

**COASTAL MISSISSIPPI BOARD MEETING**  
**May 26, 2022**  
**UNOFFICIAL MINUTES**

The Coastal Mississippi Board met Thursday, May 26, 2022, at 12:00 p.m. in the Coastal Mississippi Boardroom located at 2350 Beach Blvd., Suite A, Biloxi, MS 39531.

Commissioners Present: Brooke Shoultz, President; Jim Williams, Treasurer; Richard Marsh, Secretary; Ann Stewart Bill Holmes, Blaine LaFontaine, Greg Cronin, Jackie Avery, Jr., Janet McMurphy, Jerry St. Pé, Jimmie Ladner, Nikki Moon, Rusty David

Commissioners Absent: Danny Hansen, Kim Fritz

Staff Members Present: Judy Young, Executive Director; Pam Tomasovsky, Director of Finance & Employee Relations; Patty Meagher, Director of Communications & Engagement; Zach Holifield, Director of Leisure Business Development; Duncan Ing, Executive Administrator; Ari Covacevich, Regional Sales Executive

Others Present: Je'Nell Blum, Legal Counsel; Coastal Mississippi Advisory Members: Myrna Green, Hancock County Tourism; Mike Davis, Proxy for MS. Hotel and Lodging Association; Gloria Frey, Mississippi Coast Coliseum and Convention Center; Guests: Stephen Schoettmer, Rapiscan Tournament Director

President Brooke Shoultz called the meeting to order at 12:04 p.m.

1. Introduction of Guests

2. Antitrust, Conflicts, Confidentiality Reminder

3. Commissioner Moon made the motion to ratify the meeting time change from 3:00 p.m. to 12:00 p.m., seconded by Commissioner Williams. President Shoultz called the question with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

4. Rapiscan Tournament Director Presentation- Stephen Schoettmer

5. President's Report

6. Commissioner St. Pe' made the motion to accept the Consent Agenda as presented, seconded by Commissioner Ladner. Accordingly, approval of the April 28, Monthly Meeting Minutes, Sugar Bert Boxing Group Incentive, Southern Black Softball Association Group Incentive, 2025 Senior and Junior Beta Club Group Incentive, the National Rural Electric Cooperative Group Incentive, Financial Report, Departmental Reports, Executive Director's Report, KPI Report, June Calendar of Events, and the next meeting date- 6/30/2022 was considered for approval. President Shoultz called the question, with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

Coastal Mississippi legal counsel, Je’Nell Blum, gave report on the following items:

7. Commissioner LaFontaine made the motion to approve the agreement for Gouras and Associates as the Grant Services Administrator for the MDEQ Wayfinding Signage Project, seconded by Commissioner Ladner. President Shoultz called the question, with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

8. Commissioner LaFontaine made the motion to approve the Sub Award Agreement with MDEQ, seconded by Commissioner Cronin. President Shoultz called the question, with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

9. Commissioner Moon made the motion to approve the Simpleview Advanced Meetings Facilities Search Work Order, seconded by Commissioner Williams. President Shoultz called the question, with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

10. Commissioner Ladner made the motion to approve the Simpleview Click to Compare Work Order, seconded by Commissioner William. President Shoultz called the question, with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

11. Commissioner Ladner made the motion to amend the agenda by adding the Pearl River Resort Room Block Agreement to number five under legal, seconded by Commissioner David. President Shoultz called the question, with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

12. Commissioner McMurphy made the motion to approve the Pearl River Resort Room Block Agreement and \$6,000 in expenditures related to the event, seconded by Commissioner Cronin. President Shoultz called the question, with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

13. Commissioner Holmes made the motion to give the Executive Director of Coastal Mississippi and legal counsel the authority to determine if any and all contract language for Peter Mayer can be amended or canceled, seconded by Commissioner Marsh. President Shoultz called the question, with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes

Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

14. Old Business: No action taken.

15. New Business:

16. Commissioner St. Pe' made the motion to approve the Slate of New Officers as follows pending a letter from the nominees' respective Board of Supervisors stating that each would be reappointed to the Coastal Mississippi Board of Commissioners, with the understanding that President Shoultz would serve a one-year term with Greg Cronin being her successor: Brooke Shoultz, President; Greg Cronin, Vice President/ President-Elect; Jimmy Ladner, Treasurer; Jackie Avery Jr., Secretary. Seconded by Commissioner Williams, President Shoultz called the question with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

17. Commissioner Moon made the motion to amend the Bylaws by changing the title of the Vice President of the Coastal Mississippi Board of Commissioners to Vice President/ President-Elect, seconded by Commissioner Ladner. President Shoultz called the question with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

18. Vehicle Status Update

19. Commissioner LaFontaine made the motion to ratify the Restore Act and GOMESA Seafood Marketing and Advertising Campaign, seconded by Commissioner Cronin. President Shoultz called the question with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes

Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

20. Commissioner LaFontaine made the motion to ratify the Restore Act Sports Incentive Fund, seconded by Commissioner Moon. President Shoultz called the question with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

21. Commissioner Moon made the motion to approve the Group Incentive Guidelines/Form, seconded by Commissioner Avery Jr. President Shoultz called the question with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

22. Commissioner Williams made the motion to approve the Marketing Assistance Application and Procedures, seconded by Commissioner Ladner. President Shoultz called the question with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

23. Commissioner Stewart made the motion to enter Closed Session to discuss the need to enter into Executive Session, seconded by Commissioner Moon. President Shoultz called the question, with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

24. Commissioner Ladner made the motion to exit Closed Session and reconvene in Open Meeting, seconded by Commissioner Marsh, President Shoultz called the question, with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

Legal Counsel stated no action was taken in Closed Session.

25. Commissioner St. Pe' made the motion to enter Executive Session for the purpose of discussing personnel matters, seconded by Commissioner Cronin. President Shoultz called the question, with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

26. Commissioner St. Pe' made the motion to exit Executive Session and reconvene in Open Meeting, seconded by Commissioner McMurphy, President Shoultz called the question, with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.  
Legal Counsel stated there was no action taken in Executive Session.

27. Commissioner Ladner made the motion to adjourn the meeting, seconded by Commissioner McMurphy. President Shoultz called the question, with the following results:

Commissioner Avery, Jr.	Voted ---- Yes	Commissioner LaFontaine	Voted ---- Yes
Commissioner Cronin	Voted ---- Yes	Commissioner Marsh	Voted ---- Yes
Commissioner David	Voted ---- Yes	Commissioner McMurphy	Voted ---- Yes
Commissioner Hansen	Voted ---- Absent	Commissioner Moon	Voted ---- Yes
Commissioner Fritz	Voted ---- Absent	Commissioner St. Pé	Voted ---- Yes
Commissioner Holmes	Voted ---- Yes	Commissioner Stewart	Voted ---- Yes
Commissioner Ladner	Voted ---- Yes	Commissioner Williams	Voted ---- Yes

The motion having been duly made, seconded, and a favorable vote received from the Board, President Shoultz declared the motion adopted May 26, 2022.

## PUBLIC MEETING NOTICE



The Mississippi Gulf Coast Regional Convention and Visitors Bureau d/b/a Coastal Mississippi will hold its Monthly Board meeting for the purposes of the following:

**Thursday, May 26, 2022**

**12:00pm-2:00pm**

**Coastal Mississippi Board Room  
2350 Beach Blvd, Suite A  
Biloxi, MS 39531**



## AGENDA

**Coastal Mississippi  
Monthly Board Meeting  
May 2022 Monthly Board Meeting  
Thursday, May 26, 2022, 12:00 pm - 2:00 pm  
Coastal Mississippi Boardroom**

- A. Call to Order
- B. Introductions of Guests

Please limit speaking to no more than three (3) minutes per guest.

- C. Antitrust, Conflicts, Confidentiality
- D. Rapiscan Tournament Director Presentation-Stephen Schoettmer
- E. President's Report - President Brooke Shultz
- F. Consent Agenda- [Action Requested](#)

- 1. Approval of April 28th Monthly Meeting Minutes

Birmingham Activation Agreement Attached at end of minutes because of it being executed on 5.16.22

- 2. Sugar Bert Boxing Group Incentive
- 3. Southern Black Softball Association Group Incentive
- 4. 2025 Senior and Junior Beta Club Group Incentive
- 5. National Rural Electric Cooperative Group Incentive
- 6. Financial Report
  - a. Supplemental Finance Information
- 7. Departmental Reports
- 8. Executive Director Report- Judy Young
- 9. KPI Report
- 10. June Calendar of Events
- 11. Next Meeting Date-6/30/2022-Coastal Mississippi Boardroom 3:00 PM

- G. Legal - Contracts & Agreements

- 1. Agreement for Gouras and Associates- [Action Requested](#)
- 2. Sub Award Agreement with MDEQ -[Action Requested](#)
- 3. Simpleview Advanced Meetings Facilities Search -[Action Requested](#)
- 4. Simpleview Click to Compare - [Action Requested](#)

- H. Old Business
- I. New Business

1. Slate of New Officers
  2. Vehicles Status Update
  3. Restore Act & GOMESA- Seafood Marketing and Advertising Campaign- [Action Requested](#)
  4. Restore Act- Sports Incentive Fund- [Action Requested](#)
  5. Group Incentive Guidelines/Form- [Action Requested](#)
  6. Marketing Assistance Application and Procedures- [Action Requested](#)
- J. Executive Session - [Action Requested](#)
- K. Adjourn - [Action Requested](#)
- L. Reminders:  
**> Coastal Mississippi Monthly Board Meeting**  
*Thursday, June 30th 2022 3:00pm Coastal Mississippi Boardroom*
- M. *Items of Future Consideration (Informational Purposes Only)*
1. Budget Timeline
  2. Gulf Coast Restoration Fund Timeline
- N. Letters and Notes



**Group Incentive Request**

**Event Name: Green Belt South Tournament**  
**Organization: Sugar Bert Boxing Promotions**

**Event Date: August 26-28, 2022**

**Pattern: Fri-Sun**

**Peak Rooms: 550**

**Total Room Nights Requested: 1,200**

**Room Nights Required to Receive Incentive (80% of requested): 960**

**Hotels Participating: City-wide**

**Location: Mississippi Coast Coliseum & Convention Center**

**# of Attendees:**

**Anticipated Room Block Information:**

Day	Thursday	Friday	Saturday	Sunday
Date	August 25	August 26	August 27	August 28
Anticipated Block	50	550	550	50

**Competition: No competition. The organizer has held this event in Biloxi for the last two years and was very successful so they are interested in coming back.**

**Estimated Economic Impact: \$971,466**

**Funds Requested: \$10,150**

**Purpose of Funds: To offset the cost of renting the facility.**

Submitted by:

Approved? Judy Young

Denied? \_\_\_\_\_

Incentive Funds Allocated: \_\_\_\_\_

**3-year group history (Dates, City, Room Nights Picked Up, Attendees):**

**2020 WBC Green Belt South Tournament**

- **February 19-24, 2020**
- **Biloxi, MS**
- **1,015 Total Room Nights**
- **1,000 Attendees**

**2021 WBC Green Belt South Tournament**

- **May 12-17, 2021**
- **Biloxi, MS**
- **2,083 Total Room Nights**
- **1,500 Attendees**

**Other Considerations:**

Incentive Proposal prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

**Internal Use Only:**

Submitted by:

Approved? \_\_\_\_\_

Denied? \_\_\_\_\_

Incentive Funds Allocated: \_\_\_\_\_



## Event Impact Calculator Detail - 2022 WBC Green Belt South Tournament - 05/18/2022

### Event Summary

Key Parameters		Key Results	
Event Name:	2022 WBC Green Belt South Tournament	Business Sales (Direct):	\$681,807
Organization:	Sugar Bert Boxing Promotions	Business Sales (Total):	\$948,580
Event Type:	Sports: Youth Amateur	Jobs Supported (Direct):	425
Start Date:	08/26/2022	Jobs Supported (Total):	434
End Date:	08/28/2022	Local Taxes (Total):	\$12,215
Overnight Attendees:	297	Net Direct Local Tax ROI:	\$11,279
Day Attendees:	2673	Est. Room Nights Demand:	1,200

### Direct Business Sales

#### Sales by Source

Attendees Spending:	\$643,201	Exhibitor Spending:	\$97
Organizer Spending:	\$38,509	Total Event Spending:	\$681,807

#### Business Sales by Sector

Industry	Attendees	Organizer	Media/Sponsors	Total
Lodging	\$138,000	\$0*	\$0	\$138,000
Transportation	\$75,256	\$1,104*	\$62	\$76,422
Food & Beverage	\$228,271	\$18,887*	\$0	\$247,158
Retail	\$135,212	\$0	\$0	\$135,212
Recreation	\$66,462	\$0	\$0	\$66,462
Space Rental	\$0	\$7,849*	\$0	\$7,849
Business Services	\$0	\$10,669*	\$35	\$10,704
<b>Totals</b>	<b>\$643,201</b>	<b>\$38,509</b>	<b>\$97</b>	<b>\$681,807</b>

\* indicates that the calculator's model defaults were used

### Economic Impact Details

	Direct	Indirect/Induced	Total
<b>Business Sales</b>	<b>\$681,807</b>	<b>\$266,773</b>	<b>\$948,580</b>
<b>Personal Income</b>	<b>\$183,202</b>	<b>\$57,272</b>	<b>\$240,474</b>
<b>Jobs Supported</b>			
Persons	425	9	434
Annual FTEs	9	0	9
<b>Taxes And Assessments</b>			

<u>Federal Total</u>	<u>\$56,544</u>	<u>\$20,481</u>	<u>\$77,025</u>
<u>State Total</u>	<u>\$53,364</u>	<u>\$8,582</u>	<u>\$61,946</u>
Sales	\$43,142	\$4,669	\$47,810
Income	\$1,092	\$341	\$1,434
Bed	\$0		\$0
Other	\$9,130	\$3,572	\$12,702
<u>Local Total</u>	<u>\$11,279</u>	<u>\$937</u>	<u>\$12,215</u>
Sales	\$0	\$0	\$0
Income	\$0	\$0	\$0
Bed	\$6,210		\$6,210
Per Room Charge	\$0		\$0
Tourism District	\$0		\$0
Restaurant	\$3,424	\$294	\$3,718
Other	\$1,645	\$643	\$2,288
Property Tax	\$8,237	\$1,950	\$10,187

### Event Return On Investment (ROI)

#### Direct

Direct Tax Receipts	\$11,279
DMO Hosting Costs	\$0
Direct ROI	\$11,279
Net Present Value	\$11,279
Direct ROI (%)	-

#### Total

Total Local Tax Receipts	\$12,215
Total ROI	\$12,215
Net Present Value	\$12,215
Total ROI (%)	-

### Estimated Room Demand Metrics

Room Nights Sold:	1,200	:
Room Pickup (block only):	1,200	:
Peak Room Nights:	110	:
Total Visitor Days:	4,744	:



**Group Incentive Request**

**Event Name: 2022 SBSAO World Softball Tournament**  
**Organization: Southern Black Softball Association**

**Event Date: August 5-7, 2022**

**Pattern: Fri-Sun**

**Peak Rooms: 350**

**Total Room Nights Requested: 800**

**Room Nights Required to Receive Incentive (80% of requested): 640**

**Hotels Participating: City-wide**

**Location: Gulfport Goldin Complex**

**# of Attendees: 1,000**

**Anticipated Room Block Information:**

Day	Thursday	Friday	Saturday	Sunday
Date	August 4	August 5	August 6	August 7
Anticipated Block	25	350	350	25

**Competition: Beaumont, TX**

**Estimated Economic Impact: \$784,368**

**Funds Requested: \$2,500**

**Purpose of Funds: Offset facility cost**

**Internal Use Only:**

Submitted by:

Approved? Judy Lyons

Denied? \_\_\_\_\_

Incentive Funds Allocated: \_\_\_\_\_

**3-year group history (Dates, City, Room Nights Picked Up, Attendees):**

**Last Three Events in Coastal Mississippi**

**2018 World Softball Tournament**

- August 3-5, 2018
- Gulfport, MS
- 1286 Total Room Nights Picked up
- 4,000 Attendees

