

**RESTORE ACT**  
**FINANCIAL ASSISTANCE STANDARD TERMS**  
**AND CONDITIONS AND PROGRAM-SPECIFIC**  
**TERMS AND CONDITIONS**

**U.S. Department of the Treasury**

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# RESTORE ACT FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS AND PROGRAM-SPECIFIC TERMS AND CONDITIONS

## PREFACE

The grant agreement is comprised of the following documents:

1. A Notice of Award from the Department of the Treasury (“Treasury”)
2. The RESTORE Act Financial Assistance Standard Terms and Conditions (“Standard Terms and Conditions”)
3. The RESTORE Act Financial Assistance Program-Specific Terms and Conditions (“Program-Specific Terms and Conditions”)
4. The approved application, including all documents, certifications, and assurances that are part of the approved application
5. The approved scope of work
6. The approved budget
7. Any special terms and conditions applied by Treasury to the award (“Special Award Conditions”)

The recipient must comply, and require each of its subrecipients, contractors, and subcontractors employed in the completion of the activity, project, or program to comply with all federal statutes, federal regulations, executive orders (EOs), Office of Management and Budget (OMB) circulars, Standard Terms and Conditions, Program-Specific Terms and Conditions, and any Special Award Conditions of this federal financial assistance award (“Award”), as applicable, in addition to the certifications and assurances required at the time of application. This Award is subject to the laws and regulations of the United States.

Any inconsistency or conflict in Standard Terms and Conditions, Program-Specific Terms and Conditions, and any Special Award Conditions of this Award will be resolved according to the following order of precedence: federal laws, federal regulations, applicable notices published in the Federal Register, EOs, OMB circulars, Treasury’s Standard Terms and Conditions, Program-Specific Terms and Conditions, and any Special Award Conditions. Special Award Conditions may amend or take precedence over Standard Terms and Conditions and Program-Specific Terms and Conditions.

Some of these Standard Terms and Conditions contain, by reference or substance, a summary of pertinent federal statutes, federal regulations published in the Federal Register (Fed. Reg.) or Code of Federal Regulations (C.F.R.), EOs, or OMB circulars. In particular, these Standard Terms and Conditions incorporate many of the provisions contained in OMB’s Uniform Guidance for Grants and Cooperative Agreements (2 C.F.R. Part 200), which supersedes former OMB Circular A-102 (the former grants management common rule), OMB Circular A-133 (single audit requirements), and all former OMB circulars containing the cost principles for grants and cooperative agreements. To the extent that it is a summary, such a provision is not in derogation of, or an amendment to, any such statute, regulation, EO, or OMB circular. Unless a definition is provided here, definitions can be found in the RESTORE Act (Public Law No. 112-141 (July 6, 2012)), Treasury’s RESTORE Act regulations (79 Fed. Reg. 48039 (Aug. 15, 2014) and 79 Fed. Reg. 61236 (Oct. 10, 2014), codified at 31 C.F.R. Part 34)), and/or 2 C.F.R. Part 200.

**A PROGRAM-SPECIFIC TERMS AND CONDITIONS - AWARDS UNDER THE DIRECT COMPONENT**

In addition to all the Standard Terms and Conditions described in Sections C through V of this document, all Treasury RESTORE Act awards made under the Direct Component include the following Program Specific Terms and Conditions in this Section A:

**1. Administrative Costs**

- a. Administrative costs are defined at 31 C.F.R. § 34.2.
- b. Under no circumstances may the recipient use more than three percent of the Award funds received for administrative costs. Costs borne by subrecipients and contractors do not count toward the three percent cap.
- c. Up to 100 percent of program income may be used to pay for allowable administrative costs, subject to the three percent cap.

**2. Oil Spill Liability Trust Fund**

The recipient must not seek any compensation for the approved program or project from the Oil Spill Liability Trust Fund. If the recipient is authorized to make subawards, the recipient must not use Direct Component funds to make subawards to fund activities for which claims were filed with the Oil Spill Liability Trust Fund after July 6, 2012.

**3. Performance Reports**

The recipient must submit with each "Performance Progress Report" (SF PPR) (see Section D below) an updated "Milestones Form" (standard format provided by Treasury) with the status of each milestone included in the recipient's approved application (the "Milestones Form"), including the milestone description, estimated completion date (do NOT change this from the original in the application), actual completion date (if applicable), percent complete (if not fully completed), and, if applicable, the reason for any delays.

**4. Remedies for Non-compliance**

- a. If Treasury determines that the recipient has expended Direct Component funds to cover the cost of any ineligible activities, in addition to the remedies available in Section M of these Standard Terms and Conditions, Treasury will make no additional payments to the recipient from the RESTORE Trust Fund, including no payments from the RESTORE Trust Fund for activities, projects, or programs other than Direct Component activities, projects, or programs, until the recipient has either (1) deposited an amount equal to the amount expended for the ineligible activities in the RESTORE Trust Fund, or (2) Treasury has authorized the recipient to expend an equal amount from the recipient's own funds for an activity that meets the requirements of the RESTORE Act.
- b. If Treasury determines the recipient has materially violated the terms of this Award, Treasury will make no additional funds available to the recipient from any part of the Trust Fund until the recipient corrects the violation.

**B PROGRAM-SPECIFIC TERMS AND CONDITIONS - AWARDS UNDER THE CENTERS OF EXCELLENCE RESEARCH GRANTS PROGRAM**

In addition to all the Standard Terms and Conditions described in Sections C through V of this document, all Treasury RESTORE Act awards under the Centers of Excellence Research Grants Program include the following Program-Specific Terms and Conditions in this Section B:

**1. Allowable Costs**

In addition to the prohibitions contained in 2 C.F.R. Part 200, Subpart E (*Cost Principles*), the following costs are unallowable unless approved in writing by Treasury:

- a. Construction, including the alteration, repair, or rehabilitation of existing structures. Facilities costs are allowable as indirect costs in a federally approved negotiated indirect cost rate.
- b. Acquisition of land or interests in land.

**2. Notifications**

- a. If the selection of a Center or Centers of Excellence occurs after the start date of this Award, the recipient must promptly inform Treasury of the following:
  - i. Name of the Center of Excellence and the entity selected to administer it, including the names of member organizations if the entity is a consortium;
  - ii. The DUNS Number of the entity;
  - iii. Location of the entity;
  - iv. Discipline or disciplines assigned to the Center of Excellence;
  - v. Description of the actual public input process undertaken, including a summary of any comments received and a description of how they were addressed; and
  - vi. The estimated budget for the Center, including the total allocation of funded dollars for the Center.
- b. The recipient must immediately notify Treasury if the recipient anticipates selecting a new entity or consortium to serve as a Center of Excellence, or making other changes to the initial selection of Center(s) of Excellence described in the scope of work.

**3. Performance Reports**

In addition to the reporting requirements in Section D, the recipient must submit an annual report to the Gulf Coast Ecosystem Restoration Council ("Council") in a form prescribed by the Council that includes information on subrecipients, subaward amounts, disciplines addressed, and any other information required by the Council. When the subrecipient is a consortium, the annual report must also identify the consortium members. The recipient must provide a copy of this report to Treasury.

