific Islands Regional Office (PIRO)

Federal Programs Office - Grants Management Helpful Hints

Change in Scope

As projects are underway, it may be necessary to modify or deviate from the planned and approved project activities, goals, or scope. While we always want your project to be successful, a grant is a written agreement between the recipient and federal government, and does require approval in writing from the Grants Management Division to be modified. All approved changes need be discussed in your semi-annual and final progress reports. Requests are not automatically approved.

What will trigger a “change of scope”?

Modifying, removing, or adding a key activity, milestone, or goal of the project will often trigger a change in scope. Ask yourself, “Will this change modify the overall goals of the project?”. If the answer is YES, it requires a change in scope. Even if the answer is no, you should discuss the change with your Federal Program Officer to be on the safe side.

EXAMPLE 1: Minor modifications to the activity timeline, generally, will NOT trigger a change in scope. The original timeline had the date of the workshop in April the following year. Due to scheduling challenges and a late winter storm, the workshop was changed to June. This change will not impact the other grant activities. This is NOT a change in scope, but the change SHOULD be documented in the progress report.

EXAMPLE 2: However, changing the content of that workshop from how to protect certain marine mammals to teaching children how to catch, clean, and cook fish in their backyard would be a major change in the activities and require a *change in scope* and written approval.

Note: If your award requires only a small change to the budget, submitting a budget reprogram request may be the best course of action. Please talk to your Federal Program Officer if you have any doubts and discuss the options.

Since the change will make the project better, is it OK to just make the change?

While we love the idea of making a project even better (reaching more people, or geographies for example), it will still require a written request for a change in scope. If your modification is not approved, you will be responsible for repaying grant funds used on this modification.

What needs to be included in my request?

The request needs to include a justification for the change, any other supporting documents, including a revised project and budget narrative. Keep in mind that the initial application went through an extensive review and approval period, therefore many requests for a change of scope will be reviewed thoroughly and approval is not guaranteed.

How do I submit the request?

The budget reprogramming request needs to be completed in Grants Online as an “*Award Action Request*”. A request can be entered by either the *Authorized Representative* or the *Principle Investigator*, but will need to be approved in Grants Online by the *Authorized Representative* prior to being reviewed by NOAA.

1. Click the “*Award*” tab.
2. Click the “*Search*” or the “*Search Award*” link. The “*Search Award*” page is displayed.
3. Click the “*Search*” button on the “*Search Award*” page. When your search results populate, click the award number for which you are submitting the change of budget.

4. On the "*Grants File*" launch page, select the "*Create Award Action Request*" action from the action drop down menu then click the "*Submit*" button.
5. The "*Award Action Request Index*" page is displayed with the available *Award Action Requests*. Click the link for "*Change in Scope*". The requested page will be displayed for you to complete. Enter a short justification, and click the "*Save*" button.
6. The "*Award Action Request*" page is re-displayed with the attachment link and other fields. You can upload supporting documents at this time (revised project and budget narratives and supporting documents). After completing the required information, click the "*Save and Return to Main*" button. Another message will display where you can confirm your request and start workflow, click the "*Yes*" button.
7. A review task is sent to your "*Task*" inbox for this request. The review task will go first to the creator of the document and then to the Recipient Authorized Representative(s) in the organization. If you have the role of "*Recipient Authorized Representative*" you will have to submit the request to the appropriate Federal Agency, thus you will have processed two tasks.

More information on submitting a Change in Scope

Grants Online Help Page:

[Change in Scope Guidance](#)

2 CFR, Chapter 2, PART 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

[Section §200.308 Revision of Budget and Program Plans](#)



NOAA FISHERIES

Pacific Islands Regional Office (PIRO)

Federal Programs Office - Grants Management Helpful Hints

Cost Principles

All federal financial awards (grants and cooperative agreements) must adhere to a set of rules outlined in 2 CFR, Chapter 2, PART 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements For Federal Awards. Subpart E of this regulation details the Cost Principles, or general rules of what federal funds are allowed to be spent on. Please review this regulation during the award period to ensure that all of your costs are allowable.

What is an allowable cost?

Allowable costs are one which are not prohibited by federal law or by the program. Allowable costs must also be approved through your award or by your Federal Program Officer and/or the Grants Specialist prior to expending federal grant funds on particular costs. NOAA and reviewers pay close attention to budget costs to ensure that the project is within the range as proposed and can be successfully completed with the amount of funds being requested. *2 CFR, Part 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* is the regulation that contains information on what is an allowable costs. The section *Subpart E – Cost Principles* is a great resource to understand if your item is allowable. This section can be found online by searching “Title 2 CFR Part 200” in a search engine, or at [this web address](#).

What happens if a cost is unallowable?

Using grant funds on an item that is unallowable without written prior approval from the federal agency is very problematic and you will have to refund the amount to the federal government. The federal government takes this very seriously and grant recipients have had to repay large amount of funds. The recipient is required to maintain documentations outlining their expenses and is responsible to ensure that the cost of all items are allowable.

What does written prior approval mean?

All costs outlined specifically in your approved project proposal are approved. This is important when writing your grant application to correctly define and explain what items you will purchase. If an item requires prior approval, and it is not specified in your grant application, submit the “*Award Action Request*” termed, “*Inclusion of cost that require prior approval based on cost principles*” in Grants Online.

What is Allocable?

All costs must also *Allocable*. Allocable ensures that each federal project only is charged for the portion of a person or equipment/supply that will be directly used for that project. Simply put, for example, a staff person who is working on five different projects should be charging their time between those five different projects, based on the percentage of time that is spent on each project. If a staff is working solely on one project, their full salary may be charged to that grant.

More Information on Cost Principles

Grants Online Help Page

[Prior Approval Based on Cost Principles](#)

2 CFR, Chapter 2, PART 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements For Federal Awards

[Section subpart E – Cost Principles](#)



NOAA FISHERIES

Pacific Islands Regional Office (PIRO)

Federal Programs Office - Grants Management Helpful Hints

Indirect Cost Rates

Indirect costs are the costs incurred by an organization that are not readily identifiable with a particular project or program but are nevertheless necessary to the operation of the organization and the performance of its programs. The costs of operating and maintaining facilities, depreciation, and administrative salaries, are examples of the types of costs that are usually treated as indirect costs.

In theory, all such costs might be charged directly. Practical difficulties, however, will normally preclude this approach. The indirect costs are therefore grouped into common pools and distributed to the organization's programs or cost centers through a cost allocation process. The end product of this allocation process is an indirect cost rate (or rate for each pool) which is then applied to individual financial assistance awards to determine the amount of indirect costs chargeable to the awards.

Indirect Cost Rate Definitions

INDIRECT COST RATE: The ratio, expressed as a percentage, of an organization's total indirect costs (numerator) to its direct cost base (denominator). The base can be defined as salaries and wages, modified total direct costs, or some other financial number that provides for an equitable distribution of indirect costs to the benefiting activities. When a rate is established for a specific cost center, the rate represents the ratio of the total allowable indirect costs allocated to the activity to the direct base costs of the activity.

FIXED INDIRECT COST RATE WITH CARRY-FORWARD: A permanent rate established for a given period to permit reimbursement of indirect costs for that period. Typically, the calculation of this type of rate is based on an organization's most recently audited financial statements, which form the basis for a rate proposal to be applied to a subsequent period. The difference between the estimated costs used to establish the fixed rate and the actual costs of the period covered by the rate is "carried forward" as an adjustment to the rate computation of the following period.

INDIRECT COST PROPOSAL: The documentation prepared by a grantee organization to substantiate its claim for the reimbursement of indirect costs. This proposal provides the basis for review, audit, and negotiation leading to the establishment of the organization's indirect cost rate(s).

RATE AGREEMENT: The document that formalizes the establishment of indirect cost rates and provides information on the proper application of the rates.

AWARD: The term "award", includes grants, cooperative agreements, and other forms of financial assistance.

COGNIZANT FEDERAL AGENCY: The Office of Management and Budget (OMB) is responsible for assigning federal agencies to serve as cognizant for purposes of review and approval of indirect cost (and other) rates for organizations receiving financial awards. The Office of Federal Financial Management is the responsible unit within OMB. Each organization is assigned to a single federal agency which acts on behalf of all federal agencies in rate negotiations, and is referred to as the cognizant agency. This is the agency to which organization's indirect cost proposals are submitted. For organizations not specifically assigned a federal cognizant agency by OMB, federal agency cognizance shall be based on largest dollar value of direct federal awards (not pass-through awards) provided to the organization. Once established, a change of cognizant agency will not be addressed unless there is a major long-term shift in the dollar volume of federal awards to the organization.

MODIFIED TOTAL DIRECT COST (MTDC): MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs

and the portion of each subaward in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs.

We don't have an indirect cost rate, can we just do a minimum rate of 10%?

YES! For awards issued after December 2014, entities that have NEVER had a no cost rate agreement with the federal government (with a few exceptions) can elect to charge a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely. Costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at any time.

How can I negotiate a rate?

If your entity needs to negotiate a rate with NOAA, please follow these steps outlined in *2 CFR Part 200, Appendices III-VII and Appendix IX*. The negotiation process is very detailed and can easily take 3 – 6 months. If you receive most of your federal money from a federal agency outside of NOAA, please contact that agency for information on how to negotiate a rate.

Negotiation of Rates

NOAA will review the indirect cost proposals submitted by grantee organizations and, based on these reviews, will negotiate appropriate indirect cost rates with the organizations. If additional information or an audit is deemed necessary, NOAA or an auditor working for the Agency will notify the organization of the specific requirements necessary to complete the review of the grantee's submission.

The results of each negotiation will be formalized by an indirect cost Rate Agreement signed by the appropriate NOAA official and an authorized representative of the grantee organization. Each Rate Agreement will include the following provisions:

- a. The agreed upon rate(s) and information directly related to the use of the rate(s) (e.g., type of rate, effective period, direct cost base, etc.)
- b. The treatment of fringe benefits as either direct or indirect costs.
- c. General terms and conditions of the Agreement.
- d. Special terms and conditions of the Agreement (if any).*
- e. Additional information (if necessary) that may be needed by the users of the Agreement (e.g., the direct charging of a type of cost that is normally treated as indirect by other grantees).*

* This information will normally be included in the "Special Remarks" subsection of the Agreement.

Please talk to your Federal Program Officer for more information if you would like to negotiate an indirect cost rate with NOAA. Indirect cost rate proposals can be sent via e-mail or mail to Lamar Dwayne Revis, Grants Officer, National Oceanic and Atmospheric Administration, 1325 East West Highway, 9th Floor, Silver Spring MD 20910, or lamar.revis@noaa.gov.

For more Information on Indirect Cost Rates

Requirements for development and submission of indirect (F&A) cost rate proposals and cost allocation plans are contained in 2 CFR Part 200, Appendices III-VII and Appendix IX as follows:

[Appendix III to Part 200—Indirect \(F&A\) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education \(IHEs\);](#)

[Appendix IV to Part 200—Indirect \(F&A\) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations;](#)

[Appendix V to Part 200—State/Local Governmentwide Central Service Cost Allocation Plans;](#)

[Appendix VI to Part 200—Public Assistance Cost Allocation Plans;](#)

[Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals;](#) and

[Appendix IX to Part 200—Hospital Cost Principles.](#)



NOAA FISHERIES

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Federal Programs Office - Grants Management Helpful Hints

Audits

Recipients are required to conduct an annual audit if they have expended more than \$750,000 in federal funds in a fiscal year. The audit can either be a single or program-specific audit. Final audits are uploaded to a federal clearing house and can be used by federal entities in reviewing applications and award recommendations in future years. Previously single audits for grantees were referred to as an “A-133” audit, due to the title of the old regulation, Aas of December 2014, the regulations governing federal audits is located in *2 CFR Part 200, Subpart F Audits*.

Who should conduct the audit?

The audit should be conducted by a qualified independent party. There are many expert companies and accounting firms with expertise in conducting federal audits. *Subpart F Audits* within *2 CFR Part 200* outlines the steps and requirements for an auditor. The federal government does not conduct the annual audit for grantees, but will obtain a copy of the audit and any findings. Audit costs are an allowable cost as either an indirect or direct charge.

What is the scope of the audit?

In summary, the audit will cover a variety of topics including:

- 1) Review of all financial statements and financial documents.
- 2) Review of all internal controls and procurement procedures.
- 3) Compliance with federal statutes, regulations, and terms of the federal award.
- 4) Follow up on prior audit findings.

The auditor must complete and sign the specific sections of the data collection form as required in *2 CFR Part 200.512*. More information on the scope of the audit can be found in *§200.514 Scope of audit*.

What happens with the audit findings?

If an audit results in a negative audit finding, the recipient must develop a corrective action plan outlining the steps and timeline for resolving the issue. A corrective action plan could include modifying or improving internal controls, procurement procedures, or even paying back grant funds used on items that were unallowable. The corrective action plan shall be sent with the audit to the Federal Audit Clearing house. If there is an audit finding that the recipient does not agree with, that should also be documented and the recipient will need to provide a justification.

Federal Audit Clearing House

Annual federal audits and accompanying materials need to be uploaded into the [Federal Audit Clearinghouse website](#), maintained by the US Census Bureau on behalf of the Office of Management and Budget (OMB).

More Information on Audits

[2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards](#)

[Subpart F- Audit Requirements](#)

Federal Audit Clearinghouse

[Online Resources](#)



NOAA FISHERIES

Pacific Islands Regional Office (PIRO)

Federal Programs Office - Grants Management Helpful Hints

Monitoring and Site Visits

NOAA personnel will actively monitor the status and progress of each grant project. Monitoring can include phone discussions, e-mails, participating in meetings and events, reviewing of progress and financial reports, or conducting site visits. Purpose of monitoring is to ensure that federal funds (tax payer dollars) are spent wisely, and that projects are on track. Site visits and other monitoring activities will help projects identify current or potential problems and assist in resolving issues.

What are the goals of a site visit? Why is NOAA requesting a site visit?

While specific goals of the site visit may vary between programs and regions, the site visit is to determine whether a project is being executed according to its work plan and/or is on schedule, enhance better understanding of information provided in written performance reports, assist the Program Office in making recommendations and evaluating progress, and provide a chance to learn about the facilities, equipment, and staffing capabilities of the recipient. The site visit can also increase understanding between the grantee and the FPO and/or the Technical Monitor about general grant agreement requirements so use this opportunity to ask questions.

What should I prepare for a site visit?

As a recipient, you should have ample documentation on your project, so you may want to take the time to remind yourself where they are prior to the site visit. You should not be creating any new documents for the site visit. You should be prepared to share information with the Federal Program Officer (FPO) or Technical Monitor to provide evidence of your progress and to facilitate further discussion about your project. This is the time for you to show off your accomplishments and point out your challenges. The FPO is there to help you keep your project on task.

Information and documents relating to the following items should be readily available for the site visit to allow the Federal Program Officer to evaluate the following:

- Financial status of the grant funds.
- Position descriptions and placement of funded grant personnel.
- Procurement procedures and how they have been implemented to date.
- Property and equipment purchased (i.e. What has been purchased and where it is being used).
- Successful implementation of the project in relation to the program.

For More information on Monitoring and Site Visits

2 CFR, Chapter 2, PART 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

[Section §200. 328 - Monitoring and Reporting Program Performance](#)

[Section §200. 329 - §200. 332 -Subrecipient Monitoring and Management](#)



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Award “Close Out” Checklist

Close out is the 90 days after the award performance period ends. This time allows the entity to finishing paying all invoices, close out financial records, and complete required reports. This times does not allow for the entity to finish any grant activities or work described in the grant. All grant activity and work must be completed within the award performance period. The following items are required during close out. Additioanl items may be requested from the Grant Officer.

- INTERIM PROGRESS REPORT:** Due 30 days after the award period ends, covering the last 6 months of the award.
- FINAL PROGRESS REPORT:** Due 90 days after the award period ends, covering the entire award period.
- FINANCIAL REPORT:** Due 90 days after the award period ends. All draw-down of funds or requests for reimbursements must be completed prior to submission of this report.
- OTHER ITEMS:** Other items that may be submitted include copies of updated Indirect Cost Rate Agreements, data, copies of final products from the award, or other items requested by the Grant Officer or Federal Program Officer.

Progress Reports

Your award will have one or two progress reports due during close out. The first would be due 30 days after the project period of performance ends and is an *interim report* covering the last six months of the award. In some situations, this last iterim report may be waived and not required for your specific award. Please check with your Federal Program Officer, or award files to determine if the iterim report is required.