**2017 World Softball Tournament**

- August 4-6, 2017
- Gulfport, MS
- 1493 Total Room Nights Picked up
- 4,300 Attendees

**2016 World Softball Tournament**

- August 12-14, 2016
- Gulfport, MS
- 1353 Total Room Nights
- 4,000 Attendees

**Other Considerations:**

Incentive Proposal prepared by: \_\_\_\_\_

Date: \_\_\_\_\_

**Internal Use Only:**

Submitted by:

Approved? \_\_\_\_\_

Denied? \_\_\_\_\_

Incentive Funds Allocated: \_\_\_\_\_





## Event Impact Calculator Detail - SBSAO World Softball Tournament - 05/18/2022

### Event Summary

Key Parameters		Key Results	
Event Name:	SBSAO World Softball Tournament	Business Sales (Direct):	\$784,368
Organization:	Southern Black Softball Association	Business Sales (Total):	\$1,090,159
Event Type:	Sports: Adult Amateur	Jobs Supported (Direct):	285
Start Date:	08/04/2022	Jobs Supported (Total):	302
End Date:	08/07/2022	Local Taxes (Total):	\$18,048
Overnight Attendees:	1125	Net Direct Local Tax ROI:	\$16,974
Day Attendees:	375	Est. Room Nights Demand:	1,863

### Direct Business Sales

#### Sales by Source

Attendees Spending:	\$731,686	Exhibitor Spending:	\$133
Organizer Spending:	\$52,549	Total Event Spending:	\$784,368

#### Business Sales by Sector

Industry	Attendees	Organizer	Media/Sponsors	Total
Lodging	\$279,505	\$0*	\$0	\$279,505
Transportation	\$22,341	\$1,533*	\$85	\$23,959
Food & Beverage	\$166,936	\$25,835*	\$0	\$192,771
Retail	\$188,845	\$0	\$0	\$188,845
Recreation	\$74,058	\$0	\$0	\$74,058
Space Rental	\$0	\$10,736*	\$0	\$10,736
Business Services	\$0	\$14,445*	\$48	\$14,492
Totals	\$731,686	\$52,549	\$133	\$784,368

\* indicates that the calculator's model defaults were used

### Economic Impact Details

	Direct	Indirect/Induced	Total
<b>Business Sales</b>	<b>\$784,368</b>	<b>\$305,792</b>	<b>\$1,090,159</b>
<b>Personal Income</b>	<b>\$198,321</b>	<b>\$69,562</b>	<b>\$267,884</b>
<b>Jobs Supported</b>			
Persons	285	17	302
Annual FTEs	9	1	10
<b>Taxes And Assessments</b>			

<u>Federal Total</u>	<u>\$63,631</u>	<u>\$23,923</u>	<u>\$87,554</u>
<u>State Total</u>	<u>\$60,846</u>	<u>\$9,861</u>	<u>\$70,707</u>
Sales	\$49,161	\$5,351	\$54,512
Income	\$1,182	\$415	\$1,597
Bed	\$0		\$0
Other	\$10,503	\$4,095	\$14,598
<u>Local Total</u>	<u>\$16,974</u>	<u>\$1,074</u>	<u>\$18,048</u>
Sales	\$0	\$0	\$0
Income	\$0	\$0	\$0
Bed	\$12,578		\$12,578
Per Room Charge	\$0		\$0
Tourism District	\$0		\$0
Restaurant	\$2,504	\$336	\$2,840
Other	\$1,892	\$738	\$2,629
Property Tax	\$9,476	\$2,231	\$11,707

### Event Return On Investment (ROI)

#### Direct

Direct Tax Receipts	\$16,974	\$16,974
DMO Hosting Costs	\$0	\$0
Direct ROI	\$16,974	\$16,974
Net Present Value	\$16,974	\$16,974
Direct ROI (%)	-	-

#### Total

Total Local Tax Receipts	\$18,048	\$18,048
Total ROI	\$18,048	\$18,048
Net Present Value	\$18,048	\$18,048
Total ROI (%)	-	-

### Estimated Room Demand Metrics

Room Nights Sold:	1,863	:
Room Pickup (block only):	800	:
Peak Room Nights:	592	:
Total Visitor Days:	3,822	:



**Group Incentive Request**

**Event Name:** 2025 Senior and Junior Beta Club Convention  
**Organization:** National Beta Club

**Event Dates:** February 23-28, 2025 **Pattern:** Monday-Thursday

- *Senior Beta: February 23-24-25, 2025*
- *Junior Beta: February 26-27-28, 2025*

**Peak Rooms:** 2166  
**Total Room Nights Requested:** 6,332  
**Room Nights Required to Receive Incentive (80% of requested):** 5,065

**Hotels Participating:** Around 20 non-gaming hotel properties typically participate  
**Location:** MS Coast Convention Center

**# of Attendees:**  
Senior- 3,500  
Junior- 6,000

**Anticipated Room Block Information:**

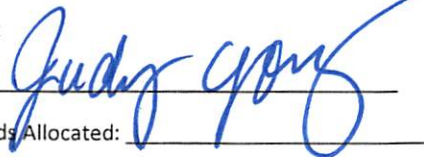
Day	Mon	Tues	Wed	Thurs	<u>TOTAL</u>
Date	02/24	02/25	02/26	02/27	
Anticipated Block	1,166	1,166	2,000	2,000	6,332

**Competition:** N/A

**Estimated Economic Impact:** \$9,179,774

**Funds Requested:** \$10,000  
**Purpose of Funds:** Offset Convention Center rental costs

**Internal Use Only:**

Submitted by:   
Approved? \_\_\_\_\_ Denied? \_\_\_\_\_  
Incentive Funds Allocated: \_\_\_\_\_

**3-year group history: Biloxi, MS**

**2018: Senior: 1661, Junior: 1730. Total: 3,391 room nights**

**2019: Senior: 1242, Junior: 2033. Total: 3,275 room nights**

**2022: Senior: 796, Junior: 530. Total: 1,326 room nights**

**2018:**

**Senior**

Day	Sun	Mon	Tues	TOTAL
Date	02/18	02/19	02/20	
Contracted	982	982	0	1964
Picked up	632	744	285	1661

**Junior:**

Day	Mon	Tues	Wed	Thurs	TOTAL
Date	03/26	03/27	03/28	03/29	
Contracted	0	0	1457	1457	2914
Picked up	13	38	927	752	1730

**2019-**

**Senior**

Day	Sat	Sun	Mon	TOTAL
Date	02/16	02/17	02/18	
Contracted		1180	1180	2360
Picked up	8	612	612	1242

**Junior:**

Day	Sat	Sun	Mon	TOTAL
Date		03/17	03/18	
Contracted		1180	1180	2360
Picked up	4	1012	1017	2033

**2022-**

**Senior:**

Day	Sun	Mon	TUES	TOTAL
Date	02/20	02/21	02/22	
Contracted	714	714	0	1,428
Picked up <small>Internal Use Only:</small>	375	369	52	796

**Junior:**

Day	Tues	Wed	Thurs	TOTAL
Date	03/15	03/16	03/17	
Contracted		736	736	1472
Picked up	82	251	197	530

Submitted by: \_\_\_\_\_

Approved? \_\_\_\_\_

Denied? \_\_\_\_\_

Incentive Funds Allocated: \_\_\_\_\_

**Other Considerations:**

National Beta Club utilizes the MS Coast Convention Center as well as multiple hotels during off peak times. They use the incentive funds to help offset some of the Convention Center costs. The students and chaperons visit restaurants and enjoy shopping while they are in town. It can be difficult to fully capture the room pick up because the hotels have a hard time keeping track, however, we know that when the groups are here, all hotels (apart from Casinos) are sold out and you can visibly see the school buses at each hotel. We know Senior brings in roughly 3,500 attendees and Junior brings in 6,500. They usually are 3 to a room. In addition, each school brings along a couple of chaperones and they utilize rooms as well.

Incentive Proposal prepared by:     Ari Covacevich    

Date:     05/06/2022    

**Internal Use Only:**

Submitted by:

Approved? \_\_\_\_\_

Denied? \_\_\_\_\_

Incentive Funds Allocated: \_\_\_\_\_



## Event Impact Calculator Detail - 2025 Mississippi Senior and Junior Beta Club Convention - 05/04/2022

### Event Summary

Key Parameters		Key Results	
Event Name:	2025 Mississippi Senior and Junior Beta Club Convention	Business Sales (Direct):	\$9,179,774
Organization:	National Beta Club	Business Sales (Total):	\$12,832,445
Event Type:	Conference/Convention	Jobs Supported (Direct):	2,789
Start Date:	02/23/2025	Jobs Supported (Total):	3,074
End Date:	02/28/2025	Local Taxes (Total):	\$116,858
Overnight Attendees:	9500	Net Direct Local Tax ROI:	\$94,030
Day Attendees:	0	Est. Room Nights Demand:	11,490

### Direct Business Sales

Sales by Source			
Attendees Spending:	\$4,568,092	Exhibitor Spending:	\$1,136,391
Organizer Spending:	\$3,475,291	Total Event Spending:	\$9,179,774

Business Sales by Sector				
Industry	Attendees	Organizer	Exhibitor	Total
Lodging	\$1,149,040	\$89,105*	\$0	\$1,238,146
Transportation	\$599,167	\$29,702*	\$178,211	\$807,079
Food & Beverage	\$2,012,162	\$1,734,537*	\$374,837	\$4,121,535
Retail	\$478,037	\$0	\$0	\$478,037
Recreation	\$329,687	\$0	\$0	\$329,687
Space Rental	\$0	\$585,796*	\$103,362	\$689,158
Business Services	\$0	\$1,036,152*	\$479,981	\$1,516,133
<b>Totals</b>	<b>\$4,568,092</b>	<b>\$3,475,291</b>	<b>\$1,136,391</b>	<b>\$9,179,774</b>

\* indicates that the calculator's model defaults were used

### Economic Impact Details

	Direct	Indirect/Induced	Total
<b>Business Sales</b>	<b>\$9,179,774</b>	<b>\$3,652,670</b>	<b>\$12,832,445</b>
<b>Personal Income</b>	<b>\$2,759,177</b>	<b>\$914,738</b>	<b>\$3,673,915</b>
<b>Jobs Supported</b>			
Persons	2,789	285	3,074

Annual FTEs	116	12	128
<b>Taxes And Assessments</b>			
<u>Federal Total</u>	<u>\$794,648</u>	<u>\$295,315</u>	<u>\$1,089,963</u>
<u>State Total</u>	<u>\$487,226</u>	<u>\$118,287</u>	<u>\$605,513</u>
Sales	\$347,852	\$63,922	\$411,774
Income	\$16,449	\$5,453	\$21,902
Bed	\$0		\$0
Other	\$122,924	\$48,912	\$171,837
<u>Local Total</u>	<u>\$104,030</u>	<u>\$12,828</u>	<u>\$116,858</u>
Sales	\$0	\$0	\$0
Income	\$0	\$0	\$0
Bed	\$51,707		\$51,707
Per Room Charge	\$0		\$0
Tourism District	\$0		\$0
Restaurant	\$30,182	\$4,018	\$34,200
Other	\$22,141	\$8,810	\$30,951
Property Tax	\$110,902	\$26,903	\$137,805

### Event Return On Investment (ROI)

#### Direct

Direct Tax Receipts	\$104,030
DMO Hosting Costs	\$10,000
Direct ROI	\$94,030
Net Present Value	\$88,517
Direct ROI (%)	940

#### Total

Total Local Tax Receipts	\$116,858
Total ROI	\$106,858
Net Present Value	\$100,592
Total ROI (%)	1,069

### Estimated Room Demand Metrics

Room Nights Sold:	11,490	:
Room Pickup (block only):	6,332	:
Peak Room Nights:	3,167	:
Total Visitor Days:	34,471	:



**Group Incentive Request**

**Event Name:** NRECA Regions 2 & 3 Meeting  
**Organization:** National Rural Electric Cooperative Association

**Event Date:** October 20-23, 2025      **Pattern:** Monday-Thursday

**Peak Rooms:** 500  
**Total Room Nights Requested:** 1,283  
**Room Nights Required to Receive Incentive (80% of requested):** 1,026

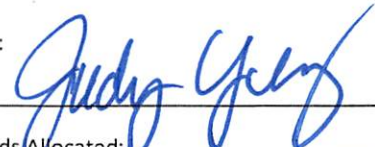
**Hotels Participating:** Beau Rivage + overflow hotels  
**Location:** Beau Rivage

**# of Attendees:** 1,000

**Anticipated Room Block Information at headquarter hotel:**

<u>Day</u>	<u>Mon</u>	<u>Tues</u>	<u>Wed</u>	<u>Thurs</u>	<u>TOTAL</u>
Date	10/20	10/21	10/22	10/23	
Anticipated Block	202	502	502	77	1283

**Estimated Economic Impact:** \$1,250,201  
**Funds Requested:** \$5,000  
**Purpose of Funds:** Offset transportation costs from overflow hotels to headquarter hotel

Submitted by:   
Approved? \_\_\_\_\_ Denied? \_\_\_\_\_  
Incentive Funds Allocated: \_\_\_\_\_



**3-year group history:**

**2021:** Birmingham, AL- *Sheraton Birmingham*: 899 room nights (lower due to covid)

**2019:** Louisville, KY- *Galt House*: 1,537 room nights

**2018:** Atlanta, GA- *Hyatt Regency Atlanta*: 1,372 room nights

**2015:** Biloxi- *Beau Rivage*- 1899 room nights

**Other Considerations:** The National Rural Electric Cooperative Association represents the interests of over 900 electric cooperatives in the United States. Cooperatives are not-for-profit and are owned by their membership. The group will be utilizing the Beau Rivage for all their meeting space needs and the majority of their room block. The group will utilize additional overflow hotel rooms as well.