## STANDARD TERMS AND CONDITIONS

### AWARDS UNDER DIRECT COMPONENT AND AWARDS UNDER THE CENTERS OF EXCELLENCE RESEARCH GRANTS PROGRAM

#### C FINANCIAL REQUIREMENTS

##### 1. Applicable Regulations

This Award is subject to the following federal regulations and requirements. This list is not exclusive:

- a. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, Subparts A through E, and any Treasury regulations incorporating these requirements. Subpart F will apply to audits of the recipient's fiscal years beginning on or after December 26, 2014. Until then, the recipient must comply with OMB Circular A-133.
- b. Treasury's RESTORE Act regulations, 31 C.F.R. Part 34.
- c. Governmentwide Debarment and Suspension, 31 C.F.R. Part 19.
- d. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20
- e. New Restrictions on Lobbying, 31 C.F.R. Part 21.
- f. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170.
- g. Award Term for Trafficking in Persons, 2 C.F.R. Part 175.

##### 2. Scope of Work

The recipient must only use funds obligated and disbursed under this Award for the purpose of carrying out activities described in the attached approved scope of work. The recipient must not incur or pay any expenses under this Award for activities not related to the attached approved scope of work unless Treasury first approves an Award amendment explicitly modifying the approved scope of work to include those activities.

##### 3. Period of Performance; Pre-award Costs

The recipient must use funds obligated and disbursed under this Award only during the period of performance specified in the Notice of Award, which is the time period during which the recipient may incur new obligations and costs to carry out the work authorized under this Award. The only exception is costs incurred prior to the effective date of this Award, which are allowable only if:

- a. Treasury specifically authorized these costs in writing prior to the issuance of this Award;
- b. Incurring these costs was necessary for the efficient and timely performance of the scope of work; and
- c. These costs would have been allowable if incurred after the date of the award.

##### 4. Indirect Costs

- a. The recipient may only charge indirect costs to this Award if these costs are allowable under 2 C.F.R. Part 200, subpart E (*Cost Principles*).

- b. Indirect costs charged must be consistent with the indirect cost rate agreement negotiated between the recipient and its cognizant agency (defined as the federal agency that is responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals, see 2 C.F.R. § 200.19) and must be included in the recipient's budget.
- c. Unallowable direct costs are not recoverable as indirect costs.
- d. The maximum dollar amount of allocable indirect costs charged to this Award shall be the lesser of:
  - i. The line item amount for the indirect costs contained in the approved budget, including all budget revisions approved in writing by the Treasury; or
  - ii. The total indirect costs allocable to this Award based on the indirect cost rate approved by a cognizant or oversight federal agency and applicable to the period in which the cost was incurred, provided that the rate is approved on or before the Award end date.

**5. Cost Sharing and Budget Limitations**

- a. The recipient is not required to contribute any matching funds.
- b. The recipient shall not request or receive additional funding beyond what was included in the approved application for the attached approved scope of work from any federal or non-federal source, without first notifying Treasury.

**6. Program Income**

Any program income (defined at 2 C.F.R. § 200.80) generated during the period of performance must be included in the approved budget and be used for the purposes and under the conditions of these Standard Terms and Conditions and any Special Award Conditions, i.e. solely to accomplish the approved scope of work.

**7. Incurring Costs or Obligating Federal Funds Beyond the Expiration Date**

The recipient must not incur costs or obligate funds under this Award for any purpose pertaining to the operation of the activity, project, or program beyond the end of the period of performance. The only costs which are authorized for a period 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 audit reports unless otherwise approved in writing by Treasury. Under extraordinary circumstances, and at Treasury's sole discretion, Treasury may approve the recipient's request for an extension of the 90-day closeout period.

**8. Tax Refunds**

Refunds of taxes paid under the Federal Insurance Contributions Act (FICA) and the Federal Unemployment Tax Act (FUTA) that are received by the recipient during or after the period of performance must be refunded or credited to Treasury if these taxes were paid out of RESTORE Act funds in accordance with 2 C.F.R. Part 200, subpart E (*Cost Principles*). The recipient agrees to contact Treasury immediately upon receipt of these refunds.

## 9. Subawards

- a. If the recipient is permitted to make subawards under this award, the recipient must execute a legally binding written agreement with the subrecipient. This agreement must incorporate all the terms and conditions of this Award, including any Special Award Conditions, and must include the information at 2 C.F.R. § 200.331. The recipient must perform all responsibilities required of a pass-through entity, as specified in 2 C.F.R. Part 200.
- b. The recipient must evaluate and document each subrecipient's risk of noncompliance with federal statutes, federal regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring strategy, as described in 2 C.F.R. § 200.331(b).
- c. The recipient must monitor the subrecipient's use of federal funds through reporting, site visits, regular contact, or other means to provide reasonable assurance that the subrecipient is administering the subaward in compliance with the RESTORE Act, Treasury's RESTORE Act regulations, these Standard Terms and Conditions, Program-Specific Terms and Conditions, and any Special Award Conditions, and to ensure that performance goals are achieved.
- d. The recipient must provide training and technical assistance to the subrecipient as necessary.
- e. The recipient must, if necessary, take appropriate enforcement actions against non-compliant subrecipients.
- f. If lower tier subawards are authorized, the recipient must ensure that a subrecipient who makes a subaward applies the terms and conditions of this Award, including any Special Award Conditions, to all lower tier subawards, and that a subrecipient who makes a subaward carries out all the responsibilities of a pass-through entity described at 2 C.F.R. Part 200.
- g. The recipient must maintain written standards of conduct governing the performance of its employees involved in executing this Award and administration of subawards.
  - i. 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.
  - ii. The officers, employees, and agents of the recipient shall neither solicit nor accept anything of monetary value from subrecipients.
  - iii. A recipient may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. 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.
  - iv. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.

## **D RECIPIENT REPORTING AND AUDIT REQUIREMENTS**

### **1. Financial Reports**

- a. The recipient must submit a "Federal Financial Report" (SF-425) on a semi-annual basis for the periods ending March 31 and September 30 (or June 30 and December 31, if instructed by Treasury), 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 SF-425 must be submitted within 90 days after the end of the period of performance. In the remarks section of each SF-425 submitted, the recipient must provide the following information:
  - i. A description of the use of all funds received; and
  - ii. A certification that the recipient maintains written documentation sufficient to demonstrate the accuracy of the information and certifications provided.

The report must be signed by a senior authorized official of the organization or entity receiving grant funds who can legally bind the organization, and who has oversight and authority over the administration and use of the funds in question.

- b. The recipient must submit all financial reports via <http://www.GrantSolutions.gov>, unless otherwise specified by Treasury in writing.