The second report will be a *comprehensive final progress* report that will outline the activities and work completed throughout your entire award. The final progress report is public and may be distributed or provided to others outside of the federal government. This final report is due 90 days after the award period ends.

Fiancial Reports

A final financial report is due in Grants Online 90 days after the award period ends. Prior to submitting this report, ensure that all funds have been requested and paid by NOAA or drawn down in the ASAP.gov system. All invoices and bills must also be paid prior to submittal.

Extension to Close Out

If you require additional time to complete your report, pay an invoice, or submit other required close out documents, you must submit a *Request for Extension to Close Out* in Grants Online. This request will not allow you more time to conduct programmatic activities. Follow these steps to submit the request. A request can be entered by either the *Authorized Representative* or the *Principle Investigator*, but will need to be approved in Grants Online by the *Authorized Representative* prior to being reviewed by NOAA.

1. Log into Grants Online.
2. Click the "Award" tab.
3. Click the "Search" or the "Search Award" link. The "Search Award" page is displayed.
4. Click the "Search" button on the "Search Award" page. When your search results populate, click the award number for which you are submitting the change of budget.
5. On the "Grants File" launch page, select the "Create Award Action Request" action from the action drop down menu then click the "Submit" button.
6. The "Award Action Request Index" page is displayed with the available *Award Action Requests*. Click the link for "Extension to Close Out". The requested page will be displayed for you to complete. Enter a short justification, and click the "Save" button.

7. The *"Award Action Request"* page is re-displayed with the attachment link and other fields. After completing the required information, click the *"Save and Return to Main"* button. Another message will display where you can confirm your request and start workflow, click the *"Yes"* button. A review task is sent to your *"Task"* inbox for this request. The review task will go first to the creator of the document and then to the *Recipient Authorized Representative(s)* in the organization.
8. Select either *"Forward to Agency"* or *"Forward to Authorized Representative"* and then hit *"Submit"*. The Authorized Representative must now log in and select *"Forward to Agency"* and *"Submit"*. If you have the role of *"Recipient Authorized Representative"* you will have to submit the request to the appropriate Federal Agency, thus you will have processed two tasks.

For more information on Award Close Out

Grants Online Help Page

[Extension to Close out Award Action Request Guidance](#)



NOAA FISHERIES

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Adverse Enforcement Actions

Federal grants are not free money. They are a binding agreement between the entity and the federal government to conduct a project that benefits the public. With this agreement is a set of rules and regulations that must be followed. When government intervention is necessary, several grants procedures have been established when the grantee's performance is unsatisfactory and/or a grantee is not in compliance with the award terms and conditions. Luckily, you have a great team of personnel at NOAA willing to help and work with you so that we don't have to take enforcement actions. It is your responsibility to be pro-active and engage your Federal Program Officer as soon as problems arise to avoid any of these unfortunate situations.

What situations can trigger an enforcement action?

Recipients are required to follow all rules and regulations outlined in their grant award and conduct activities as approved in their project and budget narrative – doing so will ensure no enforcement actions will be taken on the award! Here are a few situations that can cause enforcement actions.

- Late, incomplete, or inaccurate progress or financial reports.
- Not adhering to federal laws, regulations attached to the grant award.
- Fraudulent or unlawful activity.

What is an enforcement action?

Each situation will be carefully evaluated to determine the appropriate enforcement actions. Actions can include one or more of the following items:

- 1) Requesting a specific correction by the grantee within a defined time frame.
- 2) Imposing a high-risk type of special award condition (e.g., additional financial or performance reports, additional monitoring, additional prior approvals).
- 3) Suspending payments until a deficiency has been corrected or addressed.
- 4) Disallowing costs.
- 5) Suspending or terminating the award.
- 6) Initiate suspension or debarment proceedings as authorized under [2 CFR part 180](#) and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).
- 7) Withhold further Federal awards for the project, program, or entity.
- 8) Take other remedies that may be legally available.

Can the award be terminated?

An award can be terminated by either the recipient (non-federal entity) or the federal government. All parties must be notified if terminated, and termination of awards can be considered when evaluating future applications received by NOAA. There is a process to appeal a termination. Specifically, 2 CFR Part 200 states:

The Federal award may be terminated in whole or in part as follows:

- 1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;
- 2) By the Federal awarding agency or pass-through entity for cause;
- 3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or
- 4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity

Determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety.

When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in §200.343 Closeout and 200.344 Post-closeout adjustments and continuing responsibilities.

For more Information on Enforcement Actions and Non-compliance

2 CFR, Chapter 2, PART 200—Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

[Subpart D – Post Federal Award Requirements: Remedies for Noncompliance](#)



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Appendix A: Acronyms and Definitions

Grant and financial assistance related acronyms and definitions adapted from 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Acronyms

CAS	Cost Accounting Standards
CFDA	Catalog of Federal Domestic Assistance
CFR	Code of Federal Regulations
CMIA	Cash Management Improvement Act
COG	Councils Of Governments
COSO	Committee of Sponsoring Organizations of the Treadway Commission
EPA	Environmental Protection Agency
ERISA	Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301-1461)
EUI	Energy Usage Index
F&A	Facilities and Administration
FAC	Federal Audit Clearinghouse
FAIN	Federal Award Identification Number
FAPIIS	Federal Awardee Performance and Integrity Information System
FAR	Federal Acquisition Regulation
FFATA	Federal Funding Accountability and Transparency Act of 2006 or Transparency Act—Public Law 109-282, as amended by section 6202(a) of Public Law 110-252 (31 U.S.C. 6101)
FICA	Federal Insurance Contributions Act
FOIA	Freedom of Information Act
FR	Federal Register
FTE	Full-time equivalent
GAAP	Generally Accepted Accounting Principles
GAGAS	Generally Accepted Government Auditing Standards

GAO Government Accountability Office

GOCO Government owned, contractor operated

GSA General Services Administration

IBS Institutional Base Salary

IHE Institutions of Higher Education

IRC Internal Revenue Code

ISDEAA Indian Self-Determination and Education and Assistance Act

MTC Modified Total Cost

MTDC Modified Total Direct Cost

OMB Office of Management and Budget

PII Personally Identifiable Information

PMS Payment Management System

PRHP Post-retirement Health Plans

PTE Pass-through Entity

REUI Relative Energy Usage Index

SAM System for Award Management

SFA Student Financial Aid

SNAP Supplemental Nutrition Assistance Program

SPOC Single Point of Contact

TANF Temporary Assistance for Needy Families

TFM Treasury Financial Manual

U.S.C. United States Code

VAT Value Added Tax

Definitions

Acquisition cost

Acquisition cost means the cost of the asset including the cost to ready the asset for its intended use. Acquisition cost for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Acquisition costs for software includes those development costs capitalized in accordance with generally accepted accounting principles (GAAP). Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in or excluded from the acquisition cost in accordance with the non-Federal entity's regular accounting practices.

Advance payment

Advance payment means a payment that a Federal awarding agency or pass-through entity makes by any appropriate payment mechanism, including a predetermined payment schedule, before the non-Federal entity disburses the funds for program purposes.

Allocation

Allocation means the process of assigning a cost, or a group of costs, to one or more cost objective(s), in reasonable proportion to the benefit provided or other equitable relationship. The process may entail assigning a cost(s) directly to a final cost objective or through one or more intermediate cost objectives.

Audit finding

Audit finding means deficiencies which the auditor is required by §200.516 Audit findings, paragraph (a) to report in the schedule of findings and questioned costs.

Auditee

Auditee means any non-Federal entity that expends Federal awards which must be audited under Subpart F—Audit Requirements of this part.

Auditor

Auditor means an auditor who is a public accountant or a Federal, state, local government, or Indian tribe audit organization, which meets the general standards specified for external auditors in generally accepted government auditing standards (GAGAS). The term auditor does not include internal auditors of nonprofit organizations.

Budget

Budget means the financial plan for the project or program that the Federal awarding agency or pass-through entity approves during the Federal award process or in subsequent amendments to the Federal award. It may include the Federal and non-Federal share or only the Federal share, as determined by the Federal awarding agency or pass-through entity.

Central service cost allocation plan

Central service cost allocation plan means the documentation identifying, accumulating, and allocating or developing billing rates based on the allowable costs of services provided by a state, local government, or Indian tribe on a centralized basis to its departments and agencies. The costs of these services may be allocated or billed to users.

Catalog of Federal Domestic Assistance (CFDA) number

CFDA number means the number assigned to a Federal program in the CFDA.

CFDA program title

CFDA program title means the title of the program under which the Federal award was funded in the CFDA.

Capital assets

Capital assets means tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP. Capital assets include:

- a) Land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, lease-purchase, exchange, or through capital leases; and
- b) Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance).

Capital expenditures

Capital expenditures means expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life.

Claim

Claim means, depending on the context, either:

- a) A written demand or written assertion by one of the parties to a Federal award seeking as a matter of right:

- a. The payment of money in a sum certain;
 - b. The adjustment or interpretation of the terms and conditions of the Federal award; or
 - c. Other relief arising under or relating to a Federal award.
- b) A request for payment that is not in dispute when submitted.

Class of Federal awards

Class of Federal awards means a group of Federal awards either awarded under a specific program or group of programs or to a specific type of non-Federal entity or group of non-Federal entities to which specific provisions or exceptions may apply.

Closeout

Closeout means the process by which the Federal awarding agency or pass-through entity determines that all applicable administrative actions and all required work of the Federal award have been completed and takes actions as described in §200.343 Closeout.

Cluster of programs

Cluster of programs means a grouping of closely related programs that share common compliance requirements. The types of clusters of programs are research and development (R&D), student financial aid (SFA), and other clusters. “Other clusters” are as defined by OMB in the compliance supplement or as designated by a state for Federal awards the state provides to its subrecipients that meet the definition of a cluster of programs. When designating an “other cluster,” a state must identify the Federal awards included in the cluster and advise the subrecipients of compliance requirements applicable to the cluster, consistent with §200.331 Requirements for pass-through entities, paragraph (a). A cluster of programs must be considered as one program for determining major programs, as described in §200.518 Major program determination, and, with the exception of R&D as described in §200.501 Audit requirements, paragraph (c), whether a program-specific audit may be elected.

Cognizant agency for audit

Cognizant agency for audit means the Federal agency designated to carry out the responsibilities described in §200.513 Responsibilities, paragraph (a). The cognizant agency for audit is not necessarily the same as the cognizant agency for indirect costs. A list of cognizant agencies for audit may be found at the FAC Web site.

Cognizant agency for indirect costs

Cognizant agency for indirect costs means the Federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals developed under this part on behalf of all Federal agencies. The cognizant agency for indirect cost is not necessarily the same as the cognizant agency for audit. For assignments of cognizant agencies see the following:

- a) For IHEs: Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs), paragraph C.11.
- b) For nonprofit organizations: Appendix IV to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations, paragraph C.12.
- c) For state and local governments: Appendix V to Part 200—State/Local Governmentwide Central Service Cost Allocation Plans, paragraph F.1.
- d) For Indian tribes: Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposal, paragraph D.1.

Computing devices

Computing devices means machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or “peripherals”) for printing, transmitting and receiving, or storing electronic information. See also §§200.94 Supplies and 200.58 Information technology systems.

Compliance supplement

Compliance supplement means Appendix XI to Part 200—Compliance Supplement (previously known as the Circular A-133 Compliance Supplement).

Contract

Contract means a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this part does not include a legal instrument, even if the non-

Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward (see §200.92 Subaward).

Contractor

Contractor means an entity that receives a contract as defined in §200.22 Contract.

Cooperative agreement

Cooperative agreement means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302-6305:

- a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal Government or pass-through entity's direct benefit or use;
- b) Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.
- c) The term does not include:
 - a. A cooperative research and development agreement as defined in 15 U.S.C. 3710a; or
 - b. An agreement that provides only:
 - i. Direct United States Government cash assistance to an individual;
 - ii. A subsidy;
 - iii. A loan;
 - iv. A loan guarantee; or
 - v. Insurance.

Cooperative audit resolution

Cooperative audit resolution means the use of audit follow-up techniques which promote prompt corrective action by improving communication, fostering collaboration, promoting trust, and developing an understanding between the Federal agency and the non-Federal entity. This approach is based upon:

- a) A strong commitment by Federal agency and non-Federal entity leadership to program integrity;
- b) Federal agencies strengthening partnerships and working cooperatively with non-Federal entities and their auditors; and non-Federal entities and their auditors working cooperatively with Federal agencies;
- c) A focus on current conditions and corrective action going forward;
- d) Federal agencies offering appropriate relief for past noncompliance when audits show prompt corrective action has occurred; and
- e) Federal agency leadership sending a clear message that continued failure to correct conditions identified by audits which are likely to cause improper payments, fraud, waste, or abuse is unacceptable and will result in sanctions.

Corrective action

Corrective action means action taken by the auditee that:

- a) Corrects identified deficiencies;
- b) Produces recommended improvements; or
- c) Demonstrates that audit findings are either invalid or do not warrant auditee action.

Cost allocation plan

Cost allocation plan means central service cost allocation plan or public assistance cost allocation plan.

Cost objective

Cost objective means a program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capital projects, etc. A cost objective may be a major function of the non-Federal entity, a particular service or project, a Federal award, or an indirect (Facilities & Administrative (F&A)) cost activity, as described in Subpart E—Cost Principles of this Part. See also §§200.44 Final cost objective and 200.60 Intermediate cost objective.

Cost sharing or matching

Cost sharing or matching means the portion of project costs not paid by Federal funds (unless otherwise authorized by Federal statute). See also §200.306 Cost sharing or matching.

Cross-cutting audit finding

Cross-cutting audit finding means an audit finding where the same underlying condition or issue affects Federal awards of more than one Federal awarding agency or pass-through entity.

Disallowed costs

Disallowed costs means those charges to a Federal award that the Federal awarding agency or pass-through entity determines to be unallowable, in accordance with the applicable Federal statutes, regulations, or the terms and conditions of the Federal award.

Equipment

Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000. See also §§200.12 Capital assets, 200.20 Computing devices, 200.48 General purpose equipment, 200.58 Information technology systems, 200.89 Special purpose equipment, and 200.94 Supplies.

Expenditures.

Expenditures means charges made by a non-Federal entity to a project or program for which a Federal award was received.

- a) The charges may be reported on a cash or accrual basis, as long as the methodology is disclosed and is consistently applied.
- b) For reports prepared on a cash basis, expenditures are the sum of:
 - a. Cash disbursements for direct charges for property and services;
 - b. The amount of indirect expense charged;
 - c. The value of third-party in-kind contributions applied; and
 - d. The amount of cash advance payments and payments made to subrecipients.
- c) For reports prepared on an accrual basis, expenditures are the sum of:
 - a. Cash disbursements for direct charges for property and services;
 - b. The amount of indirect expense incurred;
 - c. The value of third-party in-kind contributions applied; and
 - d. The net increase or decrease in the amounts owed by the non-Federal entity for:
- d) Goods and other property received;
- e) Services performed by employees, contractors, subrecipients, and other payees; and
- f) Programs for which no current services or performance are required such as annuities, insurance claims, or other benefit payments.

Federal agency

Federal agency means an “agency” as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).

Federal Audit Clearinghouse (FAC)

FAC means the clearinghouse designated by OMB as the repository of record where non-Federal entities are required to transmit the reporting packages required by Subpart F—Audit Requirements of this part. The mailing address of the FAC is Federal Audit Clearinghouse, Bureau of the Census, 1201 E. 10th Street, Jeffersonville, IN 47132 and the web address is: <http://harvester.census.gov/sac/>. Any future updates to the location of the FAC may be found at the OMB Web site.

Federal awarding agency

Federal awarding agency means the Federal agency that provides a Federal award directly to a non-Federal entity.

Federal award

Federal award has the meaning, depending on the context, in either paragraph (a) or (b) of this section:

- a) (a)(1) The Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in §200.101 Applicability; or

- b) (2) The cost-reimbursement contract under the Federal Acquisition Regulations that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in §200.101 Applicability.
- c) (b) The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance covered in paragraph (b) of §200.40 Federal financial assistance, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.
- d) (c) Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal Government Federal Government owned, contractor operated facilities (GOCOs).
- e) (d) See also definitions of Federal financial assistance, grant agreement, and cooperative agreement.

Federal award date

Federal award date means the date when the Federal award is signed by the authorized official of the Federal awarding agency.