Incentive Proposal prepared by:     Ari Covacevich    

Date:     05/12/2022    

**Internal Use Only:**

Submitted by:

Approved? \_\_\_\_\_ Denied? \_\_\_\_\_

Incentive Funds Allocated: \_\_\_\_\_



## Event Impact Calculator Detail - NRECA Regions 2 & 3 Meeting - 05/12/2022

### Event Summary

Key Parameters		Key Results	
Event Name:	NRECA Regions 2 & 3 Meeting	Business Sales (Direct):	\$898,749
Organization:	National Rural Electric Cooperative Association	Business Sales (Total):	\$1,250,201
Event Type:	Business Meeting	Jobs Supported (Direct):	325
Start Date:	10/20/2025	Jobs Supported (Total):	353
End Date:	10/23/2025	Local Taxes (Total):	\$23,174
Overnight Attendees:	1000	Net Direct Local Tax ROI:	\$21,939
Day Attendees:	0	Est. Room Nights Demand:	2,126

### Direct Business Sales

#### Sales by Source

Attendees Spending:	\$722,691	Exhibitor Spending:	\$0
Organizer Spending:	\$176,058	Total Event Spending:	\$898,749

#### Business Sales by Sector

Industry	Attendees	Organizer	Exhibitor	Total
Lodging	\$380,503	\$3,127*	\$0	\$383,630
Transportation	\$84,594	\$2,084*	\$0	\$86,678
Food & Beverage	\$176,596	\$100,000	\$0	\$276,596
Retail	\$50,106	\$0	\$0	\$50,106
Recreation	\$30,891	\$0	\$0	\$30,891
Space Rental	\$0	\$30,000	\$0	\$30,000
Business Services	\$0	\$40,847*	\$0	\$40,847
Totals	\$722,691	\$176,058	\$0	\$898,748

\* indicates that the calculator's model defaults were used

### Economic Impact Details

	Direct	Indirect/Induced	Total
<b>Business Sales</b>	<b>\$898,749</b>	<b>\$351,453</b>	<b>\$1,250,201</b>
<b>Personal Income</b>	<b>\$247,991</b>	<b>\$86,792</b>	<b>\$334,783</b>
<b>Jobs Supported</b>			
Persons	325	28	353
Annual FTEs	11	1	12
<b>Taxes And Assessments</b>			

<u>Federal Total</u>	<u>\$75,276</u>	<u>\$28,275</u>	<u>\$103,551</u>
<u>State Total</u>	<u>\$63,255</u>	<u>\$11,374</u>	<u>\$74,629</u>
Sales	\$49,742	\$6,150	\$55,892
Income	\$1,478	\$517	\$1,996
Bed	\$0		\$0
Other	\$12,035	\$4,706	\$16,741
<u>Local Total</u>	<u>\$21,939</u>	<u>\$1,234</u>	<u>\$23,174</u>
Sales	\$0	\$0	\$0
Income	\$0	\$0	\$0
Bed	\$17,123		\$17,123
Per Room Charge	\$0		\$0
Tourism District	\$0		\$0
Restaurant	\$2,649	\$387	\$3,036
Other	\$2,168	\$848	\$3,015
Property Tax	\$10,858	\$2,568	\$13,426

### Event Return On Investment (ROI)

#### Direct

Direct Tax Receipts		\$21,939
DMO Hosting Costs		\$0
Direct ROI		\$21,939
Net Present Value		\$20,653
Direct ROI (%)		-

#### Total

Total Local Tax Receipts		\$23,174
Total ROI		\$23,174
Net Present Value		\$21,815
Total ROI (%)		-

### Estimated Room Demand Metrics

Room Nights Sold:	2,126	:
Room Pickup (block only):	1,758	:
Peak Room Nights:	714	:
Total Visitor Days:	2,976	:

**MDEQ – OFFICE OF RESTORATION**

**MEMORANDUM OF NEGOTIATION**

*for*

**Professional Service Contracts**

Sub-Award No. 22-00070

Project Name: Gulf Coast Tourist Wayfinding and Informational Signage project

Type of Services: Administrative Services

Sub-Recipient: Mississippi Gulf Coast Regional Convention and Visitors Bureau

Contractor: Gouras & Associates, LLC

The Contractor's cost or price breakdown has been reviewed by the Sub-Recipient, and the Sub-Recipient certifies that the cost or price is sufficiently detailed, accurate, fair and reasonable. Consideration was given to the complexity of the work, the contractor's risk, and industry profit rates in the surrounding geographical area for similar work. The Sub-Recipient therefore accepts Contract.

  
\_\_\_\_\_  
Signature of Sub-Recipient's Authorized Representative

JUDY YOUNG  
\_\_\_\_\_  
Printed Name

Executive Director  
\_\_\_\_\_  
Title

June 1, 2022  
\_\_\_\_\_  
Date

**GOURAS & ASSOCIATES, LLC  
AGREEMENT FOR CONSULTING SERVICES FOR  
RESTORE DIRECT COMPONENT GRANT PROGRAM  
MISSISSIPPI GULF COAST REGIONAL CONVENTION AND VISITORS' BUREAU  
WAYFINDING SIGNAGE PROJECT MDEQ AGREEMENT NO. 22-00070**

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**THIS AGREEMENT** is entered into this the 1st day of June, 2022 by and between Gouras & Associates, LLC (the "Consultant"), and the Mississippi Gulf Coast Regional Convention and Visitors Bureau (the "Bureau") and is to be funded (in whole or in part) by the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (the "RESTORE Act").

**WHEREAS**, the Bureau applied for and has been awarded funding through the Mississippi Department of Environmental Quality under the RESTORE Act Direct Component program to support tourism promotion on the Mississippi Gulf Coast through wayfinding and informational signage for the **Gulf Coast Tourist Wayfinding and Informational Signage project**, the purpose of which is to support tourism promotion on the Mississippi Gulf Coast through wayfinding and informational signage appealing to visitors (the "Project"); and

**WHEREAS**, the grant funds provided by this Agreement are made available pursuant to the Direct Component of the RESTORE Act, provided through the U.S. Department of the Treasury (the "Treasury") pursuant to Federal Award #RDCGR470064, CFDA #21.015, Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States (the "Grant"), awarded on September 20, 2018; and

**WHEREAS**, the Bureau obtained application preparation assistance and needs subsequent administrative assistance in implementing the Grant; and

**WHEREAS**, the Bureau desires to engage the Consultant to render certain technical and professional services hereinafter described in connection with the implementation of the Grant, and the Consultant desires to provide said services; and

**WHEREAS**, the Bureau and the Consultant acknowledge that this contract shall not become effective or enforceable until approval by the Mississippi Department of Environmental Quality (the "MDEQ").

**NOW, THEREFORE**, the parties hereto mutually agree as follows:

## **SECTION 1: SCOPE OF SERVICES**

The Consultant shall do, perform and carry out in a satisfactory and proper manner such work as the Bureau determines is necessary to accomplish the activities funded by the Grant. Specific job tasks that the Consultant shall assist the Bureau in performing include, but are not necessarily limited to the following:

1. **General Services:** Establish a filing system to keep and maintain the necessary records as appropriate for implementation of the Grant in accordance with applicable federal, state, and local rules and regulations. The filing system and records shall include, among other things, the following records:

- A. Citizen Participation
- B. Environmental Checklist\*
- C. Labor Standards
- D. Acquisition
- E. Procurement
- F. Financial Management
- G. Other Resources
- H. Equal Opportunity and MBE/WBE
- I. General Correspondence
- J. Coordination with attorney, engineer and contractor for grant compliance

\* This contract does not include third party services or reports (i.e. wetlands delineations, cultural resources determination, hazardous/radioactive assessments, Phase I, etc.) that may be essential to complete required environmental checklist.

2. **The Consultant shall be responsible for:**

- A. Overall coordination of Project activities;
- B. Attending monitoring visits, meetings, etc.;
- C. Prepare the RESTORE Act Environmental checklist;
- D. Establishing and maintaining financial records;
- E. Preparing the necessary documentation to request funds from MDEQ; and
- F. Providing all other services considered normal administrative services within the course of this Agreement.

3. **Close-Out Project:** It is anticipated that the Consultant shall prepare close-out documents required by MDEQ.

The Consultant will be available at all reasonable times to assist Bureau in performing such work in a satisfactory and proper manner as Bureau deems necessary under the Project. Consultant's specific job tasks are not necessarily limited to the above, and will conform to the specific needs of Bureau in implementing the Grant.

## **SECTION 2: DISPOSITION OF WORK MATERIALS**

All contract documents and similar work materials prepared by the Consultant in completing the scope of services set forth herein shall be the property of Bureau.

## **SECTION 3: TIME OF PERFORMANCE**

The services provided under this Agreement by the Consultant shall continue as long as is mutually agreeable to the parties hereto or until the Project is closed out. The terms of the Agreement, specifically the "Scope of Services" and "Compensation" to the Consultant can, however, be reviewed annually and modified as is mutually agreeable to the two parties.

## **SECTION 4: PERSONNEL**

The Consultant represents that it has, or will secure at its own expense, all personnel required in performing the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with Bureau. All of the services required hereunder will be performed by the Consultant or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized under the State, Federal, and Local law to perform such services.

## **SECTION 5: TERMINATION FOR CONVENIENCE OF BUREAU**

Bureau may terminate this Contract at any time by giving written notice to the Consultant of such termination and specifying the effective date thereof. Such written notice shall be furnished the Consultant at least thirty (30) days before the effective date of termination. In the event all finished or unfinished documents and other materials as described above shall, at the option of Bureau become its property. If the Contract is terminated by Bureau as provided herein, the Consultant shall be paid for all work completed up to the termination date.

## **SECTION 6: TERMINATION FOR CONVENIENCE OF CONSULTANT**

The Consultant may terminate this Contract at any time for cause by giving written notice to Bureau of such termination and specifying the effective date thereof and stating the purported grounds for termination. In the event of such notice, Bureau shall have thirty (30) days to cure the default. Upon failure of Bureau to cure the default within that thirty (30) day timeline, Consultant's notice of termination may become effective. In the event of termination by Consultant under this Title, all materials as described above shall become the property of Bureau. The Consultant shall be paid for all work completed up to the termination date.

## **SECTION 7: CHANGES**

Bureau or Consultant may, from time to time, request changes in the terms of this Agreement. Any changes shall be effective only if mutually agreed upon by the parties hereto and incorporated in written amendments to this Contract.

## **SECTION 8: COMPENSATION DUE TO CONSULTANT** **and** **METHOD OF PAYMENT**

Bureau agrees to pay Consultant the total amount of Forty-Seven Thousand Five Hundred United States Dollars (\$47,500). Bureau agrees to pay the Consultant as follows:

1. For Completion of Environmental Checklist: **\$5,000**, due and payable upon MDEQ acceptance of the Environmental Checklist and the receipt of an invoice from Consultant. This contract does not include third party services or reports (i.e. wetlands delineations, cultural resources determination, hazardous/radioactive assessments, Phase I, etc.) that may be essential to complete the Environmental Checklist.
2. For services from and after the Notification of Grant Award, including but not limited to, preparation and submission of quarterly reports; establishment of Bureau's record keeping and financial management system in accordance with all Federal and State laws and regulations; assisting Bureau in procuring professional services as needed; and any other services necessary to implement the Project: **\$2,500**, due and payable upon the receipt of an invoice from Consultant.
3. Beginning with the first month following the Execution of the contract for the construction of the Project, the Consultant will submit monthly invoices equal to the percentage of construction complete for a total of **\$37,500**.
4. Retainage for acceptance and approval of close-out documents by MDEQ shall not exceed **\$2,500**.

## **SECTION 9: EQUAL EMPLOYMENT OPPORTUNITY**

The Consultant will not discriminate against any employee or applicant for employment because of race, religion, sex, color, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin.



## **SECTION 10: INTEREST OF MEMBERS OF BUREAU AND OTHERS**

No officer, member, or employee of Bureau and no member of its governing body, and no other public official of the governing body, the locality or localities in which the Project is situated or being carried out who exercises any function or responsibilities in the review or approval of the undertaking or carrying out of the Project, shall participate in any decision relating to this Contract which affects his personal association in which he is, directly or indirectly, interested or have any personal or pecuniary interest, direct or indirect, in this Contract or the proceeds thereof.

## **SECTION 11: ASSIGNABILITY**

The Consultant shall not assign any interest in this Contract and shall not transfer any interest in the same (whether by assignment or notation) without prior written consent of Bureau thereto; provided, however, that claims for money due or to become due the Consultant from Bureau under this Contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to Bureau.

## **SECTION 12: INTEREST OF CONSULTANT**

The Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. The Consultant further covenants that in the performance of this Contract, no person having any such interest shall be employed.

## **SECTION 13: FINDINGS CONFIDENTIAL**

Any reports, information, data, etc., given to or prepared or assembled by the Consultant under this Contract which Bureau requests to be kept as confidential shall not be made available to any individual or organization by the Consultant without prior written approval of Bureau.

## **SECTION 14: OFFICIALS NOT TO BENEFIT**

No members of or delegate to the Congress of the United States of America and no Resident Commissioner shall be admitted to any share or part hereof or to any benefit to arise herefrom.

The Consultant is advised that no member, officer, or employee of the local public body or its designers or agents, no member of the governing body of the locality in which the Project is situated, and no other public officials of such locality or localities who exercise any functions or responsibilities with respect to the Project during their tenure or for one year thereafter, shall have any interest, direct or indirect in the contract or subcontract, or the proceeds thereof for work to be performed in connection with the Project.

## **SECTION 15: AUDITS AND INSPECTIONS**

The Consultant shall keep and maintain books, records, and other documents relating to

the receipt and disbursement of such grant funds; and any duly authorized representative of MDEQ, the Bureau, Treasury, the Treasury Office of Inspector General, and the Government Accountability Office shall, at all reasonable times, have access to and the right to inspect, copy, audit, and examine all such books, records, and other Project documents until the completion of all close-out procedures respecting this grant and the final settlement and conclusion of all issues arising out of this grant. Records shall be retained according to the program policies of MDEQ, the Bureau, Treasury, the Treasury Office of Inspector General, and the Government Accountability Office governing this contract.

The Consultant agrees that any duly authorized representative of the MDEQ, the Bureau, Treasury, the Treasury Office of Inspector General, and the Government Accountability Office shall, at all reasonable times, have access to any portion of the Project in which the Consultant is involved until the completion of all close-out procedures respecting this grant.

#### **SECTION 16: REMEDIES**

Except as may be otherwise provided in this Agreement, all claims, counterclaims, disputes, and other matters in question between Bureau and Consultant arising out of or relating to this Agreement or the breach thereof will be decided by arbitration if the parties hereto mutually agree, or in a court of competent jurisdiction within the State in which Bureau is located.

#### **SECTION 17: BUREAU'S RESPONSIBILITIES**

Bureau agrees to provide full information to the Consultant as to its requirements for the Project; pay all costs incidental to obtaining bids or proposals from contractors; and provide such legal, accounting, independent costs estimating and insurance counseling services as may be required for the Project.

#### **SECTION 18: PUBLICATION, REPRODUCTION, AND USE OF MATERIAL**

No material produced in whole or in part under this Agreement shall be subject to copy right in the United States or in any other country. Bureau, MDEQ, and Treasury shall each have unrestricted authority to publish, disclose, distribute, and otherwise use, in whole or in part, any report, data, or other materials prepared under this Agreement.

#### **SECTION 19: FEDERAL AND STATE GUIDELINES**

The Consultant does hereby bind itself, certified and gives its assurance that it will comply with all requirements of the grantor agency, as the requirements relate to the application, acceptance and use of federal funds for the federally and state assisted projects in accordance with special provisions attached.

#### **SECTION 20: SPECIAL PROVISION REGARDING SECTION 504 HANDICAPPED**

The Consultant will not discriminate against any employee or applicant for employment because of physical or mental handicap in regard to any position for which the employee or

applicant for employment is qualified. The Consultant agrees to take affirmative action to employ, advance in employment and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices such as the following: advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship.

#### **SECTION 21: SUCCESSORS AND ASSIGNS**

Bureau and Consultant each binds itself and its partners, successors, executors, administrators, and assigns to the other party of this Agreement and to the partners, successors, executors, administrators, and assigns, or such other party, in respect to all covenants of this Agreement. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than Bureau and the Consultant.

#### **SECTION 22: MISCELLANEOUS PROVISIONS**

This Agreement shall be construed as in accordance with the laws of the State of Mississippi and all obligations of the parties created hereunder are performable in Bureau.

In case one or more of the provisions in the Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

**Attachments to this contract are as follows:**

Mississippi Department of Environmental Quality Required Attachments for RESTORE Direct Component Professional Services Contracts *Non-State Agencies – Template version 06.03.2021*


**SIGNATURE PAGE TO  
GOURAS & ASSOCIATES, LLC  
AGREEMENT FOR CONSULTING SERVICES FOR  
RESTORE DIRECT COMPONENT GRANT PROGRAM  
MISSISSIPPI GULF COAST REGIONAL CONVENTION AND VISITORS' BUREAU  
WAYFINDING SIGNAGE PROJECT MDEQ AGREEMENT NO. 22-00070**

IN WITNESS WHEREOF, the Bureau and the Consultant have executed this Agreement  
this the 1<sup>st</sup> day of June, 2022.

WITNESS:

  
\_\_\_\_\_

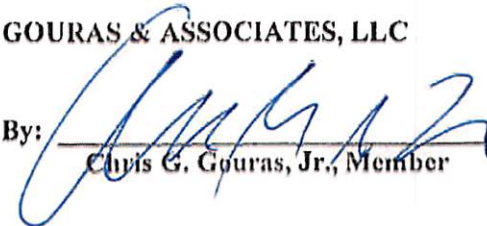
MISSISSIPPI GULF COAST REGIONAL  
CONVENTION AND VISITORS' BUREAU

By:   
\_\_\_\_\_

WITNESS:

  
\_\_\_\_\_

GOURAS & ASSOCIATES, LLC

By:   
\_\_\_\_\_   
Chris G. Gouras, Jr., Member

**SUBCONTRACTOR LISTING FORM** (v.01.27.2020)

The prime contractor must submit this form to the Owner prior to contract execution and must update it for each subcontractor performing any work resulting from this contract. If additional lines are needed, this form may be duplicated.