### **2. Performance Reports**

- a. The recipient must submit an SF-PPR ("Performance Progress Report") and a "Status of Performance Report" (standard format provided by Treasury) on a semi-annual basis for the periods ending March 31 and September 30 (or June 30 and December 31, if instructed by Treasury), 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, except the final report which is due 90 days following the end of the period of performance.
- b. The recipient must submit all reports in a. above via <http://www.GrantSolutions.gov>, unless otherwise specified in writing by Treasury, and the recipient must complete these reports according to the following instructions:
  - i. In the "performance narrative" attachment (section B of the SF-PPR), the recipient must provide the following information:
    - a) In Section B-1:
      - 1) Summarize activities undertaken during the reporting period;
      - 2) Summarize any key accomplishments, including milestones completed for period;
      - 3) List any contracts awarded during the reporting period, along with the name of the contractor and its principal, the DUNS number of the contractor, the value of the contract, the date of award, a brief description of the services to be provided, and whether or not local preference was used in the selection of the contractor; and
      - 4) If the recipient is authorized to make subawards, list any subawards executed during the reporting period, along with the name of the entity and its principal, the DUNS number of the

entity, the value of the agreement, the date of award, and a brief description of the scope of work.

b) In Section B-2:

- 1) Indicate if any operational, legal, regulatory, budgetary, and/or ecological risks, and/or any public controversies, have materialized. If so, indicate what mitigation strategies have been undertaken to attenuate these risks or controversies; and
- 2) Summarize any challenges that have impeded the recipient's ability to accomplish the approved scope of work on schedule and on budget.

c) In Section B-3:

Summarize any significant findings or events, if applicable.

d) In Section B-4:

Describe any activities to disseminate or publicize results of the activity, project, or program.

e) In Section B-5:

- 1) Describe all efforts taken to monitor contractor and/or subrecipient performance, to include site visits, during the reporting period. For subawards, indicate whether the subrecipient submitted an audit to the recipient, and if so, whether the recipient issued a management decision on any findings; and
- 2) Describe any other activities or relevant information not already provided.

f) In Section B-6:

Summarize the activities planned for the next reporting period.

- ii. The recipient must attach to the SF-PPR a completed "Status of Performance Report." On the "Status of Performance Report," the recipient must provide performance information on the metrics selected at the time of application. The recipient must follow the instructions provided with the form.

### **3. Interim Reporting on Significant Developments**

- a. Events may occur between the scheduled performance reporting dates that have significant impact upon the activity, project, or program. In such cases, the recipient must inform Treasury as soon as the following types of conditions become known:
  - i. Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of this Award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.
  - ii. Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

- b. The recipient must:
  - i. Promptly provide to Treasury and the Treasury Inspector General a copy of all state or local inspector general reports, audit reports other than those prepared under the Single Audit Act, and reports of any other oversight body, if such report pertains to an award under any RESTORE Act component, including the Comprehensive Plan Component and Spill Impact Component.
  - ii. Immediately notify Treasury and the Treasury Inspector General of any indication of fraud, waste, abuse, or potentially criminal activity pertaining to grant funds.
  - iii. Promptly notify Treasury upon the selection of a contractor or subrecipient performing work under this Award, and include the name and DUNS number for the subrecipient or contractor, and the total amount of the contract or subaward.

#### **4. Audit Requirements**

The recipient is responsible for complying, and ensuring all subrecipients comply, with all audit requirements of OMB Circular A-133 and the Single Audit Act. The requirements of Subpart F of 2 C.F.R. Part 200 supersede the requirements of Circular A-133 for recipient and subrecipient fiscal years beginning on or after December 26, 2014.

#### **5. Operational Self-Assessment**

The recipient must submit a revised *Operational Self-Assessment* in the same format as the recipient's most recent submission no later than June 30th of each calendar year for the duration of this Award. Only one *Operational Self-Assessment* must be submitted per recipient per year. In completing the form, the recipient must note controls or activities that have changed from the previous submission. The recipient must submit the *Operational Self-Assessment* electronically to [restoreact@treasury.gov](mailto:restoreact@treasury.gov), unless otherwise specified in writing by Treasury. The form may be downloaded at <http://www.treasury.gov/services/restore-act/Pages/default.aspx>.

### **E FINANCIAL MANAGEMENT SYSTEM AND INTERNAL CONTROL REQUIREMENTS**

1. Recipients that are states must expend and account for Award funds in accordance with the applicable state laws and procedures for expending and accounting the states' own funds. All other recipients must expend and account for funds in accordance with state and local laws and procedures. In addition, all recipients' financial management systems must be sufficient to:
  - a. Permit the preparation of accurate, current, and complete SF-425, SF-PPR, Milestones Form, and Status of Performance reports, as well as reporting on subawards, if applicable, and any additional reports required by any Special Award Conditions;
  - b. Permit the tracing of funds to a level of expenditures adequate to establish that such funds have been used in accordance with all applicable federal, state, and local requirements, including the RESTORE Act, Treasury RESTORE Act regulations, these Standard Terms and Conditions, Program-Specific Terms and Conditions, and any Special Award Conditions.
  - c. Allow for the comparison of actual expenditures with the amount budgeted for each Award made to the recipient by Treasury under the RESTORE Act.

- d. Identify and track all RESTORE Act awards received and expended by the assigned grant number, which is the Universal Award ID (as provided by Treasury), the year the Award was made, the awarding agency (Treasury), and the program's CFDA title and CFDA number (21.015).
    - e. Record the source and application of funds for all activities funded by this Award, as well as all awards, authorizations, obligations, unobligated balances, assets, expenditures, program income, and interest earned on federal advances, and allow users to tie these records to source documentation such as cancelled checks, paid bills, payroll and attendance records, contract and subaward agreements, etc.
    - f. Ensure effective control over, and accountability for, all federal funds, and all property and assets acquired with federal funds. The recipient must adequately safeguard all assets and ensure that they are used solely for authorized purposes.
  2. The recipient must establish written procedures to implement the requirements set forth in section H below (Award Disbursement), as well as written procedures to determine the allowability of costs in accordance with 2 C.F.R. Part 200, subpart E (*Cost Principles*) and the terms and conditions of this Award.
  3. The recipient must establish and maintain effective internal controls over this Award in a manner that provides reasonable assurance that the recipient is managing this Award in compliance with the RESTORE Act, Treasury's RESTORE Act regulations, these Standard Terms and Conditions, Program-Specific Terms and Conditions, and any Special Award Conditions. 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 or the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The recipient must evaluate and monitor its compliance, and the compliance of any subrecipients, with the RESTORE Act, Treasury's RESTORE Act regulations, these Standard Terms and Conditions, Program Specific Terms and Conditions, and any Special Award Conditions, and promptly remedy any identified instances of non-compliance. When and if an instance of non-compliance cannot be remedied by the recipient, the recipient must promptly report the instance of non-compliance to Treasury and the Treasury Inspector General, followed by submitting a proposed mitigation plan to Treasury.
  4. The recipient must take reasonable measures to safeguard protected personally identifiable information (PII) consistent with applicable federal, state, and local laws regarding privacy and obligations of confidentiality.