Federal financial assistance

(a) For grants and cooperative agreements, *Federal financial assistance* means assistance that non-Federal entities receive or administer in the form of:

- a) Grants;
- b) Cooperative agreements;
- c) Non-cash contributions or donations of property (including donated surplus property);
- d) Direct appropriations;
- e) Food commodities; and
- f) Other financial assistance (except assistance listed in paragraph (b) of this section).
- g) (b) For Subpart F—Audit Requirements of this part, *Federal financial assistance* also includes assistance that non-Federal entities receive or administer in the form of:
 - (1) Loans;
 - (2) Loan Guarantees;
 - (3) Interest subsidies; and
 - (4) Insurance.
- h) (c) *Federal financial assistance* does not include amounts received as reimbursement for services rendered to individuals as described in §200.502 Basis for determining Federal awards *expended*, paragraph (h) and (i) of this part.

Federal interest

Federal interest means, for purposes of §200.329 Reporting on real property or when used in connection with the acquisition or improvement of real property, equipment, or supplies under a Federal award, the dollar amount that is the product of the:

- a) Federal share of total project costs; and
- b) Current fair market value of the property, improvements, or both, to the extent the costs of acquiring or improving the property were included as project costs.

Federal program

Federal program means:

- a) All Federal awards which are assigned a single number in the CFDA.
- b) When no CFDA number is assigned, all Federal awards to non-Federal entities from the same agency made for the same purpose must be combined and considered one program.
- c) Notwithstanding paragraphs (a) and (b) of this definition, a cluster of programs. The types of clusters of programs are:
 - a. Research and development (R&D);
 - b. Student financial aid (SFA); and
 - c. “Other clusters,” as described in the definition of Cluster of Programs.

Federal share

Federal share means the portion of the total project costs that are paid by Federal funds.

Final cost objective

Final cost objective means a cost objective which has allocated to it both direct and indirect costs and, in the non-Federal entity's accumulation system, is one of the final accumulation points, such as a particular award, internal project, or other direct activity of a non-Federal entity. See also §§200.28 Cost objective and 200.60 Intermediate cost objective.

Fixed amount awards

Fixed amount awards means a type of grant agreement under which the Federal awarding agency or pass-through entity provides a specific level of support without regard to actual costs incurred under the Federal award. This type of Federal award reduces some of the administrative burden and record-keeping requirements for both the non-Federal entity and Federal awarding agency or pass-through entity. Accountability is based primarily on performance and results. See §§200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts, paragraph (b) and 200.332 Fixed amount subawards.

Foreign public entity

Foreign public entity means:

- a) A foreign government or foreign governmental entity;
- b) A public international organization, which is an organization entitled to enjoy privileges, exemptions, and immunities as an international organization under the International Organizations Immunities Act (22 U.S.C. 288-288f);
- c) An entity owned (in whole or in part) or controlled by a foreign government; or
- d) Any other entity consisting wholly or partially of one or more foreign governments or foreign governmental entities.

Foreign organization

Foreign organization means an entity that is:

- a) A public or private organization located in a country other than the United States and its territories that is subject to the laws of the country in which it is located, irrespective of the citizenship of project staff or place of performance;
- b) A private nongovernmental organization located in a country other than the United States that solicits and receives cash contributions from the general public;
- c) A charitable organization located in a country other than the United States that is nonprofit and tax exempt under the laws of its country of domicile and operation, and is not a university, college, accredited degree-granting institution of education, private foundation, hospital, organization engaged exclusively in research or scientific activities, church, synagogue, mosque or other similar entities organized primarily for religious purposes; or
- d) An organization located in a country other than the United States not recognized as a Foreign Public Entity.

General purpose equipment

General purpose equipment means equipment which is not limited to research, medical, scientific or other technical activities. Examples include office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles. See also Equipment and Special Purpose Equipment.

Generally Accepted Accounting Principles (GAAP)

GAAP has the meaning specified in accounting standards issued by the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB).

Generally Accepted Government Auditing Standards (GAGAS)

GAGAS, also known as the Yellow Book, means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.

Grant agreement

Grant agreement means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302, 6304:

- a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law

of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal awarding agency or pass-through entity's direct benefit or use;

- b) Is distinguished from a cooperative agreement in that it does not provide for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.
- c) Does not include an agreement that provides only:
 - a. Direct United States Government cash assistance to an individual;
 - b. A subsidy;
 - c. A loan;
 - d. A loan guarantee; or
 - e. Insurance.

Hospital

Hospital means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

Improper payment

- a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and
- b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

Indian tribe (or “federally recognized Indian tribe”)

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. Chapter 33), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians (25 U.S.C. 450b(e)). See annually published Bureau of Indian Affairs list of Indian Entities Recognized and Eligible to Receive Services.

Institutions of Higher Education (IHEs)

IHE is defined at 20 U.S.C. 1001.

Indirect (facilities & administrative (F&A)) costs

Indirect (F&A) costs means those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect (F&A) costs. Indirect (F&A) cost pools must be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

Indirect cost rate proposal

Indirect cost rate proposal means the documentation prepared by a non-Federal entity to substantiate its request for the establishment of an indirect cost rate as described in Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs) through Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals of this part, and Appendix IX to Part 200—Hospital Cost Principles.

Information technology systems

Information technology systems means computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources. See also §§200.20 Computing devices and 200.33 Equipment.

Intangible property

Intangible property means property having no physical existence, such as trademarks, copyrights, patents and patent applications and property, such as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership (whether the property is tangible or intangible).

Intermediate cost objective

Intermediate cost objective means a cost objective that is used to accumulate indirect costs or service center costs that are subsequently allocated to one or more indirect cost pools or final cost objectives. See also §200.28 Cost objective and §200.44 Final cost objective.

Internal controls

Internal controls means a process, implemented by a non-Federal entity, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

- a) Effectiveness and efficiency of operations;
- b) Reliability of reporting for internal and external use; and
- c) Compliance with applicable laws and regulations.

Internal control over compliance requirements for Federal awards

Internal control over compliance requirements for Federal awards means a process implemented by a non-Federal entity designed to provide reasonable assurance regarding the achievement of the following objectives for Federal awards:

- (a) Transactions are properly recorded and accounted for, in order to:
 - (1) Permit the preparation of reliable financial statements and Federal reports;
 - (2) Maintain accountability over assets; and
 - (3) Demonstrate compliance with Federal statutes, regulations, and the terms and conditions of the Federal award;
- (b) Transactions are executed in compliance with:
 - (1) Federal statutes, regulations, and the terms and conditions of the Federal award that could have a direct and material effect on a Federal program; and
 - (2) Any other Federal statutes and regulations that are identified in the Compliance Supplement; and
- (c) Funds, property, and other assets are safeguarded against loss from unauthorized use or disposition.

Loan

Loan means a Federal loan or loan guarantee received or administered by a non-Federal entity, except as used in the definition of §200.80 Program income.

- a) The term “direct loan” means a disbursement of funds by the Federal Government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a Federal Government asset on credit terms. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation.
- b) The term “direct loan obligation” means a binding agreement by a Federal awarding agency to make a direct loan when specified conditions are fulfilled by the borrower.
- c) The term “loan guarantee” means any Federal Government guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.
- d) The term “loan guarantee commitment” means a binding agreement by a Federal awarding agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

Local government

Local government means any unit of government within a state, including a:

- a) County;
- b) Borough;
- c) Municipality;
- d) City;
- e) Town;
- f) Township;

- g) Parish;
- h) Local public authority, including any public housing agency under the United States Housing Act of 1937;
- i) Special district;
- j) School district;
- k) Intrastate district;
- l) Council of governments, whether or not incorporated as a nonprofit corporation under state law; and
- m) Any other agency or instrumentality of a multi-, regional, or intra-state or local government.

Major program

Major program means a Federal program determined by the auditor to be a major program in accordance with §200.518 Major program determination or a program identified as a major program by a Federal awarding agency or pass-through entity in accordance with §200.503 Relation to other audit requirements, paragraph (e).

Management decision

Management decision means the evaluation by the Federal awarding agency or pass-through entity of the audit findings and corrective action plan and the issuance of a written decision to the auditee as to what corrective action is necessary.

Micro-purchase

Micro-purchase means a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold. Micro-purchase procedures comprise a subset of a non-Federal entity's small purchase procedures. The non-Federal entity uses such procedures in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost. The micro-purchase threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions). It is \$3,000 except as otherwise discussed in Subpart 2.1 of that regulation, but this threshold is periodically adjusted for inflation.

Modified Total Direct Cost (MTDC)

MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and up to the first \$25,000 of each subaward (regardless of the period of performance of the subawards under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward in excess of \$25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs.

Non-Federal entity

Non-Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

Nonprofit organization

Nonprofit organization means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

- a) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
- b) Is not organized primarily for profit; and
- c) Uses net proceeds to maintain, improve, or expand the operations of the organization.

Obligations

When used in connection with a non-Federal entity's utilization of funds under a Federal award, *obligations* means orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period.

Office of Management and Budget (OMB)

OMB means the Executive Office of the President, Office of Management and Budget.

Oversight agency for audit

Oversight agency for audit means the Federal awarding agency that provides the predominant amount of funding directly to a non-Federal entity not assigned a cognizant agency for audit. When there is no direct funding, the Federal awarding agency which is the predominant source of pass-through funding must assume the oversight responsibilities. The duties of the oversight agency for audit and the process for any reassignments are described in §200.513 Responsibilities, paragraph (b).

Pass-through entity

Pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Participant support costs

Participant support costs means direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects.

Performance goal

Performance goal means a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate. In some instances (e.g., discretionary research awards), this may be limited to the requirement to submit technical performance reports (to be evaluated in accordance with agency policy).

Period of performance

Period of performance means the time during which the non-Federal entity may incur new obligations to carry out the work authorized under the Federal award. The Federal awarding agency or pass-through entity must include start and end dates of the period of performance in the Federal award (see §§200.210 Information contained in a Federal award paragraph (a)(5) and 200.331 Requirements for pass-through entities, paragraph (a)(1)(iv)).

Personal property

Personal property means property other than real property. It may be tangible, having physical existence, or intangible.

Personally Identifiable Information (PII)

PII means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. Some information that is considered to be PII is available in public sources such as telephone books, public Web sites, and university listings. This type of information is considered to be Public PII and includes, for example, first and last name, address, work telephone number, email address, home telephone number, and general educational credentials. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. Non-PII can become PII whenever additional information is made publicly available, in any medium and from any source, that, when combined with other available information, could be used to identify an individual.

Program income

Program income means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance except as provided in §200.307 paragraph (f). (See §200.77 Period of performance.) Program income includes but is not limited to income from fees for services performed, the use or rental or real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, and interest earned on any of them. See also §200.407 Prior written approval (prior approval). See also 35 U.S.C. 200-212 "Disposition of Rights in Educational Awards" applies to inventions made under Federal awards.

Property

Property means real property or personal property.

Protected Personally Identifiable Information (Protected PII)

Protected PII means an individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal, medical and financial records, educational transcripts. This does not include PII that is required by law to be disclosed. (See also §200.79 Personally Identifiable Information (PII)).

Project cost

Project cost means total allowable costs incurred under a Federal award and all required cost sharing and voluntary committed cost sharing, including third-party contributions.

Questioned cost

Questioned cost means a cost that is questioned by the auditor because of an audit finding:

- a) Which resulted from a violation or possible violation of a statute, regulation, or the terms and conditions of a Federal award, including for funds used to match Federal funds;
- b) Where the costs, at the time of the audit, are not supported by adequate documentation; or
- c) Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.

Real property

Real property means land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.

Recipient

Recipient means a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients. See also §200.69 Non-Federal entity.

Research and Development (R&D)

R&D means all research activities, both basic and applied, and all development activities that are performed by non-Federal entities. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

“Research” is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. “Development” is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.

Simplified acquisition threshold

Simplified acquisition threshold means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this part, the simplified acquisition threshold is \$150,000, but this threshold is periodically adjusted for inflation. (Also see definition of §200.67 Micro-purchase.)

Special purpose equipment

Special purpose equipment means equipment which is used only for research, medical, scientific, or other technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers. See also §§200.33 Equipment and 200.48 General purpose equipment.

State

State means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any agency or instrumentality thereof exclusive of local governments.

Student Financial Aid (SFA)

SFA means Federal awards under those programs of general student assistance, such as those authorized by Title IV of the Higher Education Act of 1965, as amended, (20 U.S.C. 1070-1099d), which are administered by the U.S. Department of Education, and similar programs provided by other Federal agencies. It does not include Federal awards under programs that provide fellowships or similar Federal awards to students on a competitive basis, or for specified studies or research.

Subaward

Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

Subrecipient

Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

Supplies

Supplies means all tangible personal property other than those described in §200.33 Equipment. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000, regardless of the length of its useful life. See also §§200.20 Computing devices and 200.33 Equipment.

Termination

Termination means the ending of a Federal award, in whole or in part at any time prior to the planned end of period of performance.

Third-party in-kind contributions

Third-party in-kind contributions means the value of non-cash contributions (i.e., property or services) that—

- a) Benefit a federally assisted project or program; and
- b) Are contributed by non-Federal third parties, without charge, to a non-Federal entity under a Federal award.

Unliquidated obligations

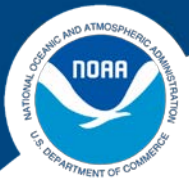
Unliquidated obligations means, for financial reports prepared on a cash basis, obligations incurred by the non-Federal entity that have not been paid (liquidated). For reports prepared on an accrual expenditure basis, these are obligations incurred by the non-Federal entity for which an expenditure has not been recorded.

Unobligated balance

Unobligated balance means the amount of funds under a Federal award that the non-Federal entity has not obligated. The amount is computed by subtracting the cumulative amount of the non-Federal entity's unliquidated obligations and expenditures of funds under the Federal award from the cumulative amount of the funds that the Federal awarding agency or pass-through entity authorized the non-Federal entity to obligate.

Voluntary committed cost sharing

Voluntary committed cost sharing means cost sharing specifically pledged on a voluntary basis in the proposal's budget or the Federal award on the part of the non-Federal entity and that becomes a binding requirement of Federal award.



NOAA FISHERIES

Pacific Islands Regional Office (PIRO)

Federal Programs Office - Grants Management Helpful Hints

Appendix B: Department of Commerce

Financial Assistance Standard Terms and Conditions

Updated December 2014

DEPARTMENT OF COMMERCE
FINANCIAL ASSISTANCE
STANDARD TERMS AND CONDITIONS



December 26, 2014

**DEPARTMENT OF COMMERCE
FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS**

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PREFACE

This document sets out the standard terms and conditions generally applicable to U.S. Department of Commerce (“DOC” or “Commerce”) financial assistance awards (hereinafter referred to as the “DOC ST&Cs” or “Standard Terms”). A non-Federal entity¹ receiving a DOC financial assistance award must, in addition to the assurances made as part of the application, comply and require each of its contractors and subcontractors employed in the completion of the project to comply with all applicable statutes, regulations, executive orders (E.O.s), Office of Management and Budget (OMB) circulars, provisions of the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (codified at 2 C.F.R. Part 200) (OMB Uniform Guidance), provisions of these Standard Terms, any other incorporated terms and conditions, and approved applications.²

This award is subject to the laws and regulations of the United States. Any inconsistency or conflict in terms and conditions specified in the award will be resolved according to the following order of precedence: public laws, regulations, applicable notices published in the *Federal Register*, E.O.s, OMB circulars, DOC ST&Cs, agency standard award conditions (if any), and special award conditions. A special award condition may amend or take precedence over a Standard Term on a case-by-case basis, when allowed by the DOC ST&Cs.

Some of the Standard Terms herein contain, by reference or substance, a summary of the pertinent statutes, regulations published in the *Federal Register* or Code of Federal Regulations (C.F.R.), E.O.s, OMB circulars, or the certifications and assurances provided by applicants through Standard Forms (e.g., SF-424, SF-424B, or SF-424D) or through DOC forms (e.g., Form CD-511). To the extent that it is a summary, such Standard Term provision is not in derogation of, or an amendment to, any such statute, regulation, E.O., OMB circular, certification, or assurance.

¹ Please note that the OMB Uniform Guidance uses the term “non-Federal entity” to generally refer to an entity that carries out a Federal award as a recipient or subrecipient. Because some of the provisions of these DOC ST&Cs apply to recipients rather than subrecipients, or vice versa, for clarity, these DOC ST&Cs use the terms “non-Federal entity”, “recipient”, and “subrecipient”. In addition, the OMB Uniform Guidance uses the term “pass-through entity” to refer to a non-Federal entity that makes a subaward.