<b>Subcontractor Name and Contact Person</b>	<b>Subcontractor Address and Phone Number</b>	<b>Subcontractor DUNS</b>	<b>MBE (Y/N)</b>	<b>WBE (Y/N)</b>
Pearl River Grill	5364 Highway 604 Pearlington, MS 39572	057284993	Y	N

COMPLETED BY: J. Corinne Graham DATE: 6-15-22



MISSISSIPPI DEPARTMENT OF  
ENVIRONMENTAL QUALITY

**Required Attachments for  
RESTORE Direct Component  
Professional Services Contracts**

*State and Non-State Agencies – Template version 12.03.2020*

The "Required Attachments for RESTORE Direct Component Professional Services Contracts" is not intended to represent all requirements and obligations that may be applicable to this contract. This contract is subject to the terms and conditions of the Sub-Award Agreement between the Mississippi Department of Environmental Quality ("MDEQ") and the Project Owner (Subrecipient), the terms and conditions of the Federal Award from the U. S. Department of Treasury, including any Special Award Conditions, the Standard Sub-Award Terms and Conditions, the RESTORE Act Financial Assistance Standard Terms and Condition and Program-Specific Terms and Conditions under the "Direct Component," as amended, the RESTORE Act, 33 USC § 1321(t) et seq., the U.S. Department of Treasury Regulations governing the RESTORE Act, 31 CFR § 34 et seq., all applicable terms and conditions in 2 CFR Part 200 of the Office of Management and Budget ("OMB") Uniform Guidance for Grants and Cooperative Agreements, as amended on August 13, 2020, including Appendix II to 2 CFR Part 200, and all other OMB circulars, executive orders or other federal laws or regulations applicable to the services provided under this contract. All of these terms and conditions apply to the Subrecipient and its Contractors, as well as any covered subcontractors or vendors.

Requirements applicable to this contract, as well as any covered subcontracts or vendors, include, but are not limited to:

- CERTIFICATIONS RELATED TO RESTORE ACT DIRECT COMPONENT FUNDING
- RESTORE ACT FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS AND PROGRAM-SPECIFIC TERMS AND CONDITIONS
- MDEQ STANDARD SUB-AWARD TERMS AND CONDITIONS
- APPENDIX II TO 2 CFR PART 200: CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS
- PROCUREMENT OF RECOVERED MATERIALS
- PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OF EQUIPMENT
- DOMESTIC PREFERENCES FOR PROCUREMENTS
- CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS
- SAMPLE LETTER FROM CONTRACTOR TO MBE/WBE FIRMS
- MISSISSIPPI EMPLOYMENT PROTECTION ACT OF 2008 (Miss. Code Annotated §§71-11-1, et seq.)
- EXAMPLE OF E-VERIFY CERTIFICATION LETTER
- SUBCONTRACTOR LISTING FORM

## **CERTIFICATIONS RELATED TO RESTORE ACT DIRECT COMPONENT FUNDING**

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**By entering into this contract, the contractor expressly acknowledges that:**

- 1) This project is funded in whole or in part with grant funding from the Department of Treasury and the Mississippi Department of Environmental Quality under the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act);
- 2) Any contract awarded will be subject to the terms and conditions of said funding award, the RESTORE Act Financial Assistance Standard Terms and Conditions and Program-Specific Terms and Conditions, the Standard Sub-Award Terms and Conditions, the RESTORE Act, 33 USC 1321(t), Treasury Regulations 31 CFR § 34 et seq., including 31 CFR §§ 34, Subpart D, all applicable terms and conditions in 2 CFR Part 200 (including Appendix II to Part 200), and all other OMB circulars, executive orders or other federal laws or regulations, as applicable.;
- 3) Any contract awarded will be subject to 31 CFR Part 19 – Governmentwide Debarment and Suspension (Nonprocurement); and,
- 4) Any contract awarded is subject to Treasury Title VI regulations, 31 CFR Part 22, for the implementation of Title VI of the Civil Rights Act of 1964, as amended (42 USC 2000d, et seq.).
- 5) Any contract awarded will be subject to the laws and regulations of the United States and the State of Mississippi.

**The owner will not enter into a contract with a contractor, or the contractor's principals, if the contractor or its principals appear on the federal government's Excluded Parties List. The contractor does hereby certify, by entering into this agreement, that neither it nor its principals are presently debarred, suspended; proposed for disbarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.**

**The contractor must verify that any subcontractor (or the subcontractor's principals) does not appear on the federal government's Excluded Parties List prior to executing a subcontract with that entity. The Excluded Parties List is accessible at <http://www.sam.gov>.**



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

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

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

**February 2022**



## TABLE OF CONTENTS

PREFACE .....	4
<b>A PROGRAM-SPECIFIC TERMS AND CONDITIONS - AWARDS UNDER THE DIRECT COMPONENT .....</b>	<b>5</b>
1. Administrative Costs.....	5
2. Oil Spill Liability Trust Fund.....	5
3. Remedies for Noncompliance .....	5
<b>B PROGRAM-SPECIFIC TERMS AND CONDITIONS - AWARDS UNDER THE CENTERS OF EXCELLENCE RESEARCH GRANTS PROGRAM .....</b>	<b>7</b>
1. Allowable Costs.....	7
2. Prior Approval for Changes in Centers of Excellence.....	7
3. Performance Reports .....	7
<b>STANDARD TERMS AND CONDITIONS .....</b>	<b>9</b>
<b>C APPLICABLE LAWS, REGULATIONS, AND PROGRAM REQUIREMENTS .....</b>	<b>9</b>
<b>D USE OF FUNDS AND FINANCIAL REQUIREMENTS.....</b>	<b>9</b>
1. Scope of Work .....	9
2. Pre-award Costs.....	9
3. Indirect Costs .....	10
4. Cost Sharing and Budget Limitations.....	10
5. Program Income .....	10
6. Incurring Costs or Obligating Federal Funds Beyond the Expiration Date .....	11
7. Tax Refunds.....	11
8. Requirement to Maintain a Conflict-of-Interest Policy.....	11
9. Prohibition on Use of Funds for Certain Telecommunications and Video Surveillance Services or Equipment.....	11
10. Limitation on Use of Funds for Research Involving Human Subjects .....	12
11. Limitation on Use of Funds for Foreign Travel.....	13
12. Subawards .....	13
<b>E EFFECT OF A GOVERNMENT SHUTDOWN ON DISBURSEMENTS AND THE AVAILABILITY OF TREASURY PERSONNEL .....</b>	<b>15</b>
<b>F RECIPIENT REPORTING AND AUDIT REQUIREMENTS .....</b>	<b>15</b>
1. Financial Reports .....	15
2. Performance Reports .....	15
3. Interim Reporting on Significant Developments per 2 C.F. R. § 200.329(e) .....	17
4. Audit Requirements .....	17
5. Operational Self-Assessment .....	17
6. Reporting Requirements under the Federal Funding Accountability and Transparency Act .....	

	<b>(FFATA) of 2006, Pub. L. No. 109-282, as amended by the Digital Accountability and Transparency Act (DATA Act) of 2014, Pub. L. No. 113-101 .....</b>	<b>18</b>
7.	<b>System for Award Management (SAM.gov) and Universal Identifier Requirements.....</b>	<b>18</b>
8.	<b>Reporting Requirements for Status of Real Property or Interest in Real Property .....</b>	<b>18</b>
9.	<b>Reporting on Lobbying .....</b>	<b>18</b>
<b>G</b>	<b>FINANCIAL MANAGEMENT SYSTEM AND INTERNAL CONTROL REQUIREMENTS .....</b>	<b>20</b>
<b>H</b>	<b>RECORDS RETENTION REQUIREMENTS .....</b>	<b>21</b>
<b>I</b>	<b>THE FEDERAL GOVERNMENT'S RIGHT TO INSPECT, AUDIT, AND INVESTIGATE.....</b>	<b>22</b>
1.	<b>Access to Records .....</b>	<b>22</b>
2.	<b>Access to the Recipient's Sites.....</b>	<b>22</b>
<b>J</b>	<b>AWARD DISBURSEMENT .....</b>	<b>22</b>
<b>K</b>	<b>NOTIFICATIONS AND PRIOR APPROVALS .....</b>	<b>24</b>
1.	<b>Notifications .....</b>	<b>24</b>
2.	<b>Prior Approvals .....</b>	<b>24</b>
<b>L</b>	<b>AMENDMENTS AND CLOSEOUT .....</b>	<b>25</b>
1.	<b>Amendments .....</b>	<b>25</b>
2.	<b>Closeout.....</b>	<b>26</b>
<b>M</b>	<b>TERMINATION AND REMEDIES FOR NONCOMPLIANCE.....</b>	<b>27</b>
<b>N</b>	<b>DEBTS .....</b>	<b>28</b>
1.	<b>Payment of Debts Owed the Federal Government .....</b>	<b>28</b>
2.	<b>Effect of Judgment Lien on Eligibility for Federal Grants, Loans, or Programs.....</b>	<b>29</b>
<b>O</b>	<b>NON-DISCRIMINATION REQUIREMENTS .....</b>	<b>29</b>
1.	<b>Statutory Provisions .....</b>	<b>29</b>
2.	<b>Regulatory Provisions .....</b>	<b>30</b>
3.	<b>Other Provisions .....</b>	<b>30</b>
4.	<b>Title VII Exemption for Religious Organizations .....</b>	<b>30</b>
5.	<b>Protections for Whistleblowers.....</b>	<b>30</b>
<b>P</b>	<b>REQUIREMENT TO CHECK DEBARMENT AND SUSPENSION STATUS OF SUBRECIPIENTS, CONTRACTORS, SUBCONTRACTORS, AND VENDORS .....</b>	<b>31</b>
<b>Q</b>	<b>PROCUREMENT .....</b>	<b>31</b>
1.	<b>General Provisions .....</b>	<b>31</b>
2.	<b>Solid Waste Disposal .....</b>	<b>32</b>
3.	<b>Subawards.....</b>	<b>32</b>
4.	<b>Minority and Women-Owned Business Enterprises .....</b>	<b>32</b>
5.	<b>Domestic Preference for Procurement.....</b>	<b>32</b>
<b>R</b>	<b>ENVIRONMENTAL REQUIREMENTS .....</b>	<b>33</b>
<b>S</b>	<b>REAL PROPERTY, CONSTRUCTION, EQUIPMENT, AND SUPPLIES .....</b>	<b>34</b>

1.	General Requirements .....	34
2.	Real Property and Acquisition of Land and Land Interests .....	34
3.	Compliance with State, Local and Federal Requirements.....	34
4.	Title.....	34
5.	Permitting Requirements.....	35
6.	Estimated Useful Life .....	35
7.	Recording the Federal Interest in the Real Property .....	36
8.	Use of Real Property .....	37
9.	Administration, Operation and Maintenance .....	37
10.	Commencement of Construction .....	38
11.	Insurance .....	38
12.	Bonding.....	38
13.	Floodplain Requirements .....	39
14.	Goals for Women and Minorities in Construction .....	39
15.	Davis Bacon Act, as amended (40 U.S.C. §§ 3141–3148) .....	40
16.	Equal Opportunity Clause .....	42
17.	Revised ADA Standards for Accessible Design for Construction Awards .....	42
18.	Supplies and Equipment .....	42
<b>T</b>	<b>MISCELLANEOUS REQUIREMENTS AND PROVISIONS .....</b>	<b>43</b>
1.	Prohibition Against Assignment by the Recipient .....	43
2.	Disclaimer Provisions .....	43
3.	Prohibited and Criminal Activities .....	43
4.	Limitations on Political Activities of Employees.....	44
5.	Drug-Free Workplace .....	44
6.	Increasing Seat Belt Use in the United States .....	44
7.	Reducing Text Messaging While Driving .....	44
8.	Minority Serving Institutions (MSIs) Initiative .....	45
9.	Research Misconduct .....	45
10.	Care and Use of Live Vertebrate Animals .....	45
11.	The Trafficking Victims Protection Act of 2000, as amended, (22 U.S.C. § 7104(g)), and the implementing regulations at 2 C.F.R. Part 175 .....	45
12.	Publications and Signage.....	47
13.	Copyright .....	48
14.	Homeland Security Presidential Directive 12.....	48
15.	Export Control .....	49
	<b>APPENDIX I: 2 C.F.R. PART 170, APPENDIX A.....</b>	<b>51</b>

**APPENDIX II: 2 C.F.R. PART 25, APPENDIX A.....53**  
**APPENDIX III: DAVIS-BACON AND RELATED ACTS REQUIREMENTS .....54**  
**APPENDIX IV: CONTRACT CLAUSES REQUIRED FOR CONTRACTS SUBJECT TO THE  
REQUIREMENTS OF THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT .....59**  
**APPENDIX V: 41 C.F.R. § 60-1.4 .....60**

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

## PREFACE

A 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. An approved application, including all documents, certifications, and assurances that are part of the approved application;
5. An approved scope of work;
6. Any approved budget; and,
7. Any special terms and conditions applied by Treasury to the award (“Special Award Conditions”).

The recipient must comply with—and require each of its subrecipients, contractors, and subcontractors employed in the completion of the activity, project, or program to comply with—the RESTORE Act, Treasury’s implementing regulations at 31 C.F.R. Part 34, all applicable federal statutes, regulations, executive orders (EOs), Office of Management and Budget (OMB) circulars, any program guidance issued by Treasury (including the RESTORE Frequently Asked Questions), 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.

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, Executive Orders, federal regulations, applicable notices published in the Federal Register, OMB circulars, Treasury’s Standard Terms and Conditions, Program-Specific Terms and Conditions, and any Special Award 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 Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (“Uniform Guidance,” 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 implementing regulations (79 Fed. Reg. 48039 (Aug. 15, 2014) and 79 Fed. Reg. 61236 (Oct. 10, 2014), as codified at 31 C.F.R. Part 34), 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 T of this document, all Treasury RESTORE Act awards made under the Direct Component include the following Program-Specific Terms and Conditions:

**1. Administrative Costs**

- a. Administrative costs are defined as indirect costs for administration incurred by the recipient that are allocable to activities authorized under the RESTORE Act, as specified in 31 C.F.R. § 34.2. Administrative costs do not include:
  - i. Direct costs that directly support the scope of work and are identified as direct costs in the approved award budget;
  - ii. Indirect costs that are identified specifically with, or readily assignable to facilities, as defined in 2 C.F.R. § 200.414; and
  - iii. Indirect costs of subrecipients.
- b. Of the amounts received from Treasury under the Direct Component, not more than three percent may be used for administrative costs. The three percent limit on administrative costs may be applied to the total amount of funds received by a recipient either on a grant-by-grant basis or on an aggregate basis. For the latter method, amounts used for administrative costs may not at any time exceed three percent of the aggregate of:
  - i. The amounts received under a component (i.e., Direct Component or Centers of Excellence) by a recipient, beginning with the first grant through the most recent grant, and
  - ii. The amounts in the Trust Fund that are allocated to, but not yet received by, the grantee under 31 C.F.R. § 34.103, consistent with the definition of administrative costs in 31 C.F.R. § 34.2.
- c. Up to 100 percent of program income, as defined in 2 C.F.R. § 200.1 and elaborated in 2 C.F.R. § 200.307, may be used to pay for allowable administrative costs, subject to the three percent cap. Program income may also be used to defray other allowable costs under the award.

**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 any claim for compensation was filed and paid out by the Oil Spill Liability Trust Fund after July 6, 2012.

**3. Remedies for Noncompliance**

- 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, per 31 C.F.R. § 34.804, Treasury will make no additional payments to the recipient from the Gulf Coast Restoration Trust Fund (Trust Fund), including no payments from the Trust Fund for



activities, projects, or programs until the recipient has either (1) deposited an amount equal to the amount expended for the ineligible activities in the 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 T of this document, all Treasury RESTORE Act awards under the Centers of Excellence Research Grants Program include the following Program-Specific Terms and Conditions:

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;
- b. Facilities costs that are allowable as indirect costs in a federally approved negotiated indirect cost rate; and
- c. Acquisition of land or interests in land.