## **F RECORDS RETENTION REQUIREMENTS**

1. The recipient must retain all records pertinent to this Award for a period of three years, beginning on a date as described in 2 C.F.R. § 200.333. While electronic storage of records (backed up as appropriate) is preferable, the recipient has the option to store records in hardcopy (paper) format. For the purposes of this section, the term "records" includes but is not limited to:
  - a. Copies of all contracts and all documents related to a contract, including the Request for Proposal (RFP), all proposals/bids received, all meeting minutes or other documentation of the evaluation and selection of contractors, any disclosed conflicts of interest regarding a contract, all signed conflict of interest forms (if applicable), all conflict of interest and other procurement rules governing a particular contract, and any bid protests;

- b. Copies of all subawards, including the funding opportunity announcement or equivalent, all applications received, all meeting minutes or other documentation of the evaluation and selection of subrecipients, any disclosed conflicts of interest regarding a subaward, and all signed conflict of interest forms (if applicable);
  - c. All documentation of site visits, reports, audits, and other monitoring of contractors (vendors) and subrecipients (if applicable);
  - d. All financial and accounting records, including records of disbursements to contractors (vendors) and subrecipients, and documentation of the allowability of Administrative Costs charged to this Award;
  - e. All supporting documentation for the performance outcome and other information reported on the recipient's SF-425s, SF-PPRs, Milestones Forms, and Status of Performance Reports; and
  - f. Any reports, publications, and data sets from any research conducted under this Award.
2. If any litigation, claim, investigation, or audit relating to this Award or an activity funded with Award funds is started before the expiration of the three year period, the records must be retained until all litigation, claims, investigations, or audit findings involving the records have been resolved and final action taken.
  3. If the recipient is authorized to make subawards, the recipient must include in its legal agreement with the subrecipient a requirement that the subrecipient retain all records in compliance with 2 C.F.R. § 200.333.
  4. If the recipient is authorized to enter into contracts to complete the approved scope of work, the recipient must include in its legal agreement with the contractor a requirement that the contractor retain all records in compliance with 2 C.F.R. § 200.333.

## **G THE FEDERAL GOVERNMENT'S RIGHT TO INSPECT, AUDIT, AND INVESTIGATE**

### **1. Access to Records**

- a. Treasury, the Treasury Office of Inspector General, and the Government Accountability Office have the right of timely and unrestricted access to any documents, papers or other records, including electronic records, of the recipient that are pertinent to this Award, in order to make audits, investigations, examinations, excerpts, transcripts, and copies of such documents. This right also includes timely and reasonable access to the recipient's personnel for the purpose of interview and discussion related to such documents. This right of access shall continue as long as records are required to be retained.
- b. If the recipient is authorized to make subawards, the recipient must include in its legal agreement or contract with the subrecipient a requirement that the subrecipient make available to Treasury, the Treasury Office of Inspector General, and the Government Accountability Office any documents, papers or other records, including electronic records, of the subrecipient, that are pertinent to this Award, in order to make audits, investigations, examinations, excerpts, transcripts, and copies of such documents. This right also includes timely and reasonable access to the subrecipient's personnel for the purpose of interview and discussion related to such documents. This right of access shall continue as long as records are required to be retained (see Section F above).
- c. If the recipient is authorized to enter into contracts to complete the approved scope of work, the recipient must include in its contract a requirement that the contractor make available to Treasury, the Treasury Office of Inspector General,

and the Government Accountability Office any documents, papers or other records, including electronic records, of the contractor that are pertinent to this Award, in order to make audits, investigations, examinations, excerpts, transcripts, and copies of such documents. This right also includes timely and reasonable access to the contractor's personnel for the purpose of interview and discussion related to such documents. This right of access shall continue as long as records are retained (see Section F above).

**2. Access to the Recipient's Sites.**

The Treasury, the Treasury Office of Inspector General, and Government Accountability Office shall have the right during normal business hours to conduct announced and unannounced onsite and offsite physical visits of recipients and their subrecipients and contractors corresponding to the duration of their records retention obligation for this Award.

**H AWARD DISBURSEMENT**

1. Unless otherwise specified in a Special Award Condition, Treasury will make advance payments under this Award. However, if one of the following occurs, Treasury will require Award funds to be disbursed on a reimbursement basis: (1) Treasury determines that the recipient does not meet the financial management system standards (see Section E) included in these Standard Terms and Conditions, (2) Treasury determines that the recipient has not established procedures that will minimize the time elapsing between the transfer of funds and disbursement, or (3) Treasury determines that the recipient is in non-compliance with the RESTORE Act, Treasury's RESTORE Act regulations, other pertinent federal statutes, these Standard Terms and Conditions, Program Specific Terms and Conditions, and/or any Special Award Conditions, and determines that the appropriate remedy is to require payment on a reimbursement basis. If reimbursement is used, Treasury will make payment within 30 calendar days after receipt of the billing, unless Treasury determines the request to be improper, in which case payment will not be made.
2. To the extent available, the recipient must disburse funds available from program income, rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments of Award funds.
3. Treasury will use the Department of Treasury's Automated Standard Application for Payment (ASAP) system to disburse payments of Award funds. In order to receive payments, the recipient must first enroll in ASAP.gov. Treasury creates and funds account(s) for recipients in ASAP.gov, and recipients access their account(s) online to request funds. All Award funds will be disbursed electronically using either the Automated Clearing House (ACH) for next day or future day payments or the Fedwire "Funds" system for same day or immediate need payments. Awards paid through ASAP.gov may contain controls or withdrawal limits set by Treasury.
4. Requirements applicable to recipients that are states: Payment methods of state agencies or instrumentalities must be consistent with Treasury-State agreements under the Cash Management Improvement Act, and default procedures codified at 31 C.F.R. Part 205 "Rules and Procedures for Efficient Federal-State Funds Transfers" and Treasury Financial Manual (TFM) 4A-2000 Overall Disbursing Rules for All Federal Agencies.
5. Requirements applicable to recipients that are not states: The recipient must minimize the time between the transfer of funds from Treasury and the use of the funds by the

recipient. Advance payments to the recipient must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient in carrying out the purpose of the approved activity, project, or program. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the parish or county for direct activity, project, or program costs and the proportionate share of any allowable indirect costs. Advances should not be drawn down more than three days before expenditure. Advanced funds not disbursed in a timely manner must be promptly returned to Treasury. The recipient must make timely payment to contractors (vendors) in accordance with the contract provisions.

6. Advances of federal funds must be deposited and maintained in United States Government-insured interest-bearing accounts whenever possible. The recipient is not required to maintain a separate depository account for receiving Award funds. If the recipient maintains a single depository account where advances are commingled with funds from other sources, the recipient must maintain on its books a separate subaccount for the Award funds. Consistent with the national goal of expanding opportunities for women-owned and minority-owned business enterprises, the recipient is encouraged to ensure fair consideration of women-owned and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members).
7. The recipient must maintain advances of federal funds in interest bearing accounts, unless one of the following conditions applies:
  - a. The recipient receives less than \$120,000 in federal awards per year;
  - b. The best reasonably available interest bearing account would not be expected to earn interest in excess of \$500 per year on federal cash balances; or
  - c. The depository would require an average or minimum balance so high that it would not be feasible within the expected federal and non-federal cash resources.
8. On an annual basis, the recipient must remit interest earned on federal advance payments deposited in interest-bearing accounts 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 recipient and used for administrative costs.

## **I EFFECT OF A GOVERNMENT SHUTDOWN ON DISBURSEMENTS AND THE AVAILABILITY OF TREASURY PERSONNEL**

In the event of a federal government shutdown, Treasury will issue guidance to the recipient concerning the expected effects on this Award.

## **J NOTIFICATIONS AND PRIOR APPROVALS**

### **1. Notifications**

In addition to other notifications required under these Standard Terms and Conditions, the recipient must promptly notify Treasury in writing whenever any of the following is anticipated or occurs:

- a. A vacancy or change to key personnel listed in the application.
- b. Any termination of a subaward prior to the expiration of the agreement with the subrecipient.
- c. Except for changes described in (2) below, the recipient may revise the budget without prior approval. If the recipient alters the budget, the recipient must

provide a revised budget form (SF-424A or SF-424C, as applicable) to Treasury as an attachment to the SF-PPR, reflecting all budget revisions from the same period covered by the SF-PPR. Acceptance of such budget information does not constitute Treasury's approval of the revised budget.