“Non-Federal entity” is defined at 2 C.F.R. § 200.69 as “a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.”

“Recipient” is defined at 2 C.F.R. § 200.86 as “a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients.”

“Subrecipient” is defined at 2 C.F.R. § 200.93 as “a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.”

“Pass-through entity” is defined as 2 C.F.R. § 200.74 as “a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.”

² As set forth in 2 C.F.R. § 200.101(c), Federal agencies may apply 2 C.F.R. Part 200, subparts A through E, to for-profit entities, foreign public entities, or foreign organizations, except where the Federal awarding agency determines that the application of these subparts would be inconsistent with the international obligations of the United States or the statute or regulations of a foreign government.

A. PROGRAMMATIC REQUIREMENTS

.01 Performance (Technical) Reports

- a. Recipients must use OMB-approved governmentwide standard information collections when providing financial and performance information and, as appropriate and in accordance with the above-mentioned information collections, are required to relate financial data to the performance accomplishments of the Federal award. When applicable, recipients must also provide cost information to demonstrate cost effective practices (e.g., through unit cost data). The recipient's performance will be measured in a way that will help the Federal awarding agency and other non-Federal entities to improve program outcomes, share lessons learned, and spread the adoption of promising practices. As described in 2 C.F.R. § 200.210 "Information contained in a Federal award," the Federal awarding agency will identify the timing and scope of expected performance by the award recipient as related to the outcomes intended to be achieved by the Federal program.
- b. Recipients must submit performance (technical) reports, which may be Form SF-PPR "Performance Progress Report" or any successor form, or another format as required by the Federal awarding agency, electronically or in hard copy (no more than an original and two copies), in accordance with the award conditions, to the Federal Program Officer. Performance reports should be submitted in the same frequency as the Form SF-425 "Federal Financial Report", unless otherwise authorized by the Grants Officer.
- c. Performance (technical) reports shall contain the information prescribed in the OMB Uniform Guidance, specifically 2 C.F.R. § 200.328 ("Monitoring and reporting program performance"), unless otherwise specified in the award conditions.

.02 Reporting on Real Property

The Federal awarding agency or pass-through entity (as defined at 2 C.F.R. § 200.74) must require a non-Federal entity to submit reports (using Form SF-429 "Real Property Status Report" or any successor form) at least annually on the status of real property in which the Federal government retains an interest, unless the Federal interest in the real property extends 15 years or longer. In those instances where the Federal interest attached is for a period of 15 years or more, the Federal awarding agency or pass-through entity, at its option, may require the non-Federal entity to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a Federal awarding agency or pass-through entity may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years).

.03 Unsatisfactory Performance

Failure to perform the work in accordance with the terms of the award and maintain satisfactory performance as determined by the Federal awarding agency may result in the imposition of additional award conditions pursuant to 2 C.F.R. § 200.207 ("Specific conditions") or other

appropriate enforcement action as specified in 2 C.F.R. § 200.338 (“Remedies for noncompliance”). *See also* DOC ST&C A.06 “Non-Compliance with Award Provisions.”

.04 Programmatic Changes

In accordance with 2 C.F.R. § 200.308 (“Revisions of budget and program plans”), the recipient shall report programmatic changes, including all changes to the scope of the award, to the Program Officer, who forwards the request to the Grants Officer. In addition, the recipient shall request prior approvals in accordance with 2 C.F.R. § 200.407 (“Prior written approval (prior approval)”).

.05 Other Federal Awards with Similar Programmatic Activities

The non-Federal entity shall immediately provide written notification to the Federal Program Officer and the Grants Officer in the event that, subsequent to receipt of the DOC award, other financial assistance is received to support or fund any portion of the scope of work incorporated into the DOC award. DOC will not pay for costs that are funded by other sources.

.06 Non-Compliance with Award Provisions

Failure to comply with the provisions of an award may be considered grounds for appropriate enforcement action pursuant to 2 C.F.R. § 200.338 (“Remedies for noncompliance”), including but not limited to: the imposition of additional award conditions in accordance with 2 C.F.R. § 200.207 (“Specific conditions”); temporarily withholding award payments pending the correction of the deficiency; the disallowance of award costs and the establishment of an accounts receivable; wholly or partially suspending or terminating an award; initiating suspension or debarment proceedings in accordance with 2 C.F.R. parts 180 and 1326; and such other remedies as may be legally available. *See also* 2 C.F.R. §§ 200.339 (“Termination”) through 200.342 (“Effects of suspension and termination”). In addition, the failure to comply with the provisions of a DOC award may adversely impact the availability of funding under other active DOC or Federal awards and may also have a negative impact on a recipient’s eligibility for future DOC or Federal awards.

.07 Prohibition against Assignment by the Non-Federal Entity

The non-Federal entity shall not transfer, pledge, mortgage, or otherwise assign the award, or any interest therein, or any claim arising thereunder, to any party or parties, banks, trust companies, or other financing or financial institutions without the express written approval of the Grants Officer.

.08 Disclaimer Provisions

- a. The United States expressly disclaims any and all responsibility or liability to the non-Federal entity or third persons for the actions of the non-Federal entity or third persons

resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any subaward, contract, or subcontract under this award.

- b. The acceptance of this award or any subaward by the non-Federal entity does not in any way constitute an agency relationship between the United States and the non-Federal entity.

B. FINANCIAL REQUIREMENTS

.01 Financial Management

- a. In accordance with 2 C.F.R. § 200.302(a) (“Financial Management”), each State must expend and account for the Federal award in accordance with State laws and procedures for expending and accounting for the State’s own funds. In addition, the State’s and any other non-Federal entity’s financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used in accordance with Federal statutes, regulations, and the terms and conditions applicable to the Federal award. *See also* 2 C.F.R. § 200.450 (“Lobbying”) for additional management requirements to verify that Federal funds are not used for unallowable lobbying costs.
- b. The financial management system of each non-Federal entity must provide all information required by 2 C.F.R. § 200.302(b). *See also* 2 C.F.R. §§200.333 (“Retention requirements for records”); 200.334 (“Requests for transfer of records”); 200.335 (“Methods for collection, transmission and storage of information”); 200.336 (“Access to records”); and 200.337 (“Restrictions on public access to records”).

.02 Financial Reports

- a. In accordance with 2 C.F.R. § 200.327 (“Financial reporting”), the recipient shall submit a “Federal Financial Report” (Form SF-425 or any successor form) on a semi-annual basis for the periods ending March 31 and September 30, or any portion thereof, unless otherwise specified in a special award condition. Reports are due no later than 30 days following the end of each reporting period. A final Form SF-425 shall be submitted within 90 days after the expiration of the period of performance.
- b. The reports must be submitted to the Federal awarding agency as directed by the Grants Officer electronically, or in hard copy (no more than an original and two copies), in accordance with the award conditions.

.03 Award Payments

- a. Consistent with 2 C.F.R. § 200.305(a) (“Payment”), for States, payments are governed by Treasury-State Cash Management Improvement Act (CMIA) agreements and default procedures codified at 31 C.F.R. Part 205 “Rules and Procedures for Efficient Federal-State Funds Transfers” and Treasury Financial Manual Volume I, 4A-2000 “Overall Disbursing Rules for All Federal Agencies”.
- b. Consistent with 2 C.F.R. § 200.305(b), for non-Federal entities other than States, payment methods must minimize the amount of time elapsing between the transfer of funds from the U.S. Treasury or the pass-through entity and the disbursement by the non-Federal entity.
 1. The Grants Officer determines the appropriate method of payment and, unless otherwise specified in a special award condition, the advance method of payment shall be authorized. Advances shall be limited to the minimum amounts necessary to meet immediate disbursement needs. DOC policy requires that in the usual case, non-Federal entities time advance payment requests so that Federal funds are on hand for a maximum of three calendar days before being disbursed by the non-Federal entity for eligible award costs. In no case should advances exceed the amount of cash required for a 30-day period. Interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services, Payment Management System, Rockville, MD 20852. Interest amounts up to \$500 per year may be retained by the non-Federal entity for administrative expenses.
 2. If a non-Federal entity demonstrates an unwillingness or inability to establish procedures that will minimize the time elapsing between the transfer of funds and disbursement by the non-Federal entity or if a non-Federal entity otherwise fails to continue to qualify for the advance method of payment, the Grants Officer may change the method of payment to reimbursement only.
- c. Unless otherwise provided for in the award terms, payments under this award will be made using the Department of Treasury’s Automated Standard Application for Payment (ASAP) system. Under the ASAP system, payments are made through preauthorized electronic funds transfers directly to the non-Federal entity’s bank account, in accordance with the requirements of the Debt Collection Improvement Act of 1996. In order to receive payments under ASAP, non-Federal entities are required to enroll with the Department of Treasury, Financial Management Service, Regional Financial Centers, which allows them to use the on-line and Voice Response System (VRS) method of withdrawing funds from their ASAP established accounts. The following information will be required to make withdrawals under ASAP:
 1. ASAP account number – the Federal award identification number found on the cover sheet of the award;
 2. Agency Location Code (ALC); and

3. Region Code.

Non-Federal entities enrolled in the ASAP system do not need to submit a Form SF-270 “Request for Advance or Reimbursement”, for payments relating to their award. Awards paid under the ASAP system will contain a special award condition, clause, or provision describing enrollment requirements and any controls or withdrawal limits set in the ASAP system.

When the Form SF-270 “Request for Advance or Reimbursement” (or successor form) is used to request payment, the non-Federal entity shall submit the request no more frequently than monthly, and advances shall be approved for periods to cover only expenses anticipated over the next 30 days. In these cases, the non-Federal entity must complete the Form SF-3881 “ACH Vendor Miscellaneous Payment Enrollment Form” (or successor form) and Form SF-270 and submit these forms to the Grants Officer. Form SF-3881 enrollment must be completed before the first award payment can be made via a Form SF-270 request.

- d. The Federal award identification number must be included on all payment-related correspondence, information, and forms.

.04 Federal and Non-Federal Sharing

- a. Awards that include Federal and non-Federal sharing incorporate a budget consisting of shared allowable costs. If actual allowable costs are less than the total approved budget, the Federal and non-Federal cost shares shall be calculated by applying the approved Federal and non-Federal cost share ratios to actual allowable costs. If actual allowable costs exceed the total approved budget, the Federal share shall not exceed the total Federal dollar amount authorized by the award.
- b. The non-Federal share, whether in cash or in-kind, is to be paid out at the same general rate as the Federal share. Exceptions to this requirement may be granted by the Grants Officer based on sufficient documentation demonstrating previously determined plans for, or later commitment of, cash or in-kind contributions. In any case, the non-Federal entity must meet its cost share commitment over the life of the award; failure to do so may result in the assignment of special award conditions or other further action as specified in Standard Term A.06 “Non-Compliance with Award Provisions”. In addition, under 2 C.F.R. § 200.306(c) “(Cost sharing or matching)”, unrecovered indirect costs, including indirect costs on cost sharing or matching, may be included as part of cost sharing or matching only with the written prior approval of the Federal awarding agency. The non-Federal entity must create and maintain sufficient records justifying all non-federal sharing requirements to facilitate questions and audits, see Section F of these Standard Terms, “Audits,” for audit requirements. *See* 2 C.F.R. § 200.306 for additional requirements regarding cost sharing.
- c. Under Federal research proposals, voluntary committed cost sharing is not expected. It cannot be used as a factor during the merit review of applications or proposals, but may be considered if it is both in accordance with Federal awarding agency regulations and specified

in a notice of funding opportunity. Criteria for considering voluntary committed cost sharing and any other program policy factors that may be used to determine who may receive a Federal award must be explicitly described in the notice of funding opportunity. Furthermore, only mandatory cost sharing or cost sharing specifically committed in the project budget must be included in the organized research base for computing the indirect (F&A) cost rate or reflected in any allocation of indirect costs. *See also* 2 C.F.R. §§ 200.414 (“Indirect (F&A) costs”), 200.203 (“Notices of funding opportunities”), and Appendix I to 2 C.F.R. Part 200—Full Text of Notice of Funding Opportunity.

.05 Budget Changes and Transfer of Funds among Categories

- a. Recipients are required to report deviations from budget or project scope or objective, and request prior approvals from Federal awarding agencies for budget and program plan revisions, in accordance with 2 C.F.R. § 200.308 (“Revision of budget and program plans”). Requests for such budget or project changes must be submitted to the Grants Officer who shall make the final determination on such requests and notify the non-Federal entity in writing.
- b. In accordance with 2 C.F.R. § 200.308(e), transfers of funds by the recipient among direct cost categories are permitted for awards in which the Federal share of the project is \$150,000 or less. For awards in which the Federal share of the project exceeds \$150,000, transfers of funds among direct cost categories must be approved in writing by the Grants Officer when the cumulative amount of such direct costs transfers exceeds 10 percent of the total budget as last approved by the Grants Officer. The 10 percent threshold applies to the total Federal and non-Federal funds authorized by the Grants Officer at the time of the transfer request. This is the accumulated amount of Federal funding obligated to date by the Grants Officer along with any non-Federal share. The same requirements apply to the cumulative amount of transfer of funds among programs, functions, and activities. This transfer authority does not authorize the recipient to create new budget categories within an approved budget without Grants Officer approval. Any transfer that causes any Federal appropriation, or part thereof, to be used for an unauthorized purpose will not be permitted. In addition, this provision does not prohibit the recipient from requesting Grants Officer approval for revisions to the budget. *See* 2 C.F.R. § 200.308 (as applicable) for specific requirements concerning budget revisions and transfer of funds between budget categories.

.06 Indirect or Facilities and Administrative Costs

- a. Indirect costs (or facilities and administration (F&A)) costs for major institutions of higher education and major nonprofit organizations) can generally be defined as costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. Indirect (F&A) costs will not be allowable charges against an award unless permitted under the award and specifically included as a line item in the award’s approved budget. *See* the definition of indirect (F&A) costs at 2 C.F.R. § 200.56 (“Indirect (facilities & administrative (F&A)) costs”).

- b. Excess indirect costs may not be used to offset unallowable direct costs.
- c. Cognizant Agency for Indirect (F&A) Costs.

OMB established the cognizant agency concept, under which a single agency represents all others in dealing with non-Federal entities in common areas. The cognizant agency for indirect costs reviews and approves non-Federal entities' indirect cost rates.

1. Determining the Cognizant Agency for Non-Federal Entities that are State, local, and Indian Tribal Governments; Institutions of Higher Education; Hospitals; and Non-Profit Organizations (Non-Commercial Organizations). In accordance with 2 C.F.R. § 200.19 (“Cognizant agency for indirect costs”), the cognizant agency for indirect costs is the Federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals on behalf of all Federal agencies. Approved rates must be accepted by other agencies, unless required by Federal statute or regulation or when approved by a Federal agency awarding head or delegate in accordance with 2 C.F.R. § 200.414(c) (“Indirect (F&A) costs”).