2. **Prior Approval for Changes in Centers of Excellence**

- a. The recipient must immediately notify Treasury if it 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.
- b. After the recipient notifies Treasury pursuant to (a) and finalizes the selection, 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 Data Universal Numbering System (DUNS) Number of the entity or Unique Entity Identifier (UEI) Number as applicable;
  - iii. Location of the entity;
  - iv. The discipline or disciplines, as set forth in Section 1605(d) of the RESTORE Act and Treasury's implementing regulations at 31 C.F.R. § 34.704(b), that will serve as a focus of research for the selected Center or Centers of Excellence;
  - v. Documentation of the competitive process used to select the Center or Centers of Excellence, including all documentation to demonstrate the recipient complied with the selection requirements set forth in Section 1605 of the RESTORE Act and Treasury's implementing regulations at 31 C.F.R. § 34.704(b); and
  - vi. The estimated budget for the Center, including the total allocation of funded dollars for the Center.

3. **Performance Reports**

In addition to the reporting requirements in Section F, pursuant to 31 C.F.R. § 34.706, 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. This information will be included in the Council's annual report to Congress. The recipient must provide a copy of this report to Treasury when it submits the report to the Council.

## STANDARD TERMS AND CONDITIONS

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

#### C APPLICABLE LAWS, REGULATIONS, AND PROGRAM REQUIREMENTS

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

1. The RESTORE Act, Pub. L. No. 112-141 (July 6, 2012);
2. Treasury's implementing regulations, 31 C.F.R. Part 34;
3. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, Subparts A through F, and any Treasury regulations incorporating these requirements;
4. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180 including the requirement to include a term or condition in all lower-tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulations at 31 C.F.R. Part 19;
5. Governmentwide Requirements for Drug-Free Workplace (Financial Assistance), 31 C.F.R. Part 20;
6. New Restrictions on Lobbying, 31 C.F.R. Part 21;
7. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170;
8. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25;
9. Recipient Integrity and Performance Matters, Appendix XII to 2 C.F.R. Part 200;
10. Award Term related to Trafficking in Persons, 2 C.F.R. Part 175;.
11. Treasury's RESTORE Act Frequently Asked Questions (FAQs) and other program guidance; and
12. Any special award conditions included in the award.

#### D USE OF FUNDS AND FINANCIAL REQUIREMENTS

##### 1. 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.

##### 2. Pre-award Costs

The recipient may obligate funds 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 for costs related to award reporting and closeout after the end of the period of performance, or costs incurred prior to the effective date of this Award, which are allowable only if:

- a. Treasury specifically authorized these costs in writing on or after the issuance date 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.

3. **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*). For Direct Component awards, there is a three percent limit on indirect costs per 31 C.F.R. § 34.204. Please see the RESTORE Act Frequently Asked Questions (FAQs) related to the Direct Component Program for more information on the limitations on indirect costs (administrative costs) at <https://home.treasury.gov/system/files/216/May-2020-Direct-Component-FAQ-Update-final-5-21-2020.pdf>. Indirect costs charged to the award must be consistent with an accepted de minimis rate or 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. § 200.1) and must be included in the recipient's budget.
- b. Unallowable direct costs are not recoverable as indirect costs.
- c. 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.

4. **Cost Sharing and Budget Limitations**

- a. There is not a cost sharing or matching requirement for Treasury's RESTORE Act grant programs. However, if matching funds are included in the approved award budget, the recipient must obtain and use these matching funds for the purposes of the award.
- 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.

5. **Program Income**

Program Income is defined in 2 C.F.R. § 200.1 as gross income earned by the non-federal entity that is directly generated by a supported activity or earned as a result of the federal award during the period of performance except as provided by 2 C.F.R. § 200.307(f). As allowed by 2 C.F.R. § 307(b), Treasury authorizes costs incidental to the generation of program income that have not been charged to the award to be deducted from the gross income to determine program income for this award (i.e., net program income). Any program income generated by the recipient or the subrecipient during the period of performance of the award or period of performance of the subrecipient agreement, as applicable, must be included in the approved budget and be used for the purposes of the Award 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. All program income determinations are project scope-specific and should be determined prior to award or at the earliest point possible post-award.

6. **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 that are authorized for a period up to 120 days following the end of the period of performance are those strictly associated with closeout activities. Closeout 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 120-day closeout period.

7. **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.

8. **Requirement to Maintain a Conflict-of-Interest Policy**

Recipient understands and agrees it must maintain a conflict-of-interest policy consistent with 2 C.F.R. § 200.318(c), and that such conflict-of-interest policy is applicable to each activity funded under this award. Recipients and subrecipients must disclose in writing to Treasury or the pass-through agency, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

9. **Prohibition on Use of Funds for Certain Telecommunications and Video Surveillance Services or Equipment**

- a. Recipients must comply with 2 C.F.R. § 200.216 with respect to obligations and expenditures of Treasury's RESTORE Act grants funded on or after 8/13/2020. As required by 2 C.F.R. § 200.216, Treasury's RESTORE Act recipients and subrecipients are prohibited from obligating or expending grant funds to procure or obtain; extend or renew a contract to procure or obtain; or enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system or as critical technology as part of any system.
- b. Covered telecommunications equipment or services are defined as follows:
  - i. Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities);
  - ii. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
  - iii. Telecommunications or video surveillance services provided by such entities or using such equipment; or

- iv. Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of the People's Republic of China.
- c. Whenever procuring, contracting for, or obtaining telecommunications or video surveillance services or equipment, the recipient must make a good-faith effort to ascertain that none of the equipment or services are from a prohibited source. The recipient must review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services."
- d. The recipient must ensure that the prohibition on covered telecommunications and video surveillance services and equipment flows down to all lower-tier transactions, to include all subawards and contracts.

10. **Limitation on Use of Funds for Research Involving Human Subjects**

- a. No work involving human subjects may be undertaken, conducted, or costs incurred and/or charged to this Award for human subject's research, until the appropriate documentation is approved in writing by Treasury.
- b. The Federal policy for the protection of human subjects (the "Common Rule") as codified in 45 C.F.R. Part 46, Subpart A, defines a human subject as a living individual about whom an investigator conducting research obtains (1) information or biospecimens through intervention or interaction with the individual (e.g., surveys and focus groups), and uses, studies, or analyzes the information or biospecimens or (2) uses, studies, analyzes, or generates identifiable private information or identifiable biospecimens. Research means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.
- c. The recipient and subrecipient, as appropriate, 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:
  - i. Documentation establishing approval of the project by an institutional review board (IRB) approved for federal-wide use under Department of Health and Human Services guidelines;
  - ii. Documentation to support an exemption for the project;
  - iii. Documentation to support deferral for an exemption or IRB review; or
  - iv. Documentation of IRB approval of any modification to a prior approved protocol or to an informed consent form.

11. **Limitation on Use of Funds for Foreign Travel**

- a. The recipient and subrecipient may not use funds from this Award for travel outside of the United States unless Treasury provides prior written approval.
- b. The recipient and subrecipient must comply with the provisions of the Fly America Act, as amended, (49 U.S.C. § 40118). The implementing regulations of the Fly America Act are found at 41 C.F.R. §§ 301-10.131–301-10.143.
- 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 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.

12. **Subawards**

- a. Recipients that enter into subawards under this award must execute a legally binding written agreement with the subrecipient which includes a budget by federal object class categories or fixed amount (2 C.F.R. § 200.332). This agreement must incorporate all the terms and conditions of this Award, including any applicable Special Award Conditions, and must include the information at 2 C.F.R. § 200.332(a). The recipient must perform all responsibilities required of a pass-through entity, as specified in 2 C.F.R. § 200.332, including but not limited to monitoring use of RESTORE Act funds and compliance with all terms and conditions; following up on any deficiencies identified as a result of onsite or desk



reviews and/or audits; and reviewing and correcting as necessary all subrecipient performance and financial reporting before including this information on the recipients' required RESTORE Act grant program's Performance Progress Reports (PPR) and Federal Financial Report (SF-425) reports.

- b. The recipient must evaluate and document each subrecipient's risk of noncompliance with federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring strategy, as described in 2 C.F.R. § 200.332.
- 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 implementing regulations, these Standard Terms and Conditions, Program-Specific Terms and Conditions, and any applicable Special Award Conditions, and to ensure that the scope of work is being appropriately carried out and milestones 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 by Treasury, 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 through a legally binding written agreement, and that a subrecipient who makes a subaward carries out all the responsibilities of a pass-through entity described at 2 C.F.R. § 200.332.
- g. The recipient must verify that no subrecipient appears on the excluded party list on sam.gov. If lower-tier subawards are authorized by Treasury, the recipient must ensure that a subrecipient who makes a subaward verifies that this lower-tier subrecipient does not appear on the excluded parties list in sam.gov prior to issuing the subaward.
- h. The recipient must maintain written standards of conduct governing the performance of its employees involved in executing this Award and administration of subawards consistent with 2 C.F.R. § 200.318(c)(1).
  - 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.

**E 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.

**F 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 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 120 days after the end of the period of performance.
- b. In the remarks section of each SF-425 submitted, the recipient must describe by federal budget class category the use of all funds received by the recipient and subrecipient (if applicable).
- c. The report must be signed by an authorized certifying official who is the employee authorized by the recipient organization to submit financial data on its behalf.
- d. The recipient must submit all financial reports via Grant Solutions (<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"), a "RESTORE Act Status of Performance Report," (standard format provided by Treasury, OMB Approval No. 1505-0250) and an updated "RESTORE Act Milestones Report," (standard format provided by Treasury, OMB Approval No. 1505-0250) on a semi-annual basis for the periods ending March 31 and September 30, or any portion thereof, unless otherwise specified in a Special Award Condition. Reports are due no later than 30 days following the end of each reporting period, except the final report, which is due 120 days following the end of the period of performance.
- b. The recipient must submit all performance 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. SF-PPR: 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 by the recipient and any subrecipients (if applicable);
      - 2) Summarize any key accomplishments, including milestones completed for the reporting 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 or any subrecipient 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. If the scope of work is not on schedule, the recipient should propose a revised schedule and update its milestone report.

c) In Section B-3:

Summarize any significant findings or events, including any data compiled, collected, or created, if applicable.

d) In Section B-4:

Describe any activities to disseminate or publicize results of the activity, project, or program, including data and its repository and citations for publications resulting from this Award.

e) In Section B-5:

- 1) Describe all efforts taken to monitor contractor and/or subrecipient performance, including site visits, during the reporting period.
- 2) For subawards, indicate whether the subrecipient(s) submitted an audit to the recipient, and if so, whether the recipient issued a management decision on any findings;
- 3) For awards where Davis-Bacon Act provisions are applicable, indicate whether the recipient and/or subrecipient(s) received and reviewed certified weekly payroll records and/or whether the recipient or subrecipient(s) conducted labor interviews; and
- 4) 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. "RESTORE Act Status of Performance Report": Instructions are provided on the report form.

- iii. "RESTORE Act Milestones Report": Instructions are provided on the report form.

3. **Interim Reporting on Significant Developments per 2 C.F.R. § 200.329(e)**

- 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; and
  - 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 or OMB's implementing regulation at 2 C.F.R. Part 200, Subpart F - Audit Requirements, and reports of any other oversight body, if such report pertains to an award under any RESTORE Act program, 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; and
  - iii. Promptly notify Treasury upon the selection of a contractor or subrecipient performing work under this Award and include the name and DUNS/UEI 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 the Single Audit Act and 2 C.F.R. Part 200 Subpart F – Audit Requirements.

5. **Operational Self-Assessment**

The recipient must submit a revised *Operational Self-Assessment* form 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 its previous submission. The *Operational Self-Assessment* is electronically available and may be completed and submitted via a MAX.gov Federal Community link. The form is completed in MAX.gov and can be found on Treasury's Direct Component Resources webpage for reference at <https://home.treasury.gov/policy-issues/financial-markets-financial-institutions-and-fiscal-service/restore-act/direct-component/direct-component-resources>.

6. **Reporting Requirements under the Federal Funding Accountability and Transparency Act (FFATA) of 2006, Pub. L. No. 109-282, as amended by the Digital Accountability and Transparency Act (DATA Act) of 2014, Pub. L. No. 113-101**

The award term set forth in Appendix A to 2 C.F.R. Part 170 applies and is set forth in Appendix I to this document.

7. **System for Award Management (SAM.gov) and Universal Identifier Requirements**

The award term set forth in Appendix A to 2 C.F.R. Part 25 applies and is as set forth in Appendix II to this document.

8. **Reporting Requirements for Status of Real Property or Interest in Real Property**

The recipient must complete and submit to Treasury a report on the status of the real property or interest in real property in which the federal government retains an interest, using a *SF-429 Real Property Status Report* form annually for the first three years after real property acquisition or completion of construction, and thereafter every five years until the end of the Estimated Useful Life or time of disposition, whichever is less. See also Section Q.

9. **Reporting on Lobbying**

- a. Solely for the purposes of reporting on lobbying, "recipient" is used as defined at 31 C.F.R. § 21.105(0), as including all contractors, subcontractors at any tier, and subgrantees at any tier of the recipient of funds received in connection with a Federal contract, grant, loan, or cooperative agreement. The term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law. Solely for the purposes of reporting on lobbying, "award recipient" refers to the recipient of this RESTORE Act award from Treasury.
- b. All recipients must comply with the provisions of 31 U.S.C. § 1352, and Treasury's implementing regulations at 31 C.F.R. Part 21. No appropriated funds may be expended by the recipient of a Federal grant to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant or the extension, continuation, renewal, amendment, or modification of any Federal grant.
- c. The award 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,
- d. Each "person" who requests or receives from Treasury a RESTORE Act grant shall file with Treasury a certification, set forth in Appendix A of 31 C.F.R. Part 21, that the person has not made, and will not make, any payment prohibited under 31 U.S.C. § 1352, as amended.
  - i. As defined in 31 U.S.C. § 1352(g)(3), the term "person"—includes an individual, corporation, company, association, authority, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit or not for profit; but does not include an Indian tribe, tribal organization, or any other Indian organization eligible to receive Federal contracts, grants, cooperative agreements, or loans from an agency but only with respect to expenditures by such tribe or organization that are made for purposes specified in subsection (a) and are permitted by other Federal law.
  - ii. The certification shall be filed pursuant to 31 C.F.R. § 21.110.

- iii. Any subrecipient, at any tier, who receives a subaward exceeding \$100,000 under this award, shall file with the tier above them a certification, set forth in appendix A of 31 C.F.R. Part 21, that the subrecipient as not made, and will not make, any payment prohibited by 31 C.F.R. § 21.100(a). Pursuant to 31 C.F.R. 21.110(d), the certification shall be filed to the next tier above.
- iv. Any contractor or subcontractor, at any tier, who receives a contract or subcontract exceeding \$100,000 under this award, shall file with the tier above them a certification, set forth in Appendix A of 31 C.F.R. Part 21, that the contractor or subcontractor has not made, and will not make, any payment prohibited by 31 U.S.C. § 1352, as amended. Pursuant to 31 C.F.R. 21.110(d), the certification shall be filed to the next tier above.
- v. Every certification filed shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared with any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification. If a person fails to file a required certification, the United States may pursue all available remedies, including those authorized by 31 U.S.C. § 1352.
- vi. Pursuant to 31 C.F.R. § 21.110(c), every recipient must file a new disclosure form at the end of each calendar quarter in which a payment, or an agreement to make a payment, is made which would have otherwise required reporting at the time of application. Moreover, if an event occurs during the calendar quarter which materially affects the accuracy of information reported on the disclosure form previously submitted, the submitter must file a new disclosure form. Events which “materially affect” the accuracy of information already reported include:
  - a) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action;
  - b) A change in the persons(s) influencing or attempting to influence; and/or
  - c) A change in the Federal official(s) contacted to influence or attempt to influence a covered Federal action,
- vii. The award recipient must submit its form SF-LLLs, as well as those received from subrecipients, contractors and subcontractors, to Treasury within 30 calendar 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.
- viii. The award recipient must require subrecipients, contractors and subcontractors to submit form SF-LLL to the award recipient within 15 calendar 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.