## **2. Prior Approvals**

- a. The recipient must obtain prior written approval from Treasury whenever any of the following actions is anticipated:
  - i. A change in the scope or the objective of the activity, project, or program (even if there is no associated budget revision requiring prior written approval);
  - ii. A need to extend the period of performance;
  - iii. A need for additional federal funds to complete the activity, project, or program;
  - iv. The transfer of funds among direct cost categories or programs, functions, and activities if this Award exceeds the Simplified Acquisition Threshold (defined at 2 C.F.R. § 200.88) and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by Treasury;
  - v. Unless described in the application and funded in this Award, the subawarding, transferring or contracting out of any work under this Award (this provision does not apply to the acquisition of supplies, material, equipment or general support services);
  - vi. If the approved budget includes funds for both construction and non-construction, any transfer between the non-construction and construction activities; and
  - vii. The inclusion of costs that require prior approval in accordance with 2 C.F.R. Part 200, Subpart E—Cost Principles.
- b. If requesting a no-cost extension to this Award, the request must be made no less than 30 days prior to the end of the period of performance for this Award. Any extension of the period of performance requires prior written approval from Treasury.

## **K PROPERTY**

### **1. General Requirements**

- a. The recipient must comply with the property standards at 2 C.F.R. § 200.310 through § 200.316, and RESTORE Act requirements concerning the acquisition of land and interests in land at 34 C.F.R. § 34.803.
- b. No real property or interest in real property may be acquired under this Award, unless authorized by a Special Award Condition.

### **2. Forms Required for Disposition of Supplies and Equipment**

- a. Requirements that are applicable to recipients that are states: The recipient must use, manage, and dispose of equipment acquired under this Award in accordance with state laws and procedures. If the recipient has a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the activity, project, or program and the supplies are

not needed for any other federal award, the recipient must report the value and the retention or sale of such supplies by submitting to Treasury a completed *SF-428 Tangible Personal Property Report* and *SF-428-B Final Report Form* no later than 60 days after the end of the Period of Performance.

- b. Requirements that are applicable to recipients that are not states: During the period of performance, the recipient must seek disposition instructions from Treasury for equipment acquired under this Award if the current fair market value of the equipment is greater than \$5,000 per unit. The recipient must seek disposition instructions before disposing of the equipment by submitting a completed *SF-428 Tangible Personal Property Report* and *SF-428-C Disposition Request/Report*. Not later than 60 days after the end of the period of performance, the recipient must submit to Treasury a completed *SF-428 Tangible Personal Property Report* and *SF-428-B Final Report Form* if the recipient retains any equipment with a current fair market value greater than \$5,000 per unit or a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the activity, project, or program and the supplies are not needed for any other federal award.

## **L AMENDMENTS AND CLOSEOUT**

### **1. Amendments**

- a. The terms of this Award may be amended with the written approval of the recipient and Treasury.
- b. Treasury reserves the right to amend the terms of this Award if required by federal law or regulation.
- c. Amendments must be requested in writing, and must include an explanation for the reason this Award should be amended.

### **2. Closeout**

- a. Treasury will close out this Award when it determines that all applicable administrative actions and all required work of this Award have been completed.  
Within 90 calendar days after the end of the period of performance, the recipient must submit any outstanding SF-PPR and Status of Performance reports, as well as the required reporting on subawards, if applicable, plus a final SF-425 report, unless the recipient requests, and Treasury approves, an extension.
- b. The recipient must liquidate all obligations incurred under this Award not later than 90 calendar days after the end of the period of performance, unless the recipient requests, and Treasury approves, an extension.
- c. The recipient must promptly refund any balances of unobligated cash that Treasury paid, unless Treasury has authorized the recipient to retain this cash for use in other projects.
- d. Within 90 days after receipt of reports in paragraph (b) of this section, Treasury will make upward or downward adjustments to the allowable costs, and then make prompt payment to the recipient for allowable, unreimbursed costs.
- f. The closeout of this Award does not affect any of the following:
  - i. The right of Treasury to disallow costs and recover funds on the basis of a later audit or other review;

- ii. The obligation of the recipient to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments; or
- iii. The recipient's obligations regarding audits, property management and disposition (if applicable), and records retention.

## **M REMEDIES FOR NON-COMPLIANCE**

1. If Treasury determines that the recipient has failed to comply with the RESTORE Act, Treasury's RESTORE Act regulations, these Standard Terms and Conditions, Program-Specific Terms and Conditions, or any Special Award Conditions, Treasury may take any of the following actions (in addition to the remedies in Section A.5 above applicable to Direct Component awards):
  - a. Impose additional Special Award Conditions such as:
    - i. Allowing payment only on a reimbursement basis;
    - ii. Requiring additional reporting or more frequent submission of the SF-425, SF-PPR, or Status of Performance Report;
    - iii. Requiring additional activity, project, or program monitoring;
    - iv. Requiring the recipient or one or more of its subrecipients to obtain technical or management assistance; and/or
    - v. Establishing additional actions that require prior approval;
  - b. Temporarily withhold payments pending correction of the non-compliance;
  - c. Disallow from funding from this Award all or part of the cost of the activity or action not in compliance;
  - d. Wholly or partly suspend or terminate this Award;
  - e. Withhold additional Awards; and/or
  - f. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180.

Treasury will notify the recipient in writing of Treasury's proposed determination that an instance of non-compliance has occurred, provide details regarding the instance of non-compliance, and indicate the remedy that Treasury proposes to pursue. The recipient will then have 30 calendar days to respond and provide information and documentation contesting Treasury's proposed determination or suggesting an alternative remedy. Treasury will consider any and all information provided by the recipient and issue a final determination in writing, which will state Treasury's final findings regarding non-compliance and the remedy to be imposed.

2. In extraordinary circumstances, Treasury may require that any of the remedies above take effect immediately upon notice in writing to the recipient. In such cases, the recipient may contest Treasury's determination or suggest an alternative remedy in writing to Treasury, and Treasury will issue a final determination.
3. Instead of, or in addition to, the remedies listed above, Treasury may refer the non-compliance to the Treasury Office of Inspector General for investigation or audit. Treasury will refer all allegations of fraud, waste, or abuse to the Treasury Inspector General.
4. Treasury may terminate this Award in accordance with 2 C.F.R. § 200.339. Requests for termination by the recipient must also be in accordance with 2 C.F.R. § 200.339. Such

requests must be in writing and must include the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated. If Treasury determines that the remaining portion of this Award will not accomplish the purpose of this Award, Treasury may terminate this Award in its entirety.

5. If this Award is terminated, Treasury will update or notify any relevant government-wide systems or entities of any indications of poor performance as required by 41 U.S.C. § 417b and 31 U.S.C. § 3321 and implementing guidance at 2 C.F.R. Part 77.
6. Costs that result from obligations incurred by the recipient during a suspension or after termination are not allowable unless Treasury expressly authorizes them in the notice of suspension or termination or subsequently. However, costs during suspension or after termination are allowable if: (1) the costs result from obligations which were properly incurred by the recipient before the effective date of suspension or termination, and are not in anticipation of it; and (2) the costs would be allowable if the Award was not suspended or expired normally at the end of the period of performance in which the termination takes effect.