If indirect costs are permitted and the non-Federal entity would like to include indirect costs in its budget, but the non-Federal entity has not previously established an indirect cost rate with a Federal agency, the requirements for determining the relevant cognizant agency and developing and submitting indirect (F&A) cost rate proposals and cost allocation plans are contained in Appendices III – VII to 2 C.F.R. Part 200 as follows:

- i. Appendix III to 2 C.F.R. Part 200 – Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs);
 - ii. Appendix IV to 2 C.F.R. Part 200 – Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations;
 - iii. Appendix V to 2 C.F.R. Part 200 – State/Local Government and Indian Tribe-Wide Central Service Cost Allocation Plans;
 - iv. Appendix VI to 2 C.F.R. Part 200 – Public Assistance Cost Allocation Plans;
 - v. Appendix VII to 2 C.F.R. Part 200 – States and Local Government and Indian Tribe Indirect Cost Proposals.
2. Commercial Organizations. For commercial organizations, the term “cognizant Federal agency” generally is defined as the agency that provides the largest dollar amount of negotiated contracts, including options. *See* 48 C.F.R. § 42.003. If the only Federal funds received by a commercial organization are DOC award funds, then DOC becomes the cognizant Federal agency for the purpose of indirect cost negotiations. For those organizations for which DOC is cognizant, DOC or its designee will negotiate a rate in accordance with the provisions of 2 C.F.R. § 200.414 using the cost principles found in 48 C.F.R. Part 31, “Contract Cost Principles and Procedures.” For guidance on how to put an indirect cost plan together go to:

<http://www.dol.gov/oasam/programs/boc/costdeterminationguide/main.htm>

3. General Review Procedures Where DOC is the Cognizant Agency.

- i. Within 90 days of the award start date the non-Federal entity shall submit to the Grants Officer of the relevant funding bureau any documentation (indirect cost proposal, cost allocation plan, etc.) necessary to allow the agency to perform the indirect cost rate proposal review.
 - ii. The non-Federal entity can use the fixed rate proposed in the indirect cost plan as a provisional rate until such time as the DOC provides a response to the submitted plan.
4. When DOC is not the oversight or cognizant Federal agency, the non-Federal entity shall provide the Grants Officer with a copy of a negotiated rate agreement or a copy of the transmittal letter submitted to the cognizant or oversight Federal agency requesting a negotiated rate agreement.
- d. If the non-Federal entity fails to submit required documentation to DOC within 90 days of the award start date, the Grants Officer may amend the award to preclude the recovery of any indirect costs under the award. If the DOC, oversight, or cognizant Federal agency determines there is a finding of good and sufficient cause to excuse the non-Federal entity's delay in submitting the documentation, an extension of the 90-day due date may be approved by the Grants Officer.
 - e. The maximum dollar amount of allocable indirect costs for which DOC will reimburse the recipient shall be the lesser of:
 1. The line item amount for the Federal share of indirect costs contained in the approved award budget, including all budget revisions approved in writing by the Grants Officer; or
 2. The Federal share of the total indirect costs allocable to the award based on the indirect cost rate approved by the cognizant agency for indirect costs and applicable to the period in which the cost was incurred, provided that the rate is approved on or before the award end date.
 - f. In accordance with 2 C.F.R. § 200.414(g), any non-Federal entity that has a negotiated indirect cost rate may apply to the entity's cognizant agency for indirect costs for a one-time extension of a currently negotiated indirect cost rate for a period of up to four years, reducing the frequency of rate calculations and negotiations between an institution and its cognizant agency.
 - g. In addition, in accordance with 2 C.F.R. § 200.414(f), any non-Federal entity that has never received a negotiated indirect cost rate, except for those non-Federal entities described in Paragraph D.1.b of Appendix VII to 2 C.F.R. Part 200 (specifically, a governmental department or agency that receives more than \$35 million in direct Federal funding), may elect to charge a de minimis rate of 10 percent of modified total direct costs.

.07 Incurring Costs or Obligating Federal Funds Before and After the Period of Performance

- a. In accordance with 2 C.F.R. § 200.309 (“Period of performance”), a non-Federal entity may charge to the Federal award only allowable costs incurred during the period of performance, which is the period established in the award document during which Federal sponsorship begins and ends and, as defined at 2 C.F.R. § 200.77, is “the time during which the non-Federal entity may incur new obligations to carry out the work authorized under the Federal award”. The period of performance may sometimes be referred to as the “project period” or “award period”.
- b. In accordance with 2 C.F.R. § 200.458 (“Pre-award costs”), pre-award costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with the written approval of the Federal awarding agency.
- c. The non-Federal entity shall not incur costs or obligate funds for any purpose pertaining to the operation of the project, program, or activities beyond the period of performance. The only costs that are authorized for a period of up to 90 days following the end of the period of performance are those strictly associated with close-out activities. Close-out activities are normally limited to the preparation of final progress, financial, and required project audit reports unless otherwise approved in writing by the Grants Officer. The Federal awarding agency or pass-through entity may approve extensions of the 90-day closeout period upon a request by the non-Federal entity as provided in 2 C.F.R. § 200.343 (“Closeout”).
- d. Unless otherwise authorized in 2 C.F.R § 200.343(a) or a special award condition, any extension of the period of performance can only be authorized by the Grants Officer in writing. Verbal or written assurances of funding from anyone other than the Grants Officer shall not constitute authority to obligate funds for programmatic activities beyond the end of the period of performance.
- e. The DOC has no obligation to provide any additional prospective funding. Any amendment of the award to increase funding and to extend the period of performance is at the sole discretion of DOC.

.08 Tax Refunds

Refunds of Federal Insurance Contributions Act (FICA) or Federal Unemployment Tax Act (FUTA) taxes received by the non-Federal entity during or after the period of performance must be refunded or credited to DOC where the benefits were financed with Federal funds under the award. The non-Federal entity agrees to contact the Grants Officer immediately upon receipt of these refunds and further agrees to refund portions of FICA/FUTA taxes determined to belong to the Federal Government, including refunds received after the period of performance ends.

C. INTERNAL CONTROLS

Consistent with 2 C.F.R. § 200.303 (“Internal controls”), each non-Federal entity must:

1. Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States (available online at <http://www.gao.gov/assets/80/76455.pdf>) and the “Internal Control Integrated Framework”, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) (available online at <http://www.coso.org/documents/Internal%20Control-Integrated%20Framework.pdf>).
2. Comply with Federal statutes, regulations, and the terms and conditions of Federal awards.
3. Evaluate and monitor the non-Federal entity’s compliance with Federal statutes, regulations, and the terms and conditions of Federal awards.
4. Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; and
5. Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the non-Federal entity considers sensitive consistent with applicable Federal, state and local laws regarding privacy and obligations of confidentiality.

D. PROPERTY STANDARDS

.01 Standards

Each non-Federal entity must comply with the Property Standards set forth in 2 C.F.R. §§ 200.310 (“Insurance coverage”) through 200.316 (“Property trust relationship”).

.02 Real and Personal Property

- a. In accordance with 2 C.F.R. § 200.316, real property, equipment, and intangible property acquired or improved with a Federal award must be held in trust by the non-Federal entity as trustee for the beneficiaries of the project or program under which the property was acquired or improved. This trust relationship exists throughout the duration of the property’s estimated useful life, as determined by the Grants Officer in consultation with the Program Office, during which time the Federal Government retains an undivided, equitable reversionary interest in the property (Federal Interest). During the duration of the Federal Interest, the non-Federal entity shall comply with all use and disposition requirements and restrictions as

set forth in 2 C.F.R. §§ 200.310 through 200.316, as applicable, and in the terms and conditions of the Federal award.

- b. The Grants Officer may require a non-Federal entity to execute a security interest or other public notice of record to indicate that real or personal property acquired or improved in whole or in part with Federal funds is subject to the Federal Interest, and that certain use and disposition requirements apply to the property. The security interest or other public notice must be acceptable in form and substance to the DOC and must be perfected and placed of record in accordance with applicable State and local law, with continuances re-filed as appropriate. In such cases, the Grants Officer may further require the non-Federal entity to provide the DOC with a written statement from a licensed attorney in the jurisdiction where the property is located certifying that the Federal Interest has been protected, as required under the award and in accordance with applicable State and local law. The attorney's statement, along with a copy of the instrument reflecting the recordation of the Federal Interest, shall be returned to the Grants Officer. The Grants Officer may elect not to release any or a portion of the Federal award funds until the non-Federal entity has complied with this provision and any other applicable award terms or conditions, unless other arrangements satisfactory to the Grants Officer are made.
- c. In accordance with 2 C.F.R. § 200.329 ("Reporting on real property"), the Federal awarding agency or pass-through entity must require a non-Federal entity to submit reports (using Form SF-429 "Real Property Status Report" or any successor form) at least annually on the status of real property in which the Federal government retains an interest, unless the Federal interest in the real property extends 15 years or longer. In those instances where the Federal Interest attached is for a period of 15 years or more, the Federal awarding agency or pass-through entity, at its option, may require the non-Federal entity to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a Federal awarding agency or pass-through entity may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years). The Federal awarding agency or pass-through entity may also require a non-Federal entity to periodically submit reports (using Form SF-428 "Tangible Personal Property Report" or any successor form) concerning tangible personal property in which the Federal Government retains an interest. In addition, the Federal awarding agency or pass-through entity may require a non-Federal entity to submit Form SF-429 and/or Form SF-428 in connection with a non-Federal entity's request to acquire, encumber, dispose of, or take any other action pertaining to real property or tangible personal property acquired or improved, in whole or in part, under a DOC financial assistance award or to Federally-owned property provided under a DOC award.

.03 Intellectual Property Rights

- a. General. The rights to any work produced or purchased under a Federal award are determined by 2 C.F.R. § 200.315 ("Intangible property"). The non-Federal entity owns any work produced or purchased under a Federal award subject to the DOC's royalty-free, nonexclusive, and irrevocable right to obtain, reproduce, publish, or otherwise use the work

or authorize others to receive, reproduce, publish, or otherwise use the work for Government purposes. In accordance with 2 C.F.R. § 200.315(d), the Federal Government has the right to obtain, reproduce, publish, or otherwise use the data produced under a Federal award and authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

- b. Inventions. Unless otherwise provided by law, the rights to any invention made by a non-Federal entity under a Federal award are determined by the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and as codified in 35 U.S.C. § 200 *et seq.*, except as otherwise required by law. The specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from Federal awards are described in more detail in 37 C.F.R. Part 401 and in particular, in the standard patent rights clause in 37 C.F.R. § 401.14, which is hereby incorporated by reference into this award.

1. Ownership.

- i. Non-Federal entity. The non-Federal entity has the right to elect to retain title to any invention it makes (conceived or first actually reduced to practice) or is made by its employees. A non-Federal entity that is a non-profit organization, which includes a university or other institution of higher learning, may not assign to a third party its rights to such an invention without the permission of DOC unless that assignment is to a patent management organization (e.g., a university's Research Foundation). The non-Federal entity's ownership rights are subject to the Government's nonexclusive, nontransferable, irrevocable, paid-up license and other rights.
- ii. Department. If the non-Federal entity elects not to retain title, fails to disclose the invention to the Federal awarding agency within the required time limits, or does not file a patent application within the time limits set forth in the standard patent rights clause, the DOC may request an assignment of all rights, which is normally subject to a limited royalty free nonexclusive revocable license for the non-Federal entity. The DOC owns any invention made solely by its employees, but may license the non-Federal entity in accordance with the procedures in 37 C.F.R. Part 404.
- iii. Inventor/Employee. If neither the non-Federal entity nor the DOC is interested in owning an invention by a non-Federal entity employee, the non-Federal entity, with the written concurrence of the DOC, may allow the inventor/employee to retain ownership of the invention subject to certain restrictions as described in 37 C.F.R. § 401.9.
- iv. Joint inventions. Inventions made jointly by a non-Federal entity and a DOC employee will be owned jointly by the non-Federal entity and the DOC. However, the DOC may transfer or license its rights to the non-Federal entity as authorized by 35 U.S.C. § 202(e) and 37 C.F.R. § 401.10 if the non-Federal entity is willing to patent and license the invention usually in exchange for a share of "net" royalties

based on the number of inventors (e.g., 50-50 if there is one non-Federal entity inventor and one DOC employee inventor). The agreement will be prepared by the DOC and may include other provisions, such as a royalty free license to the Government and certain other entities. The provision at 35 U.S.C. § 202(e) also authorizes the non-Federal entity to transfer its rights to the Government, which can agree to share royalties similarly as described above.

2. Responsibilities - iEdison. The non-Federal entity has responsibilities and duties set forth in the standard patent rights clause, which are not described below. The non-Federal entity is expected to comply with all the requirements of the standard patent rights clause and 37 C.F.R. Part 401. Non-Federal entities are required to submit their disclosures, elections, and requests for waiver from any requirement for substantial U.S. manufacture, electronically using the Interagency Edison extramural invention reporting system (iEdison) at www.iedison.gov. Non-Federal entities may obtain a waiver of this electronic submission requirement by providing to DOC compelling reasons for allowing the submission of paper copies of reports related to inventions.
 - c. Patent Notification Procedures. Pursuant to E.O. 12889 (58 FR 69681, 1993), the DOC is required to notify the owner of any valid patent covering technology whenever the DOC or a non-Federal entity, without making a patent search, knows (or has demonstrable reasonable grounds to know) that technology covered by a valid United States patent has been or will be used without a license from the owner. To ensure proper notification, if the non-Federal entity uses or has used patented technology under this award without a license or permission from the owner, the non-Federal entity must notify the Grants Officer.
- This notice does not constitute authorization or consent by the Government to any copyright or patent infringement occurring under the award.
- d. A non-Federal entity may copyright any work produced under a Federal award, subject to the DOC's royalty-free, nonexclusive, and irrevocable right to obtain, reproduce, publish, or otherwise use the work, or authorize others to do so for Government purposes. Works jointly authored by DOC and non-Federal entity employees may be copyrighted, but only the part of such works authored by the non-Federal entity is protectable in the United States because, under 17 U.S.C. § 105, works produced by Government employees are not copyrightable in the United States. On occasion and as permitted under 17 U.S.C. § 105, DOC may require the non-Federal entity to transfer to DOC a copyright in a particular work for Government purposes or when DOC is undertaking primary dissemination of the work.
 - e. Freedom of Information Act (FOIA). In response to a FOIA request for research data relating to published research findings (as defined by 2 C.F.R. § 200.315(e)(2)) produced under a Federal award that were used by the Federal government in developing an agency action that has the force and effect of law, the Federal awarding agency will request, and the non-Federal entity must provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA.

E. PROCUREMENT STANDARDS

1. States. Pursuant to 2 C.F.R. § 200.317 (“Procurements by states”), when procuring property and services under this Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State must comply with 2 C.F.R. § 200.322 (“Procurement of recovered materials”), and ensure that every purchase order or other contract includes any clauses required by 2 C.F.R. § 200.326 (“Contract provisions”).
2. Other Non-Federal Entities. All other non-Federal entities, including subrecipients of a State, must follow the requirements of 2 C.F.R. §§ 200.318 (“General procurement standards”) through 200.326 (“Contract provisions”). This includes the requirement that non-Federal entities maintain written standards of conduct covering conflicts of interest and governing the performance of their employees engaged in the selection, award, and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest.

F. AUDITS

Under the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3, §§ 1 *et seq.*, an audit of the award may be conducted at any time. The Inspector General of the DOC, or any of his or her duly authorized representatives, shall have the right to access any pertinent books, documents, papers, and records of the non-Federal entity, whether written, printed, recorded, produced, or reproduced by any electronic, mechanical, magnetic, or other process or medium, in order to make audits, inspections, excerpts, transcripts, or other examinations as authorized by law. This right also includes timely and reasonable access to the non-Federal entity’s personnel for the purpose of interview and discussion related to such documents. *See* 2 C.F.R. § 200.336 (“Access to records”). When the DOC Office of Inspector General (OIG) requires a program audit on a DOC award, the OIG will usually make the arrangements to audit the award, whether the audit is performed by OIG personnel, an independent accountant under contract with DOC, or any other Federal, State, or local audit entity.

.01 Organization-Wide, Program-Specific, and Project Audits

- a. Organization-wide or program-specific audits shall be performed in accordance with the Single Audit Act Amendments of 1996, as implemented by Subpart F to 2 C.F.R. Part 200, “Audits Requirements.” Non-Federal entities that are subject to the provisions of 2 C.F.R. Part 200 and that expend \$750,000 or more in a year in Federal awards shall have an audit conducted for that year in accordance with the relevant requirements. Within the earlier of 30 calendar days after receipt of the auditor’s report(s), or nine months after the end of the audit period, a copy of the audit shall be submitted electronically to the Federal Audit Clearinghouse website at: <http://harvester.census.gov/sac/>. If it is necessary to submit by paper, the address for submission is:

Federal Audit Clearinghouse
Bureau of the Census
1201 E. 10th Street
Jeffersonville, IN 47132

Within 90 days of the end of the fiscal year of a non-Federal entity subject to Subpart F of 2 C.F.R. Part 200, the entity is responsible for notifying the Grants Officer of the amount of Federal awards, including all DOC and non-DOC awards, the non-Federal entity expended during its fiscal year.

- b. Unless otherwise specified in the terms and conditions of the award, non-Federal entities that are not subject to Subpart F of 2 C.F.R. Part 200 (e.g., for-profit entities) and that expend \$750,000 or more in DOC funds during their fiscal year must have an audit conducted for that year in accordance with Subpart F of 2 C.F.R. Part 200. The audit shall be completed and submitted to the Grants Officer within the earlier of 30 calendar days of the non-Federal entity's receipt of the audit report or nine months following the end of the non-Federal entity's fiscal year.