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

1. Pursuant to 2 C.F.R. § 200.302, Recipients that are states must expend and account for Award funds in accordance with the applicable state laws and procedures for expending and accounting for the state's own funds. All other recipients must expend and account for Award funds in accordance with federal 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, RESTORE Act Milestones Report, and RESTORE Act 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 implementing regulations, these Standard Terms and Conditions, Program-Specific Terms and Conditions, and any Special Award Conditions, and retain all supporting documentation to allow this tracing of funds;
  - 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 grant programs;
  - 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.; and
  - 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 implementing 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 implementing regulations, these Standard Terms and Conditions, Program-Specific Terms and Conditions, and any Special Award Conditions, and promptly remedy any identified instances of noncompliance. When and if an instance of noncompliance cannot be remedied by the recipient, the recipient must promptly report

the instance of noncompliance to Treasury and Treasury's 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), as defined in 2 C.F.R 200.1, consistent with applicable federal, state, and local laws regarding privacy and obligations of confidentiality.

## **H RECORDS RETENTION REQUIREMENTS**

1. The recipient must retain all records pertinent to this Award for a period of three years from the date of submission of the final expenditure report (final SF-425), as described in 2 C.F.R. § 200.334. 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, all conflict of interest and other procurement rules governing a particular contract, and any bid protests;
  - b. Copies of all subawards and all documents related to a subaward. For competitively selected subawards, documents may include those relevant to and required by the recipient's or subrecipient's selection process such as 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;
  - c. All documentation of site visits, reports, audits, and other monitoring of contractors (vendors) and subrecipients;
  - d. All financial and accounting records, including records of disbursements to contractors (vendors) and subrecipients, and documentation of the allowability of 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, RESTORE Act Milestones Reports, and RESTORE Act 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 following submission of the final expenditure report, 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 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. § 200.334.
4. 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. § 200.334.



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

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

- a. Treasury, the Treasury Office of Inspector General, the Government Accountability Office, or any of their authorized representatives 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, in accordance with 2 C.F.R. § 200.337. 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, the Government Accountability Office, or any of their authorized representatives 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, the Government Accountability Office, or any of their authorized representatives 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 H above).

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

- a. 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.

## **J AWARD DISBURSEMENT**

1. Unless otherwise specified in a Special Award Condition, Treasury will make advance payments under this Award upon request. However, if one of the following occurs, Treasury will require Award funds to be disbursed on a reimbursement basis either with or without pre-approval of drawdown requests: (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 noncompliance with the RESTORE Act, Treasury's implementing 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.

2. If reimbursement is used, Treasury may require pre-approval of drawdown requests. If Treasury requires pre-approval of drawdown requests, Treasury will provide the recipient with instructions on what billing to submit. 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.
3. 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.
4. 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 the Automated Clearing House (ACH) for next day or future-day payments only. Awards paid through ASAP.gov may contain controls or withdrawal limits set by Treasury.
5. 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, 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.
6. 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 activity, project, or program costs and the proportionate share of any allowable indirect costs. Advances should not be drawn down more than three business 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.
7. 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).
8. 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 \$250,000 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.

9. Interest earned amounts up to \$500 per year may be retained by the non-federal entity for administrative expense. Any additional interest earned on federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services, Payment Management System, (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment.

## **K NOTIFICATIONS AND PRIOR APPROVALS**

### **1. Notifications**

- a. In addition to other notifications required under these Standard Terms and Conditions, the recipient must promptly notify Treasury in writing whenever a vacancy or change to key personnel listed in the award application occurs or is anticipated.
- b. 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 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 if this Award exceeds the Simplified Acquisition Threshold (defined at 2 C.F.R. § 200.1) 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. Any transfer between the non-construction and construction budget lines;
  - vi. The use of funds to reimburse the recipient for pre-award costs;
  - vii. The inclusion of costs that require prior approval in accordance with 2 C.F.R. Part 200, Subpart E—Cost Principles, unless described in the application and approved in this Award, including but not limited to costs related to foreign travel and research on human subjects (which includes surveys and focus groups);
  - viii. 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), unless described in the application and approved in this Award;
  - ix. Termination of a subaward prior to the expiration of the agreement with the subrecipient;
  - x. The commencement of any construction under the award;

- xi. The purchase of equipment under the award;
- xii. The use of real property in which there is a recorded federal interest for purposes other than purposes of award; and
- xiii. The disposition of real property or equipment with a fair market value exceeding \$5,000.

## **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 unilaterally amend the terms of this Award if required by federal law or regulation.
- c. An amendment is required whenever Treasury and the recipient wish to:
  - i. Make a material change to the award scope of work;
  - ii. Extend the award period of performance;
  - iii. Increase or decrease the amount of funds on a RESTORE Act grant;
  - iv. Unless described in the application and funded in the approved federal awards, the subawarding, transferring or contracting out of any work under a federal award, to include the selection of a Center or Centers of Excellence not specified in the approved scope of work, or the termination of a subaward included in the approved scope of work prior to the expiration of the agreement with the subrecipient. This provision does not apply to the acquisition of supplies, material, equipment or general support services;
  - v. Change the approved cost-sharing or matching provided by the recipient; or
  - vi. Transfer funds between the construction and nonconstruction budget line items.
- d. Requests for amendments must be submitted via [GrantSolutions.gov](https://www.grantsolutions.gov), unless Treasury specifically waives this requirement, and must be signed by the recipient's Authorized Official;
- e. Request for amendments must contain the following information, unless otherwise indicated by Treasury:
  - i. A revised change in scope, whenever a material change in scope is requested or whenever the recipient intends to subaward, transfer or contract out of any work under a federal award, include the selection of a Center or Centers of Excellence not specified in the approved scope of work, or termination of a subaward included in the approved scope of work prior to the expiration of the agreement with the subrecipient. This scope of work should be in redline format to clearly identify the changes from the original scope of work and must include revised performance measures and a justification for the proposed revision to the scope of work;
  - ii. A revised detailed budget, whenever the recipient intends to make changes to the original approved budget to reflect a request for increased or decreased federal funding, a change in matching funds, or

transfers between line items. This detailed budget should show the original budget for each line item, the requested change for each line item, and an explanation or justification for each requested line item change;

- iii. A revised period of performance and revised milestone chart, whenever a time extension is requested, as well as a justification for the time extension request, an explanation of how the recipient will accomplish the scope of work in the revised timeframe, and a discussion of risks that could further impact the schedule, and a risk mitigation strategy to reduce the likelihood of these schedule risks or their impact if they do occur; and
- iv. Any other supporting documentation as appropriate and as requested by Treasury.

2. **Closeout**

- a. Treasury will closeout this Award when it determines that all applicable administrative actions and all required work of this Award have been completed.
- b. Within 120 calendar days after the end of the period of performance, unless the recipient requests, and Treasury approves, an extension, the recipient must submit any outstanding SF-PPR and RESTORE Act Status of Performance reports, as well as the required reporting on subawards, if applicable, plus a final SF-425 report. In the remarks section of the final SF-425 report, the recipient must describe by federal budget class category the final use of all funds received by the recipient and subrecipient (if applicable). The subrecipient must submit to the recipient, no later than 90 calendar days (or an earlier date as agreed upon by the pass-through entity and subrecipient) after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the federal award. The recipient may approve an extension when requested and justified by the subrecipient.
- c. The recipient must liquidate all obligations incurred under this Award not later than 120 calendar days after the end of the period of performance, or at closeout of the Award by Treasury.
- d. The recipient must promptly refund any balances of unobligated cash that Treasury paid. If the recipient is required to refund any balances, the recipient should contact Treasury for instructions.
- e. Following receipt of reports in paragraph (a) 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 recipient must account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with 2 C.F.R. § § 200.310 through 200.316 and § 200.330 and Section Q of these terms and conditions
- g. If the recipient does not submit all reports in accordance with 2 C.F.R. § 200.344, and the terms and conditions of this Award within one year of the period of performance end date, Treasury will proceed to close out the Award without the missing reports. Treasury will also report the recipient's material failure to comply with the terms and conditions of this Award with the OMB-designated integrity and performance system (currently FAPIIS) and may pursue other remedies for noncompliance, as listed in Section M.
- h. The closeout of this Award does not affect any of the following:

- i. The right of Treasury or pass-through entity to disallow costs and recover funds on the basis of a later audit or other review. Treasury or pass-through entity must make any cost disallowance determination and notify the non-Federal entity within the record retention period.
  - ii. The requirement for the recipient to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments.
  - iii. The ability of the Federal awarding agency to make financial adjustments to a previously closed award such as resolving indirect cost payments and making final payments.
  - iv. Audit requirements in 2 C.F.R. Part 200, Subpart F.
  - v. Property management and disposition requirements in 2 C.F. R. §§ 200.310 through 200.316.
  - vi. Records retention as required in 2 C.F.R. §§ 200.334 through 200.337.
- i. After closeout of the Federal award, a relationship created under the Federal award may be modified or ended in whole or in part with the consent of the Federal awarding agency or pass-through entity and the non-Federal entity, provided the responsibilities of the non-Federal entity referred to in 2 C.F.R. § 200.344(a), including those for property management as applicable, are considered and provisions made for continuing responsibilities of the non-Federal entity, as appropriate.

**M TERMINATION AND REMEDIES FOR NONCOMPLIANCE**

1. If Treasury determines that the recipient has failed to comply with the RESTORE Act, Treasury’s implementing 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.3, above, applicable to Direct Component awards):
- a. Impose additional Special Award Conditions such as:
    - i. Allowing payment only on a reimbursement basis, with pre-approval of drawdown requests;
    - ii. Requiring additional reporting or more frequent submission of the SF-425, SF-PPR, or RESTORE Act 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 noncompliance;
  - c. Disallow 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;
  - f. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Treasury’s implementing regulations at 31 C.F.R. Part 19; and/or
  - g. Take any other remedies that may be legally available.

2. Treasury will notify the recipient in writing of Treasury's proposed determination that an instance of noncompliance has occurred, provide details regarding the instance of noncompliance, and indicate the remedy that Treasury proposes to pursue. The recipient will have 30 calendar days to respond and provide information and documentation contesting Treasury's proposed determination or suggesting an alternative remedy.
3. 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 noncompliance and the remedy to be imposed.
4. 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.
5. Instead of, or in addition to, the remedies listed above, Treasury may refer the noncompliance 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.
6. Treasury may terminate this Award in accordance with 2 C.F.R. § 200.340. Requests for termination by the recipient must also be in accordance with 2 C.F.R. § 200.340. 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.
7. 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, as implemented at 2 C.F.R. Part 180, and Treasury's implementing regulation at 31 C.F.R. Part 19.
8. 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.
9. Notwithstanding the foregoing, consistent with 2 C.F.R. 200.340, Treasury may also **unilaterally terminate this award in whole or in part** if the award no longer effectuates the program goals or agency priorities.

## **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 120 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 [https://www.fiscal.treasury.gov/fsreports/rpt/cvfr/cvfr\\_home.htm](https://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 and contracts 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. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.) ("ADA"), including the ADA Amendments Act of 2008 (Public Law 110-325), ("ADAAA"), 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; and
- f. Any other applicable non-discrimination law(s).

2. **Regulatory Provisions**

- a. Treasury's Title VI regulations, 31 C.F.R. Part 22, implement Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. §§ 2000d, et seq.) which prohibits discrimination on the grounds of race, color, or national origin under programs or activities receiving federal financial assistance;
- b. Treasury's Title IX regulations, 31 C.F.R. Part 28, implement Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681 et seq.) which prohibits discrimination on the basis of sex under federally-assisted education programs or activities;
- c. Treasury's Age Discrimination regulations, 31 C.F.R. Part 23, implement the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance.

3. **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 EO 11246 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.

4. **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.

5. **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.

The list of persons and entities referenced in the paragraph above includes the following:

- 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.

Recipients, subrecipients, and contractors shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

**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 a proposed subrecipient or contractor (if the contract is expected to equal or exceed \$25,000) or its principals, does not appear 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 they verify that their contractors (for contracts expected to equal or exceed \$25,000), subcontractors (for subcontracts expected to equal or exceed \$25,000), or principals that the subrecipients or contractors 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, or 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 PROCUREMENT**

1. **General Provisions**
  - a. When procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will comply with 2 C.F.R. § 200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by 2 C.F.R. § 200.327.
  - b. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in 2 C.F.R. § 200.318 through 200.327.

2. **Solid Waste Disposal**

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.

3. **Subawards**

- a. 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.
- b. 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 notify the recipient in writing of the final determination.

4. **Minority and Women-Owned Business Enterprises**

Pursuant to 2 C.F.R. § 200.321, recipients and subrecipients must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

- a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
- d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- f. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in (a) through (e) of this paragraph.

5. **Domestic Preference for Procurement**

Recipients are encouraged, to the greatest extent practicable, to provide a preference for the purchase, acquisition, or use of goods, products, or material produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

See 2 C.F.R. § 200.322 for definitions of “manufactured products” and “produced in the United States.” This requirement must be included in all subawards including all contracts and purchase orders for work or products under this award pursuant to 2 C.F.R. § 200.322 and Executive Order 14005 Ensuring the Future is Made in All of America by All of America’s Worker (January 25, 2021).

## **R ENVIRONMENTAL REQUIREMENTS**

The recipient must comply with all environmental standards, and provide information requested by Treasury relating to compliance with environmental standards, including but not limited to the following federal statutes, regulations, and EOs. If the recipient is permitted to make any subawards, the recipient must include 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, as amended (54 U.S.C. § 300101 et seq.) and Archeological and Historic Preservation Act, as amended (54 U.S.C. § 312501 et seq.)
2. The National Environmental Policy Act of 1969, as amended (42 U.S.C. § 4321 et seq.)
3. Clean Air Act, as amended (42 U.S.C. § 7401 et seq.), Clean Water Act, as amended (33 U.S.C. § 1251 et seq.), and EO 11738
4. The Flood Disaster Protection Act of 1973, as amended (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, as amended, (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 (42 U.S.C. § 9601 note)
12. Magnuson-Stevens Fishery Conservation and Management Act, as amended (16 U.S.C. §1801)
13. Marine Mammal Protection Act, as amended (16 U.S.C § 31)
14. Migratory Bird Treaty Act, as amended (16 U.S.C. §§ 703-712)
15. Responsibilities of Federal Agencies to Protect Migratory Birds, EO 13186
16. Bald and Golden Eagle Protection Act, as amended (16 U.S.C. § 668-668d)
17. Marine Protection, Research and Sanctuaries Act (33 U.S.C. §§ 1401-1445 and 16 U.S.C. § 1431—1445)
18. National Marine Sanctuaries Act, as amended (16 U.S.C. § 1431 et seq.)
19. Rivers and Harbors Act of 1899 (33 U.S.C § 407)
20. Environmental Justice in Minority Populations and Low-Income Populations, EO 12898, as amended
21. Flood Management, EO 11988, as amended by EO 13690, which was revoked by EO

13807 on August 15, 2017 and reinstated by EO 14030 on May 20, 2021, reestablishing the Federal Flood Risk Management Standard (FFRMS)

22. Protection of Wetland, EO11990, May 24, 177, as amended by EO 12608
23. Farmland Protection Policy Act, as amended (7 U.S.C. § 4201 et. seq.)
24. Coral Reef Protection, EO 13089
25. Invasive Species, EO 13112

## **S REAL PROPERTY, CONSTRUCTION, EQUIPMENT AND SUPPLIES**

### **1. General Requirements**

- a. The recipient must comply with the property standards at 2 C.F.R. § 200.310 through 200.316 for real property, equipment, supplies, and intangible property.