## **N DEBTS**

### **1. Payment of Debts Owed the Federal Government**

- a. Any funds paid to the recipient in excess of the amount to which the recipient is finally determined to be authorized to retain under the terms of this Award constitute a debt to the federal government.
- b. Any debts determined to be owed the federal government must be paid promptly by the recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made. Interest, penalties, and administrative charges (see paragraphs c, d, and e below) shall be charged on delinquent debts in accordance with 31 U.S.C. § 3717 and 31 C.F.R. § 901.9. Treasury will refer any debt that is more than 180 days delinquent to Treasury's Bureau of the Fiscal Service for debt collection services.
- c. The minimum annual interest rate to be assessed on any debts is the Department of the Treasury's Current Value of Funds Rate (CVFR). The CVFR is available online at [http://www.fiscal.treasury.gov/fsreports/rpt/cvfr/cvfr\\_home.htm](http://www.fiscal.treasury.gov/fsreports/rpt/cvfr/cvfr_home.htm). The assessed rate shall remain fixed for the duration of the indebtedness, based on the beginning date in Treasury's written demand for payment.
- d. Penalties on any debts shall accrue at a rate of not more than 6 percent per year or such other higher rate as authorized by law.
- e. Administrative charges, that is, the costs of processing and handling a delinquent debt, shall be determined by Treasury.
- f. Funds for payment of a debt must not come from other federally sponsored programs. Verification that other federal funds have not been used will be made, e.g., during on-site visits and audits.

### **2. Effect of Judgment Lien on Eligibility for Federal Grants, Loans, or Programs**

Pursuant to 28 U.S.C. § 3201(e), unless waived in writing by Treasury, 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.

## **O 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 recipient is required to comply with all non-discrimination requirements summarized in this section, and to ensure that all subawards contain these nondiscrimination requirements.

### **1. Statutory Provisions**

- a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) prohibits discrimination on the grounds of race, color, or national origin under programs or activities receiving federal financial assistance;
- b. Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681 et seq.) prohibits discrimination on the basis of sex under federally assisted education programs or activities;
- c. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794) prohibits discrimination on the basis of handicap under any program or activity receiving or benefitting from federal assistance;
- d. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), prohibits discrimination on the basis of age in programs or activities receiving federal financial assistance;
- e. The Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.) (“ADA”), prohibits 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.

Revised ADA Standards for Accessible Design for Construction Awards: The U.S. Department of Justice has issued revised regulations implementing Title II of the ADA (28 C.F.R. Part 35) and Title III of the ADA (28 C.F.R. Part 36). The revised regulations adopted new enforceable accessibility standards called the “2010 ADA Standards for Accessible Design” (2010 Standards). The 2010 Standards are an acceptable alternative to the Uniform Federal Accessibility Standards (UFAS). Treasury deems compliance with the 2010 Standards to be an acceptable means of complying with the Section 504 accessibility requirements for new construction and alteration projects;

- f. Any other applicable non-discrimination law(s).

### **2. Other Provisions**

- a. Parts II and III of EO 11246 (30 Fed. Reg. 12319, 1965), “Equal Employment Opportunity,” as amended by EO 11375 (32 Fed. Reg. 14303, 1967) and 12086 (43 Fed. Reg. 46501, 1978), require federally assisted construction contracts to include the nondiscrimination provisions of §§ 202 and 203 of that EO and Department of Labor regulations implementing EO 11246 (41 C.F.R. § 60-1.4(b), 1991).

- b. EO 13166 (August 11, 2000), "Improving Access to Services for Persons With Limited English Proficiency," requires 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 meaningful access to them.

### **3. 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.

### **4. Protections for Whistleblowers**

In accordance with 41 U.S.C. § 4712, neither the recipient nor any of its subrecipients, contractors (vendors), or subcontractors may discharge, demote, or otherwise discriminate against an employee as a reprisal for disclosing information to a person or entity listed below that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant:

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

## **P REQUIREMENT TO CHECK DEBARMENT AND SUSPENSION STATUS OF SUBRECIPIENTS, CONTRACTORS, SUBCONTRACTORS AND VENDORS**

1. Recipients that are authorized to enter into subawards or contracts to accomplish all or a portion of the approved scope of work must verify that neither a proposed subrecipient, contractor (if the contract is expected to equal or exceed \$25,000) nor its principals appears on the federal government's Excluded Parties List prior to executing an agreement or contract with that entity. Recipients may not enter into a subaward or contract with an entity that appears on the Excluded Parties List. The Excluded Parties List is accessible at <http://www.sam.gov>.

2. The recipient must ensure that any agreements or contracts with subrecipients or contractors (vendors) require that entity to verify that none of their contractors (for contracts expected to equal or exceed \$25,000), subcontractors (for subcontracts expected to equal or exceed \$25,000), nor principals that these entities engage to accomplish the scope of work, if applicable, do not appear on the federal government's Excluded Parties List. Subrecipients and contractors may not enter into a contract or subcontract with an entity, nor that entity's principals, if that entity or its principals appear on the Excluded Parties List.
3. The recipient must include a term or condition in all lower tier covered transactions (subawards, contracts, and subcontracts described in 31 C.F.R. Part 19, subpart B) that the award is subject to 31 C.F.R. Part 19.

**Q DRUG FREE WORKPLACE**

The recipient must comply with the provisions of the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Sec. 5153, as amended by Public Law 105-85, Div. A, Title VIII, Sec. 809, as codified at 41 U.S.C. § 8102), and Treasury implementing regulations at 31 C.F.R. Part 20, which require that the recipient take steps to provide a drug-free workplace.

**R LOBBYING RESTRICTIONS**

**1. Statutory Provisions**

The recipient must comply with the provisions of 31 U.S.C. § 1352, and regulations at 31 C.F.R. Part 21. These provisions generally prohibit the use of federal funds for lobbying the Executive or Legislative Branches of the federal government in connection with this Award, and require the disclosure of the use of non-federal funds for lobbying.

**2. Disclosure of Lobbying Activities**

The recipient receiving in excess of \$100,000 in federal funding must submit a completed Form SF-LLL, "Disclosure of Lobbying Activities," regarding the use of non-federal funds for lobbying. The Form SF-LLL must 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 recipient must include a statement in all subawards, contracts, and subcontracts exceeding \$100,000 in federal funds, that the subaward, contract, or subcontract is subject to 31 U.S.C § 1352. The recipient must 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 must 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 must be submitted from subcontractor to contractor, and lower tier subrecipient to subrecipient, until received by the recipient.

The recipient must submit the Forms SF-LLL, including those received from subrecipients, contractors, and subcontractors, to Treasury within 30 days following the end of the calendar period.