For-profit entities that expend less than \$750,000 in DOC funds in a given fiscal year are not required to have an annual audit for that year but must make their award-related records available to DOC or other designated officials for review and audit. Failure to provide audit reports within the timeframes specified above may result in appropriate enforcement action, up to and including termination of the award, and may jeopardize eligibility for receiving future DOC awards.

- c. Some DOC programs have specific audit guidelines that will be incorporated into the award. When DOC does not have a program-specific audit guide available for the program, the auditor will follow the requirements for a program-specific audit as described in 2 C.F.R. § 200.507 ("Program-specific audits"). The non-Federal entity may include a line item in the budget for the cost of the audit for approval. A copy of the program-specific audit shall be submitted to the Grants Officer.
- d. Non-Federal entities are responsible for compliance with the above audit requirements and for informing the Grants Officer of the status of their audit, including when the relevant audit has been completed and submitted in accordance with the requirements of this section. In accordance with 2 C.F.R. § 200.331(d)(3), pass-through entities are responsible for issuing a management decision for any audit findings pertaining to the Federal award provided to a subrecipient.

.02 Audit Resolution Process

- a. An audit of the award may result in the disallowance of costs incurred by the non-Federal entity and the establishment of a debt (account receivable) due DOC. For this reason, the non-Federal entity should take seriously its responsibility to respond to all audit findings and

recommendations with adequate explanations and supporting evidence whenever audit results are disputed.

- b. In accordance with the *Federal Register* notice dated January 27, 1989 (54 FR 4053), a non-Federal entity whose award is audited has the following opportunities to dispute the proposed disallowance of costs and the establishment of a debt:
 1. The non-Federal entity has 30 days from the date of the transmittal of the draft audit report to submit written comments and documentary evidence.
 2. The non-Federal entity has 30 days from the date of the transmittal of the final audit report to submit written comments and documentary evidence. There will be no extension of this deadline.
 3. The DOC shall review the documentary evidence submitted by the non-Federal entity and shall notify the non-Federal entity of the results in an *Audit Resolution Determination Letter*. The non-Federal entity has 30 days from the date of receipt of the *Audit Resolution Determination Letter* to submit a written appeal, unless this deadline is extended in writing by the DOC. The appeal is the last opportunity for the non-Federal entity to submit written comments and documentary evidence to the DOC to dispute the validity of the audit resolution determination.
 4. An appeal of the Audit Resolution Determination does not prevent the establishment of the audit-related debt nor does it prevent the accrual of interest on the debt. If the Audit Resolution Determination is overruled or modified on appeal, appropriate corrective action will be taken retroactively. An appeal will stay the offset of funds owed by the auditee against funds due to the auditee.
 5. The DOC shall review the non-Federal entity's appeal and notify the non-Federal entity of the results in an *Appeal Determination Letter*. After the opportunity to appeal has expired or after the appeal determination has been rendered, DOC will not accept any further documentary evidence from the non-Federal entity. No other administrative appeals are available in DOC.

G. DEBTS

.01 Payment of Debts Owed the Federal Government

- a. The non-Federal entity must promptly pay any debts determined to be owed the Federal Government. Any funds paid to the non-Federal entity in excess of the amount to which the non-Federal entity is finally determined to be entitled under the terms of the Federal award constitute a debt to the Federal government. In accordance with 2 C.F.R. § 200.345 ("Collection of amounts due"), if not paid within 90 calendar days after demand, DOC may reduce a debt owed to the Federal Government by:

1. Making an administrative offset against other requests for reimbursement;
 2. Withholding advance payments otherwise due to the non-Federal entity; or
 3. Taking any other action permitted by Federal statute.
- b. DOC debt collection procedures are set out in 15 C.F.R. Part 19. In accordance with 2 C.F.R. § 200.345 and 31 U.S.C. § 3717, failure to pay a debt owed to the Federal Government shall result in the assessment of interest, penalties and administrative costs in accordance with the provisions of 31 U.S.C. § 3717 and 31 C.F.R. § 901.9. Commerce entities will transfer any Commerce debt that is more than 180 days delinquent to the U.S. Department of the Treasury's Financial Management Service for debt collection services, a process known as "cross-servicing," pursuant to 31 U.S.C. § 3711(g), 31 C.F.R. § 285.12, and 15 C.F.R. § 19.9, and may result in DOC taking further action as specified in DOC ST&C A.06 "Non-Compliance With Award Provisions." Funds for payment of a debt must not come from other Federally-sponsored programs, and the DOC may conduct on-site visits, audits, and other reviews to verify that other Federal funds have not been used to pay a debt.

.02 Late Payment Charges

- a. Interest shall be assessed on the delinquent debt in accordance with section 3717(a) of the Debt Collection Act of 1982, as amended (31 U.S.C. §§ 3701 *et seq.*). The minimum annual interest rate to be assessed is the U.S. Department of the Treasury's Current Value of Funds Rate (CVFR). The CVFR is available online at <http://www.fms.treas.gov/cvfr/index.html> and also published by the Department of the Treasury in the *Federal Register* (<http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>) and in the *Treasury Financial Manual Bulletin*. The assessed rate shall remain fixed for the duration of the indebtedness.
- b. Penalties shall accrue at a rate of not more than six percent per year or such other higher rate as authorized by law.
- c. Administrative charges, i.e., the costs of processing and handling a delinquent debt, shall be determined by the Commerce entity collecting the debt, as directed by the Office of the Chief Financial Officer and Assistant Secretary for Administration.

.03 Barring Delinquent Federal Debtors from Obtaining Federal Loans or Loan Insurance Guarantees

Pursuant to 31 U.S.C. § 3720B and 31 C.F.R. § 901.6, unless waived, the DOC is not permitted to extend financial assistance in the form of a loan, loan guarantee, or loan insurance to any person delinquent on a nontax debt owed to a Federal agency. This prohibition does not apply to disaster loans.

.04 Effect of Judgment Lien on Eligibility for Federal Grants, Loans, or Programs

Pursuant to 28 U.S.C. § 3201(e), unless waived by the DOC, a debtor who has a judgment lien against the debtor's property for a debt to the United States shall not be eligible to receive any grant or loan that is made, insured, guaranteed, or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied.

H. GOVERNMENTWIDE DEBARMENT AND SUSPENSION

The non-Federal entity shall comply with the provisions of 2 C.F.R. Part 1326, "Nonprocurement Debarment and Suspension" (published in the *Federal Register* on December 21, 2006, 71 FR 76573), which generally prohibit entities that have been debarred, suspended, or voluntarily excluded from participating in Federal nonprocurement transactions either through primary or lower tier covered transactions, and which sets forth the responsibilities of recipients of Federal financial assistance regarding transactions with other persons, including subrecipients and contractors.

I. LOBBYING RESTRICTIONS

.01 Statutory Provisions

Non-Federal entities shall comply with 2 C.F.R. § 200.450 ("Lobbying"), which incorporates the provisions of 31 U.S.C. § 1352; the "New Restrictions on Lobbying" published at 55 FR 6736 (February 26, 1990); and OMB guidance and notices on lobbying restrictions. In addition, non-Federal entities must comply with the DOC regulations published at 15 C.F.R. Part 28, which implement the "New Restrictions on Lobbying". These provisions prohibit the use of Federal funds for lobbying the executive or legislative branches of the Federal Government in connection with the award, and require the disclosure of the use of non-Federal funds for lobbying. Lobbying includes attempting to improperly influence, meaning any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a Federal award or regulatory matter on any basis other than the merits of the matter, either directly or indirectly. Costs incurred on to improperly influence are unallowable. *See* 2 C.F.R. § 200.450(b) and (c).

.02 Disclosure of Lobbying Activities

Any non-Federal entity that receives more than \$100,000 in Federal funding shall submit a completed Form SF-LLL, "Disclosure of Lobbying Activities," regarding the use of non-Federal funds for lobbying. The Form SF-LLL shall be submitted within 30 days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects

the accuracy of the information contained in any disclosure form previously filed. The non-Federal entity must submit any required Forms SF-LLL, including those received from subrecipients, contractors, and subcontractors, to the Grants Officer.

J. CODES OF CONDUCT AND SUBAWARD, CONTRACT, AND SUBCONTRACT PROVISIONS

.01 Conflicts of Interest and Codes of Conduct

- a. General conflicts of interest requirements. In accordance with 2 C.F.R. § 200.112 (“Conflicts of interest”), each non-Federal entity must comply with the conflicts of interest policy provided by the Grants Officer. Any non-Federal entity must disclose in writing any potential conflicts of interest to the DOC or pass-through entity. In addition, pursuant to the certification in Form SF-424B, paragraph 3 and Form SF-424D, paragraph 7, as applicable, the recipient must maintain written standards of conduct to establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain in the administration of an award.
- b. Procurement-related conflicts of interest. In addition, in accordance with 2 C.F.R. § 200.318 (“General procurement standards”), non-Federal entities must maintain written standards of conduct covering conflicts of interest and governing the performance of their employees engaged in the selection, award and administration of contracts. *See* Section E. of these DOC ST&Cs entitled “Procurement Standards.”

.02 Applicability of Award Provisions to Subrecipients

- a. The recipient or pass-through entity shall require all subrecipients, including lower tier subrecipients, under the award to comply with the provisions of the award, including applicable provisions of the OMB Uniform Guidance (2 C.F.R. Part 200), and all associated terms and conditions. *See* 2 C.F.R. §§ 200.330 (“Subrecipient and contractor determinations”) through 200.332, (“Subrecipient Monitoring and Management”) and 2 C.F.R. § 200.101(b)(1) (“Applicability”), which describes the applicability of 2 C.F.R. Part 200 to various types of Federal awards.
- b. In accordance with 2 C.F.R. § 200.331 (“Requirements for pass-through entities”), all pass-through entities must:
 1. Subaward identification. Clearly identify every subaward to the subrecipient at the time of the subaward, including changes in subsequent subaward modification. In accordance with 2 C.F.R. § 200.331(a), required information includes:
 - i. All Federal Award Information data elements set out at 2 C.F.R. § 200.331(a)(1);

- ii. All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award;
 - iii. Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency, including identification of required financial and performance reports;
 - iv. Indirect cost rate information in accordance with 2 C.F.R. § 200.331(a)(4);
 - v. Access requirements to the subrecipient's records and financial statements in accordance with 2 C.F.R. § 200.331(a)(5); and
 - vi. Appropriate terms and conditions concerning closeout of the subaward.
2. Risk-Based Subrecipient Evaluations. Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring in accordance with 2 C.F.R. § 200.331(b).
3. Subaward conditions. Consider imposing specific subaward conditions upon a subrecipient if appropriate as described in 2 C.F.R. § 200.207 ("Specific conditions").
4. Subrecipient Monitoring. In accordance with 2 C.F.R. § 200.331(d), monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal requirements; and that the subaward performance goals are achieved. Subrecipient monitoring must include:
 - i. Reviewing financial and programmatic reports required by the pass-through entity;
 - ii. Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means; and
 - iii. Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by 2 C.F.R. § 200.521 ("Management decision").
5. Utilizing Risk-Based Monitoring Tools. In accordance with 2 C.F.R. § 200.331(e), depending on the recipient's evaluation of each subrecipient's risk, utilize appropriate monitoring tools, including training and technical assistance, performing on-site reviews, and arranging agreed-upon-procedures engagements as described in 2 C.F.R. § 200.425 ("Audit Services").

6. Subrecipient Audits. Verify that every subrecipient is audited as required by 2 C.F.R. Part 200, Subpart F “Audit requirements” when it is expected that the subrecipient’s Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in 2 C.F.R. § 200.501 (“Audit requirements”).
7. Necessary adjustments to the pass-through entity’s records. Consider whether the results of the subrecipient’s audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity’s own records.
8. Enforcement action. Considering taking enforcement action against noncompliant subrecipients as described in 2 C.F.R. § 200.338 and in applicable program regulations.

See also 2 C.F.R. § 200.331 for the full text of requirements for pass-through entities.

.03 Competition and Codes of Conduct for Subawards

- a. The non-Federal entity must be alert to organizational conflicts of interest as well as other practices among subrecipients that may restrict or eliminate competition.
- b. The non-Federal entity shall maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award, and administration of subawards. No employee, officer, or agent shall participate in the selection, award, or administration of a subaward supported by Federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization in which he/she serves as an officer or which employs or is about to employ any of the parties mentioned in this section, has a financial interest or other interest in the organization selected or to be selected for a subaward. The officers, employees, and agents of the non-Federal entity shall neither solicit nor accept anything of monetary value from subrecipients. However, the non-Federal entity may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.
- c. A financial interest may include employment, stock ownership, a creditor or debtor relationship, or prospective employment with the organization selected or to be selected for a subaward. An appearance of impairment of objectivity could result from an organizational conflict where, because of other activities or relationships with other persons or entities, a person is unable or potentially unable to render impartial assistance or advice. It could also result from non-financial gain to the individual, such as benefit to reputation or prestige in a professional field.

.04 Applicability of Provisions to Subawards, Contracts, and Subcontracts

- a. The non-Federal entity shall include the following notice in each request for applications or bids for a subaward, contract, or subcontract, as applicable:

Applicants/bidders for a lower tier covered transaction (except procurement contracts for goods and services under \$25,000 not requiring the consent of a DOC official) are subject to Subpart C of 2 C.F.R. Part 180, “OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement).” In addition, applicants/bidders for a lower tier covered transaction for a subaward, contract, or subcontract greater than \$100,000 of Federal funds at any tier are subject to 15 C.F.R. Part 28, “New Restrictions on Lobbying.” Applicants/bidders should familiarize themselves with these provisions, including the certification requirement. Therefore, applications for a lower tier covered transaction must include a Form CD-512, “Certification Regarding Lobbying--Lower Tier Covered Transactions,” completed without modification.

- b. The non-Federal entity shall include a term or condition in all lower tier covered transactions (subawards, contracts, and subcontracts), that the award is subject to Subpart C of 2 C.F.R. Part 180, “OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement).”

- c. Required subaward and contractual provisions.

1. The non-Federal entity shall include a statement in all lower tier covered transactions (subawards, contracts, and subcontracts) exceeding \$100,000 in Federal funds, that the subaward, contract, or subcontract is subject to 31 U.S.C § 1352, as implemented at 15 C.F.R. Part 28, “New Restrictions on Lobbying.” The non-Federal entity shall further require the subrecipient, contractor, or subcontractor to submit a completed “Disclosure of Lobbying Activities” (Form SF-LLL) regarding the use of non-Federal funds for lobbying. The Form SF-LLL shall be submitted within 15 days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed. The Form SF-LLL shall be submitted from tier to tier until received by the recipient. The recipient must submit all disclosure forms received, including those that report lobbying activity on its own behalf, to the Grants Officer within 30 days following the end of the calendar quarter.
2. In addition to other provisions required by the Federal agency or non-Federal entity, in accordance with 2 C.F.R. § 200.326 (“Contract provisions”), all contracts made by the non-Federal entity under the Federal award must contain the applicable provisions set out at 2 C.F.R. Part 200, Appendix II, “Contract Provisions for Non-Federal Entity Contracts Under Federal Awards”, which address various contractual requirements including remedies, termination for cause and convenience, Equal Employment Opportunity, the

Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, rights to inventions, environmental quality, energy efficiency, debarment and suspension, the Byrd Anti-Lobbying Amendment, and procurement of recovered materials. *See* Appendix II to 2 C.F.R. Part 200 for a full explanation of these requirements.

.05 Pilot Program for Enhancement of Employee Whistleblower Protections

The National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. No. 112-239, enacted January 2, 2013 and codified at 41 U.S.C. § 4712) includes a pilot program of whistleblower protection. It applies to all DOC awards, subawards, or contracts under awards issued beginning July 1, 2013 through January 1, 2017. The following term implements that law:

In accordance with 41 U.S.C. § 4712, an employee of a non-Federal entity or contractor under a Federal award or subaward may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body information that the employee reasonably believes is evidence of gross mismanagement of a Federal award, subaward, or a contract under a Federal award or subaward, a gross waste of Federal funds, an abuse of authority relating to a Federal award or subaward or contract under a Federal award or subaward, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal award, subaward, or contract under a Federal award or subaward. These persons or bodies include:

- a. A Member of Congress or a representative of a committee of Congress.
- b. An Inspector General.
- c. The Government Accountability Office.
- d. A Federal employee responsible for contract or grant oversight or management at the relevant agency.
- e. An authorized official of the Department of Justice or other law enforcement agency.
- f. A court or grand jury.
- g. A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

Non-Federal entities and contractors under Federal awards and subawards shall inform their employees in writing of the rights and remedies provided under 41 U.S.C. § 4712, in the predominant native language of the workforce.