### **2. Real Property and Acquisition of Land and Land Interests**

- a. No real property or interest in real property may be acquired under this Award unless authorized in the approved scope of work.
- b. In accordance with 31 C.F.R. § 34.803(f), no land or interests in land, such as easements, or right of ways, may be acquired under this Award unless the recipient can provide documentation satisfactory to Treasury that the land or interest in land was acquired by purchase, exchange, or donation from a willing seller.

### **3. Compliance with State, Local and Federal Requirements**

The project must comply with all applicable federal laws and regulations, and with all requirements for state, and local laws and ordinances to the extent that such requirements do not conflict with federal laws. The recipient is also responsible for supervising the design, bidding, construction, and operation of construction projects in compliance with all award requirements. The recipient must comply with, and must require all contractors and subcontractors, to comply with all federal, state, and local laws and regulations. The recipient must ensure compliance with special award conditions which may contain conditions that must be satisfied prior to advertisement of bids, start of construction, or another critical event.

### **4. Title**

- a. Prior to receiving Treasury authorization to start construction, the recipient must furnish evidence, satisfactory to Treasury, that the recipient has acquired good and merchantable title free of all mortgages, foreclosable liens, or encumbrances, to all land, rights of way, and easements necessary for the completion of the project.
- b. When property has been newly acquired for the project, the recipient must provide the following as evidence of clear title to the property:
  - i. A copy of the recorded deed or equivalent conveyance document showing the recipient acquired title to the property; and
  - ii. A copy of the title insurance (also known as title policy), title report, or title opinion (by attorney(s) licensed in the jurisdiction where the property is located) completed after the real estate acquisition showing the recipient obtained title to the property free of any encumbrances (i.e., foreclosable liens, easements, or any other limitations on use that interferes with the recipient's intended use, operation, construction, maintenance of the

property, or Treasury's federal interest). The title insurance, title report, or title opinion should include the legal description of the property.

- c. When the property to be used for the project has not been newly acquired, the recipient must provide the following as evidence of clear title to the property both of the items listed in (b) above, provided that the copy of the title insurance, title report, title opinion, or equivalent must be completed within the last year. If such evidence is more than one year old, the recipient must provide Treasury with an explanation, which Treasury may in its discretion decline to accept.
- d. When easements, rights-of-way, or other rights are required for the completion of the project, the recipient must provide the following documentation:
  - i. A copy of the easement deed or equivalent conveyance document; and
  - ii. A copy of the title insurance, title report, or title opinion (by attorney(s) licensed in the jurisdiction where the property is located).
- e. When use of or access to leased property is required for the project, the recipient must provide the following evidence of control of the leased property:
  - i. A copy of the lease signed by the lessor and recipient that provides a lease term equivalent to the estimated useful life (EUL) of the project or renewable for that period; and
  - ii. A certification from the recipient that it has control of all project property or improvements to the property and is not aware of any material restrictions or encumbrances that could interfere with any award purpose for the duration of the EUL. If this changes within the course of the EUL, the recipient must provide timely notice to Treasury. The federal interest may be waived, if it is decided that recording the federal interest is not feasible, then Treasury may include a special award condition on the award that the recipient will repay the federal interest if the lessor terminates the lease before the EUL of the project expires or if the recipient or lessor uses the property in a manner inconsistent with the public purpose(s) of the award during the EUL of the improvements or construction, as applicable.
- f. When the project involves linear construction/improvement, road construction, or other less common types of construction, recipients should contact Treasury for guidance on the types of evidence of title required.
- g. Notwithstanding (a)-(f), Treasury may in its discretion accept only a copy of the title insurance, title report, title opinion, or equivalent as evidence of title (or easement or other rights) if the recipient is unable to produce the relevant conveyance document.
- h. In all cases, recipients must disclose any ongoing litigation concerning the project property prior to seeking Treasury's permission to proceed with construction.

5. **Permitting Requirements**

Prior to receiving Treasury permission to proceed with construction, the recipient must furnish evidence, satisfactory to Treasury, that recipient has received all federal, state and local permits necessary for the completion of the project. In extraordinary circumstances and at Treasury's sole discretion, Treasury may accept alternate documentation such as, draft permits, which must be finalized within a specified time as determined by Treasury after approval of a request for notice to proceed with construction.

6. **Estimated Useful Life**

- a. Property that is acquired or improved, in whole or in part, with federal assistance is held in trust by the recipient for the purpose(s) for which the award was made for the Estimated Useful Life. Estimated Useful Life means the period of years that constitutes the expected useful lifespan of a project, as determined by Treasury. The recipient must propose an Estimated Useful Life from the date of construction completion either prior to award or initiation of construction. If the Estimated Useful Life is provided in the application, Treasury's issuance of the grant agreement represents its concurrence with the recipient's proposed Estimated Useful Life.
- b. The recipient's obligation to the federal government continues for the Estimated Useful Life of the project, as determined by Treasury, during which Treasury retains an undivided equitable reversionary interest (the "federal interest") in the property acquired or improved, in whole or in part, with the Treasury investment.
- c. If Treasury determines that the recipient has failed or fails to meet its obligations under the terms and conditions of this award, Treasury may exercise its rights or remedies with respect to its federal interest in the project. However, Treasury's forbearance in exercising any right or remedy in connection with the federal interest does not constitute a waiver thereof.
- d. At its discretion, Treasury may waive the requirement to establish an Estimated Useful Life for environmental restoration projects.

**7. Recording the Federal Interest in the Real Property**

Pursuant to 2 C.F.R. § 200.316, Treasury retains an undivided equitable reversionary interest in real property (a "federal interest") that is acquired or improved, in whole or in part with RESTORE Act Direct Component funds, which must be held in trust by the recipient for the benefit of the project for the Estimated Useful Life of the project.

To document the federal interest, the recipient must prepare and properly record a "Covenant of Purpose, Use and Ownership" (Covenant), or, where a subrecipient is the title owner, the recipient must ensure that the subrecipient prepares and properly records a "Covenant of Purpose, Use and Ownership" (Covenant) on the property acquired or improved with RESTORE Act Direct Component funds. This Covenant does not establish a traditional mortgage lien in that it does not establish a traditional creditor relationship requiring the periodic repayment of principal and interest, or the ability of Treasury to foreclose on the real property at any time. Rather, pursuant to the Covenant, the recipient and/or the subrecipient, as applicable, acknowledges that it holds title to the real property in trust for the public purposes of the financial assistance award and agrees, among other commitments, that it will repay the federal interest if it disposes of or alienates its interest in the real property, or uses it in a manner inconsistent with the public purposes of the award, during the Estimated Useful Life of the property.

- a. The Covenant must be satisfactory in form and substance to Treasury and must include the name and current address of the recipient and/or subrecipient (if applicable), the award number, amount, date of award, subrecipient agreement (if applicable), date of the purchase of property (if applicable), and the Estimated Useful Life of the project. It must also include statements that the real property will only be used for purposes consistent with the RESTORE Act and Treasury's implementing regulations, 31 C.F.R. Part 34; that it will not be mortgaged or used as collateral, sold, or otherwise transferred to another party without the written permission of Treasury; and that the federal interest cannot be subordinated, diminished, nullified, or released through encumbrance of the property, transfer of the property to another party, or any other action the recipient/subrecipient takes without the written permission of Treasury.
- b. The recipient agrees to provide to Treasury a title insurance (also known as title

- policy), title report, or title opinion as to the title owner of the property, and to properly record the Covenant, in accordance with applicable law in the real property records in the jurisdiction in which the real property is located in order to provide public record notice to interested parties that there are certain restrictions on the use and disposition of the real property during its Estimated Useful Life, and that Treasury retains an undivided equitable reversionary interest in the real property to the extent of its participation in the project for which funds have been awarded.
- c. Treasury requires title insurance, a title report, or a title opinion from the recipient to substantiate that the Covenant has been properly recorded.
  - d. Failure to properly and timely file and maintain documentation of the federal interest may result in appropriate enforcement action, including, but not limited to, disallowance of the cost of the acquisition or improvement by Treasury.
  - e. The Federal Interest must be perfected and recorded/filed in accordance with state and/or local law concurrent with the acquisition of the real property, where an award includes real property acquisition, and for construction of buildings and projects to improve the real property, no later than the date construction and/or improvement work commences.
  - f. When the Estimated Useful Life of the project is ended, the federal interest is extinguished, and Treasury has no further interest in the real property.
  - g. Exclusions from the requirement that the federal interest on real property be recorded will be at Treasury's sole discretion. The types of projects for which Treasury may agree to this exclusion include, but are not limited to, the following: work which involves no above grade structures, work within utility easements, work on leased property, improvements to state parks, water and sewer lateral line projects affecting private properties, and shoreline stabilization projects and other restoration projects.

8. **Use of Real Property**

Encumbering real property on which there is a federal interest without prior Treasury approval is an unauthorized use of the property and of project trust funds under this award. See 2 C.F.R. § 200.316. Real property or interest in real property may not be used for purposes other than the authorized purpose of the award without the express, prior written approval of Treasury, for as long as the federal government retains an interest in the property. The property must not be sold, conveyed, transferred, assigned, mortgaged, or in any other manner encumbered except as expressly authorized in writing by Treasury. The recipient must maintain facilities constructed or renovated with grant funds in a manner consistent with the purposes for which the funds were provided for the duration of the Estimated Useful Life.

In the event that the real property or interest in real property is no longer needed for the originally authorized purpose, the recipient must obtain disposition instructions from Treasury consistent with 2 C.F.R. § 200.311.

9. **Administration, Operation and Maintenance**

The recipient agrees to administer, operate, and maintain the project for its Estimated Useful Life in the same manner in which it operates and maintains similar facilities and equipment owned by it, and in accordance with state and local standards, laws and regulations. The recipient must not be in breach of its obligations under this award except to the extent the failure to fulfill any obligation is due to an Uncontrollable Force. "Uncontrollable Force" means an event beyond the reasonable control of, and without the fault or negligence of, the party claiming the Uncontrollable Force that prevents the recipient from honoring its contractual obligations under this Agreement and which, by



exercise of the recipient's reasonable care, diligence and foresight, such recipient was unable to avoid. Uncontrollable Forces include, but are not limited to:

- a. Strikes or work stoppage;
- b. Floods, earthquakes, or other natural disasters;
- c. Terrorist acts; and
- d. Final orders or injunctions issued by a court or regulatory body having competent subject matter jurisdiction which the recipient, claiming the Uncontrollable Force, after diligent efforts, was unable to have stayed, suspended, or set aside pending review by a court of competent subject matter jurisdiction. Neither the unavailability of funds or financing, nor conditions of national or local economies or markets must be considered an Uncontrollable Force.

10. **Commencement of Construction**

The recipient must not commence construction prior to the date of the Award. The recipient must make a written request to Treasury for permission to commence with construction after the construction contractor has been selected and at least 30 days prior to construction. For project costs to be eligible for Treasury reimbursement, Treasury must determine that the award of all contracts with associated costs are in compliance with the scope of the project and all terms and conditions of this award, and that all necessary permits have been or will be obtained, all Special Award Conditions tied to the commencement of construction have been satisfied, and the federal interest is secure. No construction funds may be drawn from ASAP without Treasury's written permission. If the recipient commences construction prior to Treasury's determination, the recipient proceeds at its own risk.

Treasury will only review contract amendments or change orders which change the scope of a contract.

11. **Insurance**

The recipient must, at a minimum, provide the equivalent insurance coverage for real property improved with federal funds as provided to property owned by the recipient state, county or parish, in compliance with 2 C.F.R. § 200.310.

12. **Bonding**

For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the recipient or pass-through entity may request in writing that Treasury accept its bonding policy and requirements. If Treasury determines that the federal interest in the project is adequately protected, the recipient or pass-through entity need not comply with the following three bonding requirements. For all other recipients and pass-through entities, the minimum requirements for construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold are as follows:

- a. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual instruments as may be required within the time specified.
- b. A performance bond on the part of the contractor for 100 percent of the contract

price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

- c. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

13. **Floodplain Requirements**

In accordance with 44 C.F.R. Part 9, prior to Treasury's permission to commence construction in a designated 100-year floodplain, the recipient must provide evidence satisfactory to Treasury of a Floodplain Notice, that the 30-day period established for receipt of comments from the public in response to public notice published regarding the potential for adverse project impact on the values and functions of a designated 100-year floodplain has expired and that identified concerns (if any) have been addressed to Treasury's satisfaction. This notice may be satisfied through a federal/state environmental assessment process used as the vehicle for public notice, involvement, and explanation per 44 C.F.R. § 9.8(2).

In addition, prior to Treasury's authorization to commence construction of structures and/or buildings within a designated 100-year floodplain, the recipient must provide evidence satisfactory to Treasury of the following:

- a. **Floodplain Protection:** That the project engineer/architect has certified that the project facility will be adequately protected from damage by floods in this area of apparent potential flood hazard. The evidence must include adequate justification for the Base Flood Elevation designation for the financial assistance award site.
- b. **Floodplain Insurance:** That the community is participating in the National Flood Insurance Program, and that as required, the recipient will purchase flood insurance.

14. **Goals for Women and Minorities in Construction**

Department of Labor regulations set forth in 41 C.F.R. § 60-4 establish goals and timetables for participation of minorities and women in the construction industry. These regulations apply to all federally assisted construction contracts in excess of \$10,000. The recipient must comply with these regulations and must obtain compliance with 41 C.F.R. § 60-4 from contractors and subcontractors employed in the completion of the project by including such notices, clauses and provisions in the Solicitations for Offers or Bids as required by 41 C.F.R. § 60-4.

- a. The goal for participation of women in each trade area must be as follows: From April 1, 1981, until further notice: 6.9 percent;
- b. All changes to this goal, as published in the Federal Register in accordance with the Office of Federal Contract Compliance Programs regulations at 41 C.F.R. § 60-4.6, or any successor regulations, must hereafter be incorporated by reference into these Special Award Conditions; and,
- c. Goals for minority participation must be as prescribed by Appendix B-80, Federal Register, Volume 45, No. 194, October 3, 1980, or subsequent publications. The recipient must include the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" (or cause them to be included, if appropriate) in all federally assisted contracts and subcontracts. The goals and timetables for minority and female participation may not be less than those

published pursuant to 41 C.F.R. § 60-4.6.

15. **Davis Bacon Act, as amended (40 U.S.C. §§ 3141–3148)**

Davis-Bacon Act-related provisions outlined in 33 U.S.C. § 1372 are applicable to RESTORE Act grants that fund a construction project that is a “treatment works” project as defined in 33 U.S.C. § 1292; or a construction project regardless of whether it is a “treatment works” project when RESTORE Act Direct Component grant funds are used on a construction project in conjunction with federal assistance from another federal agency operating under an authority that requires the enforcement of Davis-Bacon Act-related provisions.

- a. “Treatment works” is defined in 33 U.S.C. § 1292, and means any:
  - i. Devices and systems:
    - 1) Used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement 33 U.S.C. § 1281; or
    - 2) Necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations to those devices and system; and
  - ii. Elements essential to provide a reliable recycled supply of water such as standby treatment units and clear well facilities;
  - iii. Acquisition of the land that will be an integral part of the treatment process (including land used for the storage of treated wastewater in land treatment systems prior to land application) or will be used for ultimate disposal of residues resulting from such treatment and acquisition of other land, and interests in land, that are necessary for construction; or  
  
Any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems.
- b. When Davis-Bacon Act-related provisions applies, the recipient must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141–3144, and §§ 3146–3148) as supplemented by Department of Labor regulations (29 C.F.R. Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”) in all prime construction contracts in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds. The recipient must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. For information on the current prevailing wage rate determination for a specific locality go to <https://sam.gov/content/wage-determinations>. If there is no prevailing wage rate determination for your locality, recipients should contact the U.S. Department of Labor at 1-866-487-2365 on how to obtain a prevailing wage rate determination.
- c. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. In accordance with the statute and regulations, contractors are required to pay wages to laborers and mechanics at

a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor and required to pay wages not less than once a week. The contractor shall submit weekly for each week in which any contract work is performed, a copy of all payrolls to the recipient. The required weekly payroll information may be submitted in any form desired. A contractor may use Form WH-347 which is available at <https://www.dol.gov/agencies/whd/government-contracts/construction/payroll-certification>.