## **S PROCUREMENT**

1. The recipient must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
2. When the recipient makes a subaward to a subrecipient that is authorized to enter into contracts for the purpose of completing the subaward scope of work, the recipient must require the subrecipient to comply with the requirements contained in this section.
3. Requirements applicable to recipients that are states: When executing procurement actions under this Award, the recipient must follow the same policies and procedures it uses for procurements from its non-federal funds. The recipient must ensure that every purchase order or other contract contains any clauses required by federal statutes and EOs and their implementing regulations, including all of the provisions listed in Appendix II to 2 C.F.R. Part 200—*Contract Provisions for Non-Federal Entity Contracts under Federal Awards*, as well as any other provisions required by law or regulations.
4. Requirements applicable to recipients that are not states: The recipient must follow all procurement requirements set forth in 2 C.F.R. §§ 200.318, 200.319, 200.320, 200.321, 200.323, and 200.324. In addition, all contracts executed by the recipient to accomplish the approved scope of work must contain any clauses required by federal statutes and EOs and their implementing regulations, including all of the provisions listed in Appendix II to 2 C.F.R. Part 200—*Contract Provisions for Non-Federal Entity Contracts under Federal Awards*.
5. The recipient, subrecipient, contractor, and/or subcontractor must not sub-grant or sub-contract any part of the approved project to any agency or employee of Treasury and/or other federal department, agency, or instrumentality without the prior written approval of Treasury. Treasury will forward all requests to Treasury's Office of General Counsel for review before making a decision. Treasury will notify the recipient in writing of the final determination.

## **T RESEARCH INVOLVING HUMAN SUBJECTS**

1. No research involving human subjects is permitted under this Award unless expressly authorized by a special award condition, or otherwise in writing by Treasury.
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. The recipient must 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 recipient must submit appropriate documentation to Treasury for approval by the appropriate Treasury officials. This documentation may include:
  - a. 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;

- b. Documentation to support an exemption for the project;
  - c. Documentation to support deferral for an exemption or IRB review; or
  - d. 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 Treasury.

## **U ENVIRONMENTAL REQUIREMENTS**

The recipient must comply with all environmental standards, and provide information requested by Treasury relating to compliance with environmental standards, including the following federal statutes and EOs. If the recipient is permitted to make any subawards, the recipient must include all of the environmental statutes, regulations, and executive orders listed below in any agreement or contract with a subrecipient, and require the subrecipient to comply with all of these and to notify the recipient if the subrecipient becomes aware of any impact on the environment that was not noted in the recipient's approved application package.

1. National Historic Preservation Act (16 U.S.C. § 470 et seq.)
2. The National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321 et seq.)
3. Clean Air Act (42 U.S.C. §§ 7401 et seq.), Clean Water Act (33 U.S.C. §§ 1251 et seq.), and EO 11738
4. The Flood Disaster Protection Act of 1973 (42 U.S.C. § 4002 et seq.)
5. The Endangered Species Act of 1973, as amended, (16 U.S.C. § 1531 et seq.)
6. The Coastal Zone Management Act, as amended, (16 U.S.C. § 1451 et seq.)
7. The Coastal Barriers Resources Act, (16 U.S.C. § 3501 et seq.)
8. The Wild and Scenic Rivers Act, as amended, (16 U.S.C. §§ 1271 et seq.)
9. The Safe Drinking Water Act of 1974, as amended, (42 U.S.C. §§ 300f-j)
10. The Resource Conservation and Recovery Act of 1976, as amended, (42 U.S.C. §§ 6901 et seq.)
11. The Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) (42 U.S.C. § 9601 et seq.) and the Community Environmental Response Facilitation Act (41 U.S.C. § 11001 et seq.)
12. Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801)
13. Marine Mammal Protection Act (16 U.S.C. § 31)
14. Rivers and Harbors Act of 1899 (33 U.S.C. § 407)
15. Environmental Justice in Minority Populations and Low Income Populations, EO 12898, February 11, 1994, as amended
16. Floodplain Management, EO 11988 and, Protection of Wetlands, EO 11990, May 24, 1977, as amended
17. Coral Reef Protection, EO 13089, June 11, 1998
18. Invasive Species, EO 13112, February 3, 1999, as amended

19. Responsibilities of Federal Agencies to Protect Migratory Birds, EO 13186, January 10, 2001
20. Preparing the United States for the Impacts of Climate Change, EO 13653, November 1, 2013

## **V MISCELLANEOUS REQUIREMENTS AND PROVISIONS**

The recipient must comply with all miscellaneous requirements and provisions described in this section and, when applicable, require its subrecipients, contractors, and subcontractors to comply. This list is not exclusive:

### **1. Prohibition Against Assignment by the Recipient**

Notwithstanding any other provision of this Award, the recipient must not transfer, pledge, mortgage, or otherwise assign this 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 Treasury.

### **2. Disclaimer Provisions**

- a. The United States expressly disclaims any and all responsibility or liability to the recipient or third persons for the actions of the recipient 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 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 by the recipient does not in any way constitute an agency relationship between the United States and the recipient.

### **3. Prohibited and Criminal Activities.**

- a. The Program Fraud Civil Remedies Act (31 U.S.C. §§ 3801-3812), 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).
- b. False Statements (18 U.S.C. §1001) provides that whoever makes or presents any materially false, fictitious, or fraudulent statements to the United States shall be subject to imprisonment of not more than five years.
- c. False Claims (18 U.S.C. § 287) provides that whoever makes or presents a false, fictitious, or fraudulent claim against or to 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 in 18 U.S.C. § 287.
- d. False Claims Act (31 U.S.C. 3729 et seq.), provides that suits under this act can be brought by the federal government, or a person on behalf of the federal government, for false claims under federal assistance programs.
- e. Copeland "Anti-Kickback" Act (18 U.S.C. § 874 and 40 U.S.C. § 276c), 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.

**4. Political Activities**

The recipient must comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

**5. American-Made Equipment and Products.**

The recipient is hereby notified that it is encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this Award.

**6. Increasing Seat Belt Use in the United States.**

Pursuant to EO 13043, the recipient should encourage its employees and contractors to enforce on-the-job seat belt policies and programs when operating company-owned, rented or personally owned vehicles.

**7. Minority Serving Institutions (MSIs) Initiative.**

Pursuant to EOs 13555, 13270, and 13532, Treasury is strongly committed to broadening the participation of MSIs in its financial assistance programs. Treasury'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. Treasury encourages recipients to include meaningful participation of MSIs. Institutions eligible to be considered MSIs are listed on the Department of Education website (see <http://www2.ed.gov/about/offices/list/ocr/edlite-minorityinst.html>).

**8. Research Misconduct**

Treasury adopts, and applies to Awards for research, the Federal Policy on Research Misconduct (Federal Policy) issued by the EO of the President's Office of Science and Technology Policy on December 6, 2000 (65 Fed. Reg. 76260 (2000)). 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. Recipients that conduct research funded by Treasury must foster an atmosphere conducive to the responsible conduct of sponsored research by safeguarding against and resolving allegations of research misconduct. Recipients 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. Award funds expended on an activity that is determined to be invalid or unreliable because of research misconduct may result in appropriate enforcement action under the Award, up to and including Award termination and possible suspension or debarment. Treasury requires that any allegation that contains sufficient information to proceed with an inquiry be submitted to Treasury, which will also notify the Treasury Office of Inspector General of such allegation. Once the recipient has investigated the allegation, it will submit its findings to Treasury. Treasury may accept the recipient's findings or proceed with its own investigation; Treasury shall inform the recipient of the Treasury's final determination.