.06 Small Businesses, Minority Business Enterprises and Women's Business Enterprises

In accordance with 2 C.F.R. § 200.321 (“Contracting with small and minority businesses, women’s business enterprises, and labor surplus area firms”), the non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women’s business enterprises, and labor surplus areas firms are used when possible. DOC encourages non-Federal entities to

utilize small businesses, minority business enterprises and women's business enterprises in contracts under financial assistance awards. The Minority Business Development Agency within the DOC will assist non-Federal entities in matching qualified minority business enterprises with contract opportunities. For further information visit MBDA's website at <http://www.mbda.gov>. If you do not have access to the Internet, you may contact MBDA via telephone or mail:

U.S. Department of Commerce
Minority Business Development Agency
Herbert C. Hoover Building
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230
(202) 482-0101

.07 Subaward and/or Contract to a Federal Agency

- a. The non-Federal entity, contractor, and/or subcontractor shall not sub-grant or sub-contract any part of the approved project to any agency or employee of DOC and/or other Federal department, agency, or instrumentality without the prior written approval of the Grants Officer.
- b. The non-Federal entity must submit requests for approval of such action to the Federal Program Officer who shall review and make a recommendation to the Grants Officer. The Grants Officer must forward all requests to the Federal Assistance Law Division in the Office of the Department of Commerce Assistant General Counsel for Finance and Litigation for review prior to making the final determination. The Grants Officer will notify the non-Federal entity in writing of the final determination.

K. NATIONAL POLICY REQUIREMENTS

.01 Non-Discrimination Requirements

No person in the United States shall, on the ground of race, color, national origin, handicap, age, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. The non-Federal entity agrees to comply with the non-discrimination requirements below:

a. Statutory Provisions

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d *et seq.*) and DOC implementing regulations published at 15 C.F.R. Part 8 prohibiting discrimination on the grounds of race, color, or national origin under programs or activities receiving Federal financial assistance;

2. Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681 *et seq.*) prohibiting discrimination on the basis of sex under Federally assisted education programs or activities;
3. The Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*) prohibiting discrimination on the basis of disability under programs, activities, and services provided or made available by State and local governments or instrumentalities or agencies thereto, as well as public or private entities that provide public transportation;
4. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), and DOC implementing regulations published at 15 C.F.R. Part 8b prohibiting discrimination on the basis of handicap under any program or activity receiving or benefiting from Federal assistance.

For purposes of complying with the accessibility standards set forth in 15 C.F.R. § 8b.18(c), non-federal entities must adhere to the regulations, published by the U.S. Department of Justice, implementing Title II of the Americans with Disabilities Act (ADA) (28 C.F.R. part 35; 75 FR 56164, as amended by 76 FR 13285) and Title III of the ADA (28 C.F.R. part 36; 75 FR 56164, as amended by 76 FR 13286). The revised regulations adopted new enforceable accessibility standards called the “2010 ADA Standards for Accessible Design” (2010 Standards), which replace and supersede the former Uniform Federal Accessibility Standards for new construction and alteration projects.

5. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 *et seq.*), and DOC implementing regulations published at 15 C.F.R. Part 20 prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance; and
6. Any other applicable non-discrimination law(s).

b. Other Provisions

1. Parts II and III of E.O. 11246, “Equal Employment Opportunity,” (30 FR 12319, 1965),³ which requires Federally assisted construction contracts to include the nondiscrimination provisions of §§ 202 and 203 of E.O. 11246 and Department of Labor regulations implementing E.O. 11246 (41 C.F.R. § 60-1.4(b), 1991).
2. E.O. 13166 (65 FR 50121, 2000), “Improving Access to Services for Persons With Limited English Proficiency,” requiring Federal agencies to examine the services provided, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have

³ As amended by E.O. 11375 (32 FR 14303, 1967) and E.O. 12086 (43 FR 46501, 1978).

meaningful access to them. The DOC issued policy guidance on March 24, 2003 (68 FR 14180) to articulate the Title VI prohibition against national origin discrimination affecting LEP persons and to help ensure that non-Federal entities provide meaningful access to their LEP applicants and beneficiaries.

c. Title VII Exemption for Religious Organizations

Generally, Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*, provides that it shall be an unlawful employment practice for an employer to discharge any individual or otherwise to discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin. However, Title VII, 42 U.S.C. § 2000e-1(a), expressly exempts from the prohibition against discrimination on the basis of religion, a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities.

.02 Environmental Requirements

Environmental impacts must be considered by Federal decision makers in their decisions whether or not to approve: (1) a proposal for Federal assistance; (2) the proposal with mitigation; or (3) a different proposal having less adverse environmental impacts. Federal environmental laws require that the funding agency initiate an early planning process that considers potential impacts that projects funded with Federal assistance may have on the environment. Each non-Federal entity must comply with all environmental standards, to include those prescribed under the following statutes and E.O.s, and shall identify to the awarding agency any impact the award may have on the environment. In some cases, award funds can be withheld by the Grants Officer under a special award condition requiring the non-Federal entity to submit additional environmental compliance information sufficient to enable the DOC to make an assessment on any impacts that a project may have on the environment.

a. The National Environmental Policy Act (42 U.S.C. §§ 4321 *et seq.*)

The National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) implementing regulations (40 C.F.R. Parts 1500 through 1508) require that an environmental analysis be completed for all major Federal actions significantly affecting the environment. NEPA applies to the actions of Federal agencies and may include a Federal agency's decision to fund non-Federal projects under grants and cooperative agreements when the award activities remain subject to Federal authority and control. Non-Federal entities are required to identify to the awarding agency any impact an award will have on the quality of the human environment, and assist the agency in complying with NEPA. Non-Federal entities may also be requested to assist DOC in drafting an environmental assessment or environmental impact statement if DOC determines such documentation is required. Until such time as the appropriate NEPA documentation is complete and in the event that any additional information is required during the period of performance to assess project environmental impacts, funds can be

withheld by the Grants Officer under a special award condition requiring the non-Federal entity to submit the appropriate NEPA documentation sufficient to enable DOC to make an assessment on any impacts that a project may have on the environment.

b. The National Historic Preservation Act (16 U.S.C. §§ 470 *et seq.*)

Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. § 470f) and the Advisory Council on Historic Preservation implementing regulations (36 C.F.R. Part 800) require that Federal agencies take into account the effects of their undertakings on historic properties. Non-Federal entities are required to identify to the awarding agency any effects the award may have on properties included on or eligible for inclusion on the National Register of Historic Places. Non-Federal entities may also be requested to assist DOC in consulting with State or Tribal Historic Preservation Officers or other applicable interested parties necessary to identify, assess, and resolve adverse effects to historic properties. Until such time as the appropriate NHPA consultations and documentation are complete and in the event that any additional information is required during the period of performance in order to assess project impacts on historic properties, funds can be withheld by the Grants Officer under a special award condition requiring the non-Federal entity to submit any information sufficient to enable DOC to make the requisite assessment under the NHPA.

c. Executive Order 11988 (“Floodplain Management”) and Executive Order 11990 (“Protection of Wetlands”)

Non-Federal entities must identify proposed actions in Federally defined floodplains and wetlands to enable DOC to make a determination whether there is an alternative to minimize any potential harm.

d. Clean Air Act (42 U.S.C. §§ 7401 *et seq.*), Federal Water Pollution Control Act (33 U.S.C. §§ 1251 *et seq.*) (Clean Water Act), and Executive Order 11738 (“Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants or loans”)

Non-Federal entities must comply with the provisions of the Clean Air Act (42 U.S.C. §§ 7401 *et seq.*), Clean Water Act (33 U.S.C. §§ 1251 *et seq.*), and E.O. 11738 (38 FR 25161, 1973), and shall not use a facility on the Environmental Protection Agency’s (EPA) List of Violating Facilities (this list is incorporated into the Excluded Parties List System located at <https://www.sam.gov/portal/public/SAM/>) in performing any award that is nonexempt under 2 C.F.R. § 1532, and shall notify the Program Officer in writing if it intends to use a facility that is on the EPA List of Violating Facilities or knows that the facility has been recommended to be placed on the List.

e. The Flood Disaster Protection Act (42 U.S.C. §§ 4002 *et seq.*)

Flood insurance, when available, is required for Federally assisted construction or acquisition in flood-prone areas.

f. The Endangered Species Act (16 U.S.C. §§ 1531 *et seq.*)

Non-Federal entities must identify any impact or activities that may involve a threatened or endangered species. Federal agencies have the responsibility to ensure that no adverse effects to a protected species or habitat occur from actions under Federal assistance awards and conduct the reviews required under the Endangered Species Act, as applicable.

g. The Coastal Zone Management Act (16 U.S.C. §§ 1451 *et seq.*)

Funded projects must be consistent with a coastal State's approved management program for the coastal zone.

h. The Coastal Barriers Resources Act (16 U.S.C. §§ 3501 *et seq.*)

Only in certain circumstances can Federal funding be provided for actions within a Coastal Barrier System.

i. The Wild and Scenic Rivers Act (16 U.S.C. §§ 1271 *et seq.*)

This Act applies to awards that may affect existing or proposed components of the National Wild and Scenic Rivers system.

j. The Safe Drinking Water Act of 1974, as amended, (42 U.S.C. §§ 300f *et seq.*)

This Act precludes Federal assistance for any project that the EPA determines may contaminate a sole source aquifer so as to threaten public health.

k. The Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 *et seq.*)

This Act regulates the generation, transportation, treatment, and disposal of hazardous wastes, and also provides that non-Federal entities give preference in their procurement programs to the purchase of recycled products pursuant to EPA guidelines.

l. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, commonly known as Superfund) (42 U.S.C. §§ 9601 *et seq.*) and the Community Environmental Response Facilitation Act (42 U.S.C. § 9601 *note et seq.*)

These requirements address responsibilities related to hazardous substance releases, threatened releases and environmental cleanup. There are also reporting and community involvement requirements designed to ensure disclosure of the release or disposal of regulated substances and cleanup of hazards to state and local emergency responders.

m. Executive Order 12898 (“Environmental Justice in Minority Populations and Low Income Populations”)

Federal agencies are required to identify and address the disproportionately high and adverse human health or environmental effects of Federal programs, policies, and activities on low income and minority populations.

.03 OTHER NATIONAL POLICY REQUIREMENTS

a. Criminal and Prohibited Activities

1. The Program Fraud Civil Remedies Act (31 U.S.C. § 3801 *et seq.*), provides for the imposition of civil penalties against persons who make false, fictitious, or fraudulent claims to the Federal Government for money (including money representing grants, loans, or other benefits).
2. The False Claims Amendments Act of 1986 and the False Statements Accountability Act of 1996 (18 U.S.C. §§ 287 and 1001, respectively), provide that whoever makes or presents any false, fictitious, or fraudulent statement, representation, or claim against the United States shall be subject to imprisonment of not more than five years and shall be subject to a fine in the amount provided by 18 U.S.C. § 287.
3. The Civil False Claims Act (31 U.S.C. §§ 3729 - 3733), provides that suits can be brought by the government, or a person on behalf of the government, for false claims made under Federal assistance programs.
4. The Copeland “Anti-Kickback” Act (18 U.S.C. § 874), prohibits a person or organization engaged in a Federally supported project from enticing an employee working on the project from giving up a part of his compensation under an employment contract. The Copeland “Anti-Kickback” Act also applies to contractors and subcontractors pursuant to 40 U.S.C. § 3145.

b. Drug-Free Workplace

The non-Federal entity shall comply with the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 8102) and DOC implementing regulations published at 15 C.F.R. Part 29 “Government wide Requirements for Drug-Free Workplace (Financial Assistance),” which require that the non-Federal entity take steps to provide a drug-free workplace.

c. Foreign Travel

1. Each non-Federal entity shall comply with the provisions of the Fly America Act (49 U.S.C. § 40118). The implementing regulations of the Fly America Act are found at 41 C.F.R. §§ 301-10.131 through 301-10.143.

2. The Fly America Act requires that Federal travelers and others performing U.S. Government-financed air travel must use U.S. flag air carriers, to the extent that service by such carriers is available. Foreign air carriers may be used only in specific instances, such as when a U.S. flag air carrier is unavailable, or use of U.S. flag air carrier service will not accomplish the agency's mission.
3. One exception to the requirement to fly U.S. flag carriers is transportation provided under a bilateral or multilateral air transport agreement, to which the United States Government and the government of a foreign country are parties, and which the Department of Transportation has determined meets the requirements of the Fly America Act pursuant to 49 U.S.C. § 40118(b). The United States Government has entered into bilateral/multilateral "Open Skies Agreements" (U.S. Government Procured Transportation) that allow federal funded transportation services for travel and cargo movements to use foreign air carriers under certain circumstances. There are multiple "Open Skies Agreements" currently in effect. For more information about the current bilateral and multilateral agreements, visit the GSA website <http://www.gsa.gov/portal/content/103191>. Information on the Open Skies agreements (U.S. Government Procured Transportation) and other specific country agreements may be accessed via the Department of State's website <http://www.state.gov/e/eeb/tra/>.
4. If a foreign air carrier is anticipated to be used for any portion of travel under a DOC financial assistance award the non-Federal entity must receive prior approval from the Grants Officer. When requesting such approval, the non-Federal entity must provide a justification in accordance with guidance provided by 41 C.F.R. § 301-10.142, which requires the non-Federal entity to provide the Grants Officer with the following: name; dates of travel; origin and destination of travel; detailed itinerary of travel; name of the air carrier and flight number for each leg of the trip; and a statement explaining why the non-Federal entity meets one of the exceptions to the regulations. If the use of a foreign air carrier is pursuant to a bilateral agreement, the non-Federal entity must provide the Grants Officer with a copy of the agreement or a citation to the official agreement available on the GSA website. The Grants Officer shall make the final determination and notify the non-Federal entity in writing. Failure to adhere to the provisions of the Fly America Act will result in the non-Federal entity not being reimbursed for any transportation costs for which any non-Federal entity improperly used a foreign air carrier.

d. Increasing Seat Belt Use in the United States

Pursuant to E.O. 13043 (62 FR 19217, 1997), non-Federal entities should encourage employees and contractors to enforce on-the-job seat belt policies and programs when operating company-owned, rented, or personally owned vehicles.

e. Research Involving Human Subjects

1. All proposed research involving human subjects must be conducted in accordance with 15 C.F.R. Part 27, “Protection of Human Subjects.” No research involving human subjects is permitted under this award unless expressly authorized by special award condition, or otherwise in writing by the Grants Officer.
2. Federal policy defines a human subject as a living individual about whom an investigator conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information. Research means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.
3. DOC regulations at 15 C.F.R. Part 27 require that non-Federal entities maintain appropriate policies and procedures for the protection of human subjects. In the event it becomes evident that human subjects may be involved in this project, the non-Federal entity shall submit appropriate documentation to the Federal Program Officer for approval by the appropriate DOC officials. This documentation may include:
 - i. Documentation establishing approval of the project by an Institutional Review Board (IRB) approved for Federal-wide use under Department of Health and Human Services guidelines (*see also* 15 C.F.R. § 27.103);
 - ii. Documentation to support an exemption for the project under 15 C.F.R. § 27.101(b);
or
 - iii. Documentation of IRB approval of any modification to a prior approved protocol or to an informed consent form.
4. No work involving human subjects may be undertaken, conducted, or costs incurred and/or charged for human subjects research, until the appropriate documentation is approved in writing by the Grants Officer. In accordance with 15 C.F.R. § 27.118, if research involving human subjects is proposed after an award is made, the non-Federal entity must contact the Federal Program Officer and provide required documentation. Notwithstanding this prohibition, work may be initiated or costs incurred and/or charged to the project for protocol or instrument development related to human subjects research.

f. Federal Employee Expenses

Federal agencies are generally barred from accepting funds from a non-Federal entity to pay transportation, travel, or other expenses for any Federal employee. Use of award funds (Federal or non-Federal) or the non-Federal entity’s provision of in-kind goods or services, for the purposes of transportation, travel, or any other expenses for any Federal employee may raise appropriation augmentation issues. In addition, DOC policy prohibits the acceptance of gifts,

including travel payments for Federal employees, from non-Federal entities or applicants regardless of the source.

g. Minority Serving Institutions Initiative

Pursuant to E.O.s 13555 (“White House Initiative on Educational Excellence for Hispanics”) (75 FR 65417, 2010), 13592 (“Improving American Indian and Alaska Native Educational Opportunities and Strengthening Tribal Colleges and Universities”) (76 FR 76603, 2011) , and 13532 (“Promoting Excellence, Innovation, and Sustainability at Historically Black Colleges and Universities”) (75 FR 9749, 2010), DOC is strongly committed to broadening the participation of minority serving institutions (MSIs) in its financial assistance programs. DOC’s goals include achieving full participation of MSIs in order to advance the development of human potential, strengthen the Nation’s capacity to provide high-quality education, and increase opportunities for MSIs to participate in and benefit from Federal financial assistance programs. DOC encourages all applicants and non-Federal entities to include meaningful participation of MSIs. Institutions eligible to be considered MSIs are listed on the Department of Education website.

h. Research Misconduct

The DOC adopts, and applies to financial assistance awards for research, the “Federal Policy on Research Misconduct” (Federal Policy) issued by the Executive Office of the President’s Office of Science and Technology Policy on December 6, 2000 (65 FR 76260). As provided for in the Federal Policy, research misconduct refers to the fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest errors or differences of opinion. Non-Federal entities that conduct extramural research funded by DOC must foster an atmosphere conducive to the responsible conduct of sponsored research by safeguarding against and resolving allegations of research misconduct. Non-Federal entities also have the primary responsibility to prevent, detect, and investigate allegations of research misconduct and, for this purpose, may rely on their internal policies and procedures, as appropriate, to do so. Non-Federal entities must notify the Grants Officer of any allegation that meets the definition of research misconduct and detail the entity’s inquiry to determine whether there is sufficient evidence to proceed with an investigation, as well as the results of any investigation. The DOC may take appropriate administrative or enforcement action at any time under the award, up to and including award termination and possible suspension or debarment, and referral to the Commerce OIG, the U.S. Department of Justice, or other appropriate investigative body.

i. Publications, Videos, and Acknowledgment of Sponsorship

1. Publication of results or findings in appropriate professional journals and production of video or other media is encouraged as an important method of recording, reporting and otherwise disseminating information and expanding public access to federally-funded projects (*e.g.*, scientific research).