**9. Care and Use of Live Vertebrate Animals**

Recipients must comply with the Laboratory Animal Welfare Act of 1966 (Public Law 89-544), as amended, (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.

**10. 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 the recipient or subrecipient engages in certain activities related to 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 this Award is in effect;
  - ii. Procure a commercial sex act during the period of time that this Award is in effect; or
  - iii. Use forced labor in the performance of this Award or subawards under this 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 Section V.10; or
  - ii. Has an employee who is determined by the agency official authorized to terminate this Award to have violated a prohibition in paragraph a.1 of this Section V.10 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 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 31 C.F.R. part 19.

*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 Section V.10; or

2. Has an employee who is determined by the agency official authorized to terminate this Award to have violated an applicable prohibition in paragraph a.1 of this Section V.10 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 our agency at 31 C.F.R. part 19.

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 Section V.10.
2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this Section V.10:
  - 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 Section V.10 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).
    - 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).

**11. The Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109-282, 31 USC § 6101 note)**

- a. The award term at Appendix A of 2 C.F.R. Part 170 is hereby incorporated by reference.
- b. The Federal Funding Accountability and Transparency Act of 2006 (FFATA) requires information on federal awards to be made available to the public via a single, searchable website. This information is available at [www.USASpending.gov](http://www.USASpending.gov). The FFATA Subaward Reporting System (FSRS) is the reporting tool federal prime awardees (*i.e.*, prime contractors and prime grants recipients) use to capture and report subaward and executive compensation data regarding their first-tier subawards to meet the FFATA reporting requirements. Prime grant awardees will report against sub-grants awarded. The subaward information entered in FSRS will then be displayed on <http://www.USASpending.gov>.
- c. Recipients of RESTORE Act funding are subject to FFATA subaward reporting requirements as outlined in the OMB guidance on FFATA issued August 27, 2010. The recipient is required to file a FFATA subaward report by the end of the month following the month in which the recipient makes any subaward greater than or equal to \$25,000. This includes any action that brings the cumulative total award to \$25,000 or more. This report must be filed electronically at <http://www.fsr.gov>.
- d. The recipient must report total compensation for each of its five most highly compensated executives for the preceding completed fiscal year, by the end of the month following the month in which this Award is made, and annually thereafter if—
  - i. The total federal funding authorized to date under this Award is \$25,000 or more; and
  - ii. In the preceding fiscal year, the recipient received—
    - 1) 80 percent or more of annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to FFATA, as defined at 2 C.F.R. § 170.320 (and subawards); and
    - 2) \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to FFATA, 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/excomp.htm>.)
- e. The recipient must report on the total compensation of its subrecipients' five most highly compensated executives, as required by FFATA, and must include provisions in every executed contract or agreement with affected subrecipients requiring the subrecipient to provide all information necessary for the recipient to report on subrecipient executive compensation. The recipient must report on

subrecipient executive compensation by the end of the month following the month during which the recipient makes the subaward.

- f. The recipient must keep its information current in SAM (System for Award Management, which is the successor to the Central Contractor Registry, CCR) at least until submission of the final SF-425 or receipt of the final Award payment, whichever is later. This requires that the recipient review and update the information at least annually after the initial registration, and more frequently if required by changes in the recipient's information. SAM is 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/>).
- g. If the recipient is authorized to make subawards under this Award, the recipient must notify potential subrecipients that the recipient may not make a subaward to any entity unless that entity has provided its Data Universal Numbering System (DUNS) number to the recipient. A DUNS number is the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities.

## **12. Publications and Signage**

Any publications (except scientific articles or papers appearing in scientific, technical, or professional journals) or signage produced with funds from this Award, or informing the public about the activities funded in whole or in part by this Award, must clearly display the following language: "This project was paid for [in part] with federal funding from the Department of the Treasury under the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act)." Publications (except scientific articles or papers appearing in scientific, technical, or professional journals) produced with funds from this Award must display the following additional language: "The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of the Department of the Treasury."

## **13. Homeland Security Presidential Directive 12**

If the performance of this Award requires the recipient's personnel to have routine access to Treasury-controlled facilities and/or Treasury-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, Treasury 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 this Award must comply with Treasury 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 recipient must ensure that its subrecipients and contractors (at all tiers) performing work under this Award comply with the requirements contained in this Section V.13. Treasury may delay final payment under this Award if the subrecipient or contractor fails to comply with the requirements listed in the section below. The recipient must insert the following term in all subawards and contracts when the subrecipient or contractor is required to have routine physical access to a Treasury-controlled facility or routine access to a Treasury-controlled information system:

- a. The subrecipient or contractor must comply with Treasury 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.
- b. The subrecipient or contractor must 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 must return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by Treasury:
  - i. When no longer needed for subaward or contract performance;
  - ii. Upon completion of the subrecipient or contractor employee's employment;
  - iii. Upon subaward or contract completion or termination.

#### **14. Foreign Travel**

- a. The recipient may not use funds from this Award for travel outside of the United States unless Treasury provides prior written approval.
- b. The recipient must 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.
- c. 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.
- d. 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/>.
- e. If a foreign air carrier is anticipated to be used for any portion of travel funded under this Award, the recipient must receive prior approval from the Treasury. When requesting such approval, the recipient must provide a justification in accordance with guidance provided by 41 C.F.R. § 301-10.142, which requires the recipient to provide Treasury 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 recipient meets one of the exceptions to the regulations. If the use of a foreign air carrier is pursuant to a bilateral agreement, the recipient must provide Treasury with a copy of the agreement or a citation to the official agreement available on the GSA website. Treasury shall make the final determination and notify the recipient in writing. Failure to adhere to the provisions of the Fly America Act will result in the recipient not being reimbursed for any transportation costs for which the recipient improperly used a foreign air carrier.

## **15. Export Control**

- a. This clause applies to the extent that this Award involves access to export-controlled items.
- b. In performing this financial assistance Award, the recipient may gain access to items subject to export control (export-controlled items) under the Export Administration Regulations (EAR) issued by the Department of Commerce (DOC). The recipient is responsible for compliance with all applicable laws and regulations regarding export-controlled items, including the EAR's deemed exports and re-exports provisions. The recipient shall establish and maintain effective export compliance procedures throughout performance of the 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.
- c. 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/Re-export. 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. 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 United States. If such a release occurs abroad, it is considered a deemed re-export to the foreign national's home country. Licenses from DOC may be required for deemed exports or re-exports.
- d. The recipient shall control access to all export-controlled items that it possesses or that comes into its possession in performance of this Award, to ensure that access to, or release of, such items are restricted, or licensed, as required by applicable federal statutes, EOs, and/or regulations, including the EAR.
- e. To the extent the recipient wishes to provide foreign nationals with access to export-controlled items, the recipient shall be responsible for obtaining any necessary licenses, including licenses required under the EAR for deemed exports or deemed re-exports.
- f. Nothing in the terms of this Award is intended to change, supersede, or waive the requirements of applicable federal statutes, EOs, and/or regulations.
- g. Compliance with this Section V.15 will not satisfy any legal obligations the recipient 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.

- h. The recipient shall include this clause, including this paragraph (i), in all lower tier transactions (subawards, contracts, and subcontracts) under this Award that may involve access to export-controlled items.