2. Non-Federal entities may be required to submit a copy of any publication materials, including but not limited to print, recorded, or Internet materials, to the funding agency.
3. When releasing information related to a funded project, non-Federal entities must include a statement that the project or effort undertaken was or is sponsored by DOC.
4. Non-Federal entities are responsible for assuring that every publication of material based on, developed under, or otherwise produced under a DOC financial assistance award, except scientific articles or papers appearing in scientific, technical, or professional journals, contains the following disclaimer or other disclaimer approved by the Grants Officer:

This [report/video/etc.] was prepared by [non-Federal entity name] using Federal funds under award [number] from [name of operating unit], U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of the [name of operating unit] or the U.S. Department of Commerce.

j. Care and Use of Live Vertebrate Animals

Non-Federal entities must comply with the Laboratory Animal Welfare Act of 1966, as amended, (Pub. L. No. 89-544, 7 U.S.C. §§ 2131 *et seq.*) (animal acquisition, transport, care, handling, and use in projects), and implementing regulations (9 C.F.R. Parts 1, 2, and 3); the Endangered Species Act (16 U.S.C. §§ 1531 *et seq.*); Marine Mammal Protection Act (16 U.S.C. §§ 1361 *et seq.*) (taking possession, transport, purchase, sale, export or import of wildlife and plants); the Nonindigenous Aquatic Nuisance Prevention and Control Act (16 U.S.C. §§ 4701 *et seq.*) (ensure preventive measures are taken or that probable harm of using species is minimal if there is an escape or release); and all other applicable statutes pertaining to the care, handling, and treatment of warm-blooded animals held for research, teaching, or other activities supported by Federal financial assistance. No research involving vertebrate animals is permitted under any DOC financial assistance award unless authorized by the Grants Officer.

k. Homeland Security Presidential Directive 12

If the performance of a grant award requires non-Federal entity personnel to have routine access to Federally-controlled facilities and/or Federally-controlled information systems (for purpose of this term “routine access” is defined as more than 180 days), such personnel must undergo the personal identity verification credential process. In the case of foreign nationals, the DOC will conduct a check with U.S. Citizenship and Immigration Services’ (USCIS) Verification Division, a component of the Department of Homeland Security (DHS), to ensure the individual is in a lawful immigration status and that he or she is eligible for employment within the United States. Any items or services delivered under a financial assistance award shall comply with DOC personal identity verification procedures that implement Homeland Security Presidential Directive 12, “Policy for a Common Identification Standard for Federal Employees and Contractors”, FIPS PUB 201, and OMB Memorandum M-05-24. The non-Federal entity shall

ensure that its subrecipients and contractors (at all tiers) performing work under this award comply with the requirements contained in this term. The Grants Officer may delay final payment under an award if the subrecipient or contractor fails to comply with the requirements listed in the term below. The non-Federal entity shall insert the following term in all subawards and contracts when the subaward non-Federal entity or contractor is required to have routine physical access to a Federally-controlled facility or routine access to a Federally-controlled information system:

The subrecipient or contractor shall comply with DOC personal identity verification procedures identified in the subaward or contract that implement Homeland Security Presidential Directive 12 (HSPD-12), Office of Management and Budget (OMB) Guidance M-05-24, as amended, and Federal Information Processing Standards Publication (FIPS PUB) Number 201, as amended, for all employees under this subaward or contract who require routine physical access to a Federally-controlled facility or routine access to a Federally-controlled information system.

The subrecipient or contractor shall account for all forms of Government-provided identification issued to the subrecipient or contractor employees in connection with performance under this subaward or contract. The subrecipient or contractor shall return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by DOC: (1) When no longer needed for subaward or contract performance; (2) Upon completion of the subrecipient or contractor employee's employment; (3) Upon subaward or contract completion or termination.

I. Compliance with Department of Commerce Bureau of Industry and Security Export Administration Regulations

1. This clause applies to the extent that this financial assistance award involves access to export-controlled items.
2. In performing this financial assistance award, a non-Federal entity may gain access to items subject to export control (export-controlled items) under the Export Administration Regulations (EAR). The non-Federal entity is responsible for compliance with all applicable laws and regulations regarding export-controlled items, including the EAR's deemed exports and reexports provisions. The non-Federal entity shall establish and maintain effective export compliance procedures at DOC and non-DOC facilities throughout performance of the financial assistance award. At a minimum, these export compliance procedures must include adequate controls of physical, verbal, visual, and electronic access to export-controlled items, including by foreign nationals.
3. Definitions
 - i. Export-controlled items. Items (commodities, software, or technology), that are subject to the EAR (15 C.F.R. §§ 730-774), implemented by the DOC's Bureau of Industry and Security. These are generally known as "dual-use" items, items with a military and commercial application.

- ii. Deemed Export/Reexport. The EAR defines a deemed export as a release of export-controlled items (specifically, technology or source code) to a foreign national in the U.S. Such release is “deemed” to be an export to the home country of the foreign national (*see* 15 C.F.R. § 734.2(b)(2)(ii)). A release may take the form of visual inspection, oral exchange of information, or the application abroad of knowledge or technical experience acquired in the U.S. If such a release occurs abroad, it is considered a deemed reexport to the foreign national’s home country. Licenses from DOC may be required for deemed exports or reexports.
4. The non-Federal entity shall control access to all export-controlled items that it possesses or that comes into its possession in performance of this financial assistance award, to ensure that access to, or release of, such items are restricted, or licensed, as required by applicable Federal laws, E.O.s, and/or regulations, including the EAR.
5. As applicable, non-Federal entity personnel and associates at DOC sites will be informed of any procedures to identify and protect export-controlled items.
6. To the extent the non-Federal entity wishes to provide foreign nationals with access to export-controlled items, the non-Federal entity shall be responsible for obtaining any necessary licenses, including licenses required under the EAR for deemed exports or deemed reexports.
7. Nothing in the terms of this financial assistance award is intended to change, supersede, or waive the requirements of applicable Federal laws, E.O.s or regulations.
8. Compliance with this term will not satisfy any legal obligations the non-Federal entity may have regarding items that may be subject to export controls administered by other agencies such as the Department of State, which has jurisdiction over exports of munitions items subject to the International Traffic in Arms Regulations (ITAR) (22 C.F.R. §§ 120-130), including releases of such items to foreign nationals.
9. The non-Federal entity shall include this clause, including this paragraph (i), in all lower tier transactions (subawards, contracts, and subcontracts) under this financial assistance award that may involve access to export-controlled items.

m. The Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7104(g)), as amended, and the implementing regulations at 2 C.F.R. Part 175

The Trafficking Victims Protection Act of 2000 authorizes termination of financial assistance provided to a private entity, without penalty to the Federal Government, if any non-Federal entity engages in certain activities related to trafficking in persons. The DOC hereby incorporates the following award term required by 2 C.F.R. § 175.15(b). *See* <http://www.gpo.gov/fdsys/pkg/CFR-2012-title2-vol1/pdf/CFR-2012-title2-vol1-sec175-15.pdf>.

Award Term from 2 C.F.R. § 175.15(b):

Trafficking in persons.

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

1. *You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—*
 - i. *Engage in severe forms of trafficking in persons during the period of time that the award is in effect;*
 - ii. *Procure a commercial sex act during the period of time that the award is in effect; or*
 - iii. *Use forced labor in the performance of the award or subawards under the award.*
2. *We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —*
 - i. *Is determined to have violated a prohibition in paragraph a.1 of this award term; or*
 - ii. *Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either— (A) Associated with performance under this award; or (B) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by DOC at 2 C.F.R. Part 1326, “Nonprocurement Debarment and Suspension.”*

b. Provision applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

1. *Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or*
2. *Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—*
 - i. *Associated with performance under this award; or*
 - ii. *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 C.F.R. Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by DOC at 2 C.F.R. Part 1326, “Nonprocurement Debarment and Suspension.”*

c. Provisions applicable to any recipient.

1. *You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.*
2. *Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:*
 - i. *Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and*
 - ii. *Is in addition to all other remedies for noncompliance that are available to us under this award.*
3. *You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.*

d. Definitions. For purposes of this award term:

1. *“Employee” means either:*
 - i. *An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or*
 - ii. *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.*
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.*
3. *“Private entity”:*
 - i. *Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. § 175.25;*
 - ii. *Includes: (A) 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 C.F.R. § 175.25(b); and (B) A for-profit organization.*
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).*

n. The Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109-282, 31 U.S.C. § 6101 note)

1. **Searchable Website Requirements.** The Federal Funding Accountability and Transparency Act of 2006 (FFATA) requires information on Federal awards (Federal financial assistance and expenditures) be made available to the public via a single, searchable website. This information is available at www.USASpending.gov. Recipients and subrecipients must include the following required data elements in their application:

- Name of entity receiving award;
- Award amount;
- Transaction type, funding agency, Catalog of Federal Domestic Assistance Number, and descriptive award title;
- Location of entity, primary location of performance (City/State/Congressional District/Country; and
- Unique identifier of entity.

See also 2 C.F.R. § 200.211 (“Public access to Federal award information”).

2. **Reporting Subawards and Executive Compensation.** Prime grant recipients awarded a new Federal grant greater than or equal to \$25,000 on or after October 1, 2010, other than those funded by the Recovery Act, are subject to FFATA subaward reporting requirements as outlined in the OMB guidance issued August 27, 2010. The prime recipient is required to file a FFATA subaward report by the end of the month following the month in which the prime recipient awards any sub-grant greater than or equal to \$25,000. *See* Pub. L. No. 109-282, as amended by section 6202(a) of Pub. L. No. 110-252 (*see* 31 U.S.C. 6101 note). The reporting requirements are located in Appendix A of 2 C.F.R. Part 170 and are available on the Government Printing Office’s (GPO’s) FDsys website: <http://www.gpo.gov/fdsys/pkg/CFR-2011-title2-vol1/pdf/CFR-2011-title2-vol1-part170-appA.pdf>.

Award Term from Appendix A of 2 C.F.R. Part 170:

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. No. 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 that the submission instructions posted at <http://www.fsrs.gov> specify.

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 C.F.R. § 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 C.F.R. § 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.ccr.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 C.F.R. § 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/excomp.htm>.)

See also 2 C.F.R. § 200.300(b).

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 C.F.R. 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 Sec. __.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").*
 - 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 C.F.R. § 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.*
3. Central Contractor Registration (CCR) and Universal Identifier requirements. In accordance with 2 C.F.R. Part 25, recipients must obtain a DUNS number and maintain an active registration in the CCR database. In addition, recipients must notify potential first-tier subrecipients that no entity may receive a first-tier subaward unless the entity has provided its DUNS number to the prime recipient. The requirements are located in Appendix A of 2 C.F.R. Part 25 and are available on GOP's FDsys website at: <http://www.gpo.gov/fdsys/pkg/CFR-2014-title2-vol1/pdf/CFR-2014-title2-vol1-part25.pdf>.

Award Term from Appendix A of 2 C.F.R. Part 25:

Central Contractor Registration and Universal Identifier Requirements

- a. ***Requirement for Central Contractor Registration (CCR).*** *Unless you are exempted from this requirement under 2 C.F.R. § 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.*
- b. ***Requirement for Data Universal Numbering System (DUNS) Numbers.*** *If you are authorized to make subawards under this award, you:*
 1. *Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.*
 2. *May not make a subaward to an entity unless the entity has provided its DUNS number to you.*
- c. ***Definitions for purposes of this award term:***
 1. *Central Contractor Registration (CCR) 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 Internet site (currently at <https://www.sam.gov/portal/public/SAM/>).*
 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>).

3. *Entity, as it is used in this award term, means all of the following, as defined at 2 C.F.R. part 25, subpart C:*
 - a. *A Governmental organization, which is a State, local government, or Indian Tribe;*
 - b. *A foreign public entity;*
 - c. *A domestic or foreign nonprofit organization;*
 - d. *A domestic or foreign for-profit organization; and*
 - e. *A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.*
4. *Subaward:*
 - a. *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.*
 - b. *The term does not include your 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”).*
 - c. *A subaward may be provided through any legal agreement, including an agreement that you consider a contract.*
5. *Subrecipient means an entity that:*
 - a. *Receives a subaward from you under this award; and*
 - b. *Is accountable to you for the use of the Federal funds provided by the subaward.*

See also 2 C.F.R. § 200.300(b).

n. Federal Financial Assistance Planning During a Funding Hiatus or Government Shutdown

This term sets forth initial guidance that will be implemented for Federal assistance awards in the event of a lapse in appropriations, or a government shutdown. The Grants Officer may issue further guidance prior to an anticipated shutdown.

1. Unless there is an actual rescission of funds for specific grant obligations, non-Federal entities under Federal financial assistance awards for which funds have been obligated generally will be able to continue to perform and incur allowable expenses under the award during a funding hiatus. Non-Federal entities are advised that ongoing activities by Federal employees involved in grant administration (including payment processing) or similar operational and administrative work cannot continue when there is a funding lapse. Therefore, there may be delays, including payment processing delays, in the event of a shutdown.
2. All award actions will be delayed during a government shutdown; if it appears that a non-Federal entity's performance under a grant or cooperative agreement will require agency involvement, direction, or clearance during the period of a possible government shutdown, the Program Officer or Grants Officer, as appropriate, may attempt to provide such involvement, direction, or clearance prior to the shutdown or advise non-Federal entities that such involvement, direction, or clearance will not be forthcoming during the shutdown. Accordingly, non-Federal entities whose ability to withdraw funds is subject to prior agency approval, which in general are non-Federal entities that have been designated high risk, non-Federal entities under construction awards, or are otherwise limited to reimbursements or subject to agency review, will be able to draw funds down from the relevant Automatic Standard Application for Payment (ASAP) account only if agency approval is given and coded into ASAP prior to any government shutdown or closure. This limitation may not be lifted during a government shutdown. Non-Federal entities should plan to work with the Grants Officer to request prior approvals in advance of a shutdown wherever possible. Non-Federal entities whose authority to draw down award funds is restricted may decide to suspend work until the government reopens.
3. The ASAP system should remain operational during a government shutdown. Non-Federal entities that do not require any Grants Officer or agency approval to draw down advance funds from their ASAP accounts should be able to do so during a shutdown. The 30-day limitation on the drawdown of advance funds will still apply notwithstanding a government shutdown and advanced funds held for more than 30 days will have to be returned with interest.