- d. The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. The recipient must report all suspected or reported violations to Treasury.
- e. The wage determination (including any additional classification and wage rates) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. The posters can be found at <https://www.dol.gov/whd/programs/dbra/wh1321.htm>.
- f. The recipient must include all the following contract clauses outlined in 29 C.F.R. § 5.5(a) in all construction contracts subject to the Davis-Bacon and Related Acts requirements, which are in excess of \$2,000 and entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from RESTORE Act Direct Component grant funds, and ensure that any subrecipient also includes these contract clauses in all construction contracts subject to the Davis-Bacon Act requirements (see Appendix III of this document).
- g. **Contract Provision for Contracts in Excess of \$100,000: Contract Work Hours and Safety Standards Act.** All contracts awarded by the recipient or subrecipient in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. § 5.5(b). Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. **These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.** The recipient or subrecipient shall insert the clauses set forth in 29 C.F.R. §§ 5.5(b)(1) through (4) in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 C.F.R. § 5.5(a). As used in this paragraph, the terms *laborers* and *mechanics* include watchmen and guards. See Appendix IV of this document for the Contract Clauses Required for Contracts Subject to the Requirements of the Contract Work Hours and Safety Standards Act.
- h. In addition to the clauses contained in 29 C.F.R. § 5.5(b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 C.F.R. § 5.1, the recipient or subrecipient shall insert a

clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the recipient or subrecipient shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the recipient, Department of Treasury, and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

- i. **Enforcement:** In accordance with 29 C.F.R. § 5.6(a)(1), Treasury has the responsibility to ascertain whether the clauses required by 29 C.F.R. § 5.5 have been inserted in the contracts subject to the labor standards provisions of the Acts contained in 29 C.F.R. § 5.1. Pursuant to 29 C.F.R. § 5.6(a)(3), Treasury may cause investigations to be made by the recipient as may be necessary to ensure compliance with the labor standards clauses required by 29 C.F.R. § 5.5 and the applicable statutes listed in 29 C.F.R. § 5.1. Investigations shall be made of all contracts with such frequency as may be necessary to ensure compliance. Such investigations shall include interviews with employees, which shall be taken in confidence, and examinations of payroll data and evidence of registration and certification with respect to apprenticeship and training plans. In making such examinations, particular care shall be taken to determine the correctness of classifications and to determine whether there is a disproportionate employment of laborers and of apprentices or trainees registered in approved programs. Such investigations shall also include evidence of fringe benefit plans and payments thereunder. Complaints of alleged violations shall be given priority.

16. **Equal Opportunity Clause**

Pursuant to 41 C.F.R. § 60-1.4(b), federally-assisted construction contracts, for construction which is not exempt from the requirements of the equal opportunity clause, 41 C.F.R. Part 60-1—Obligations of Contractors and Subcontractors, the recipient hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 C.F.R. Chapter 60, which is paid for in whole or in part with funds obtained from the federal government or borrowed on the credit of the federal government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause: See Appendix V for the full text of 41 C.F.R. § 60-1.4.

17. **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. All new construction and alteration projects must comply with the 2010 Standards.

18. **Supplies and Equipment**

- a. Requirements that are applicable to recipients that are states:
  - i. Equipment: The recipient must use, manage, and dispose of equipment acquired under this Award in accordance with state laws and procedures.
  - ii. Supplies: 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:
  - i. Equipment and Supplies: During the period of performance, the recipient must seek disposition instructions from Treasury for equipment and/or unused or residual supplies acquired under this Award if the current fair market value of the equipment and/or unused or residual supplies is greater than \$5,000 per unit. The recipient must seek disposition instructions before disposing of the property 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 equipment and/or supplies are not needed for any other federal award.

**T 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 of 1986 (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, as amended (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, Fictitious, or Fraudulent Claims, as amended (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. §§ 3729-3732), 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 (41 U.S.C §§ 1320a-7b(b)) 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. **Limitations on Political Activities of Employees**

The recipient must comply, as applicable, with provisions of the Hatch Act, as amended (5 U.S.C. §§ 1501-1508 and §§ 7321-7326) which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

5. **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.

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

Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 8, 1997), Recipient should encourage its employees and should encourage contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

7. **Reducing Text Messaging While Driving**

Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 1, 2009), recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

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

Pursuant to EOs 13555 and 13270, as amended, 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 at <http://www2.ed.gov/about/offices/list/ocr/edlite-minorityinst.html>.

9. **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.

10. **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, as amended, (16 U.S.C. § 1531 et seq.); Marine Mammal Protection Act, as amended, (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, as amended, (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.

11. **The Trafficking Victims Protection Act of 2000, as amended. (22 U.S.C. § 7104(g)), 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, as defined in 2 C.F.R. §175.25(d), 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:
  - i. You as the recipient, your employees, subrecipients under this Award,



and subrecipients' employees may not—

- a) Engage in severe forms of trafficking in persons during the period of time that this Award is in effect;
  - b) Procure a commercial sex act during the period of time that this Award is in effect; or
  - c) Use forced labor in the performance of this Award or subawards under this Award.
- ii. We as the federal awarding agency may unilaterally terminate this Award, without penalty, if you or a subrecipient that is a private entity —
- a) Is determined to have violated a prohibition in paragraph a.1 of this Section V.10; or
  - b) 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—
    - 1) Associated with performance under this Award; or
    - 2) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by 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—
- i. Is determined to have violated an applicable 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 an applicable prohibition in paragraph (a) of this Section through conduct that is either:
    - a) Associated with performance under this Award; or
    - b) 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:
- i. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition of this section.
  - ii. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
    - a) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. § 7104(g)), and
    - b) Is in addition to all other remedies for noncompliance that are available to us under this Award.
  - iii. You must include the requirements of this section in any subaward you

make to a private entity.

- d. **Definitions.** For purposes of this award term:
- i. "Employee" means either:
    - a) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this Award; or
    - b) 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.
  - ii. "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.
  - iii. "Private entity":
    - a) 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.
    - b) Includes:
      - 1) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 C.F.R. § 175.25(b); or
      - 2) A for-profit organization.
  - iv. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at § 103 of the TVPA, as amended (22 U.S.C. § 7102).

12. **Publications and Signage**

Any publications (written, curricula, visual, sound, reports, or websites) except scientific articles or papers appearing in scientific, technical, or professional journals or signage produced with funds from this Award, which informs the public about the activities funded in whole or in part by this Award, must clearly display the following language:

Publications:

"This project was funded in whole or in part by grant [number] awarded by the U.S. Department of the Treasury under the RESTORE Act [Direct Component or Centers of Excellence Research Grants] program. The opinions, statements, findings, conclusions, and recommendations contained herein are those of the author(s) or contributor(s) and do not necessarily represent the official position, views, or policies of the U.S. Department of the Treasury. References to specific individuals, agencies, companies, products, or services should not be considered an endorsement by the author(s), contributor(s), or the U.S. Department of the Treasury."

Signage:

"This project was funded by a grant from the U.S. Department of the Treasury under the

RESTORE Act [Direct Component or Centers of Excellence Research Grants] Program.”

13. **Copyright**

If applicable, Recipient may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under this award in accordance with 2 C.F.R. § 200.315(b). The U.S. Department of the Treasury reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use the work, in whole or in part (including create derivative works), for Federal Government purposes, and to authorize others to do so. Treasury also reserves the right, at its discretion, not to publish deliverables and other materials developed under this award as a Treasury resource.

Products and deliverables developed with award funds and published as a U.S. Department of the Treasury resource will contain the following copyright notice:

“This resource was developed under a federal award and may be subject to copyright. The U.S. Department of the Treasury reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use the work for Federal Government purposes and to authorize others to do so. This resource may be freely distributed and used for noncommercial and educational purposes only.”

14. **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, as amended, and OMB Memorandum M-05-24, as amended. 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. Treasury may delay final payment under this Award if the subrecipient or contractor fails to comply with the requirements listed in this section. 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 140-2, 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; or
- iii. Upon subaward or contract completion or termination.

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 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.

## **APPENDIX I: 2 C.F.R. PART 170, APPENDIX A**

### **I. Reporting Subawards and Executive Compensation**

#### **a. Reporting of first-tier subawards.**

1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds \$30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).

2. Where and when to report.

i. The non-Federal entity or Federal agency must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

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

#### **b. Reporting total compensation of recipient executives for non-Federal entities.**

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

i. The total Federal funding authorized to date under this Federal award equals or exceeds \$30,000 as defined in [2 CFR 170.320](#);

ii. in the preceding fiscal year, you received -

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

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

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

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

i. As part of your registration profile at <https://www.sam.gov>.

ii. By the end of the month following the month in which this award is made, and annually thereafter.

#### **c. Reporting of Total Compensation of Subrecipient Executives.**

1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier non-Federal entity subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if -

i. in the subrecipient's preceding fiscal year, the subrecipient received -

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

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and

subawards); and

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

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

i. To the recipient.

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

d. Exemptions.

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

i. Subawards, and

ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

1. Federal Agency means a Federal agency as defined at [5 U.S.C. 551\(1\)](#) and further clarified by [5 U.S.C. 552\(f\)](#).

2. Non-Federal entity means all of the following, as defined in [2 CFR part 25](#):

i. A Governmental organization, which is a State, local government, or Indian tribe;

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization; and,

iv. A domestic or foreign for-profit organization

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

4. Subaward:

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

ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see [2 CFR 200.331](#)).

iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

5. Subrecipient means a non-Federal entity or Federal agency that:

i. Receives a subaward from you (the recipient) under this award; and

ii. Is accountable to you for the use of the Federal funds provided by the subaward.

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

## **APPENDIX II: 2 C.F.R. PART 25, APPENDIX A**

### **A. Requirement for System for Award Management**

Unless you are exempted from this requirement under [2 CFR 25.110](#), you as the recipient must maintain current information in the SAM. This includes information on your immediate and highest level owner and subsidiaries, as well as on all of your predecessors that have been awarded a Federal contract or Federal financial assistance within the last three years, if applicable, until you submit the final financial report required under this Federal award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another Federal award term.

### **B. Requirement for Unique Entity Identifier**

If you are authorized to make subawards under this Federal award, you:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you until the entity has provided its Unique Entity Identifier to you.
2. May not make a subaward to an entity unless the entity has provided its Unique Entity Identifier to you. Subrecipients are not required to obtain an active SAM registration, but must obtain a Unique Entity Identifier.

### **C. Definitions**

For purposes of this term:

1. System for Award Management (SAM) means the Federal repository into which a recipient must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM internet site (currently at <https://www.sam.gov>).
2. Unique Entity Identifier means the identifier assigned by SAM to uniquely identify business entities.
3. Entity includes non-Federal entities as defined at [2 CFR 200.1](#) and also includes all of the following, for purposes of this part:
  - a. A foreign organization;
  - b. A foreign public entity;
  - c. A domestic for-profit organization; and
  - d. A Federal agency.
4. Subaward has the meaning given in [2 CFR 200.1](#).
5. Subrecipient has the meaning given in [2 CFR 200.1](#).



## **APPENDIX III: DAVIS-BACON AND RELATED ACTS REQUIREMENTS**

### 1. Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act ([29 C.F.R. part 3](#))), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 C.F.R. . § 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in [§ 5.5\(a\)\(4\)](#). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under [paragraph \(a\)\(1\)\(ii\)](#) of 29 C.F.R. . § 5.1 and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)

(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the

contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to [paragraphs \(a\)\(1\)\(ii\) \(B\) or \(C\)](#) of 29 C.F.R. . § 5.5, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## 2. Withholding.

The Department of Treasury or recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, Treasury or the recipient may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

## 3. Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under [29 C.F.R. 5.5\(a\)\(1\)\(iv\)](#) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)

(A) The contractor shall submit weekly for each week in which any contract work is performed a copy

of all payrolls to the recipient. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under [29 C.F.R. 5.5\(a\)\(3\)\(i\)](#), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <https://www.dol.gov/agencies/whd/government-contracts/construction/payroll-certification> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the recipient, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of 29 C.F.R. § 5.5 for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under [§ 5.5 \(a\)\(3\)\(ii\)](#) of Regulations, [29 C.F.R. part 5](#), the appropriate information is being maintained under [§ 5.5 \(a\)\(3\)\(i\)](#) of Regulations, [29 C.F.R. part 5](#), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, [29 C.F.R. part 3](#);

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by [paragraph \(a\)\(3\)\(ii\)\(B\)](#) of this 29 C.F.R. . § 5.5.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under [paragraph \(a\)\(3\)\(i\)](#) of 29 C.F.R. § 5.5 available for inspection, copying, or transcription by authorized representatives of the recipient, Department of Treasury, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to [29 C.F.R. 5.12](#).

#### 4. Apprentices and trainees -

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training

Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in [29 C.F.R. 5.16](#), trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 C.F.R. part 30](#).

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of [29 C.F.R. part 3](#), which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in [29](#)

[C.F.R. 5.5\(a\)\(1\)](#) through [\(10\)](#), and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower-tier subcontractor with all the contract clauses in [29 C.F.R. 5.5](#).

7. Contract termination: debarment. A breach of the contract clauses in [29 C.F.R. 5.5](#) may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in [29 C.F.R. 5.12](#).

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in [29 C.F.R. parts 1, 3, and 5](#) are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in [29 C.F.R. parts 5, 6, and 7](#). Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or [29 C.F.R. 5.12\(a\)\(1\)](#).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or [29 C.F.R. 5.12\(a\)\(1\)](#).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, [18 U.S.C. 1001](#).

**APPENDIX IV: CONTRACT CLAUSES REQUIRED FOR CONTRACTS SUBJECT TO THE REQUIREMENTS OF THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph 1 of 29 C.F.R. § 5.5(b), the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 of 29 C.F.R. § 5.5(b), in the sum of \$27 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 of 29 C.F.R. § 5.5(b).

(3) Withholding for unpaid wages and liquidated damages. The Department of Treasury or recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of 29 C.F.R. § 5.5(b).

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph 1 through 4 of 29 C.F.R. § 5.5(b) and also a clause requiring the subcontractors to include these clauses in any lower-tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with the clauses set forth in paragraph 1 through 4 of 29 C.F.R. § 5.5(b).

#### **APPENDIX V: 41 C.F.R. § 60-1.4**

During the performance of this contract, the contractor agrees as follows:

- 1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:  
  
Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- 2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- 3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- 4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- 5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- 6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- 7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- 8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The [recipient] further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the [recipient] so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The [recipient] agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The [recipient] further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the [recipient] agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.



**MDEQ SUB-AWARD TERMS AND CONDITIONS  
FOR CONTRACTED PARTIES**

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**ATTACHMENT D****SUB-AWARD TERMS AND CONDITIONS  
FOR CONTRACTED PARTIES****1. AUTHORITY TO PARTICIPATE IN THIS AGREEMENT**

The Contracted Party certifies that (a) it is either a 1) state agency, 2) a validly organized business that is authorized to do business in the state of Mississippi, 3) a nongovernmental organization, or 4) political subdivision of the state of Mississippi with valid authority to enter into this agreement and; (b) entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and (c) notwithstanding any other provision of this Agreement to the contrary, that there are no existing legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.

**2. DEBARMENT AND SUSPENSION**

Contractor/Contracted Parties certifies to the best of its knowledge and belief, that it:

- A. is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any federal department or agency or any political subdivision or agency of the State of Mississippi;
- B. has not, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction;
- C. has not, within a three-year period preceding this agreement, been convicted of or had a civil judgment rendered against it for a violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- D. is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of these offenses enumerated in paragraphs two (2) and (3) of this certification; and,
- E. has not, within a three-year period preceding this Agreement, had one or more public transactions (federal, state, or local) terminated for cause or default.

This agreement is subject to 31 C.F.R. Part 19.

### **3. INDEMNIFICATION**

To the extent allowed by state law, Contracted Party agrees to indemnify and save, release and hold harmless the State of Mississippi, the Commission on Environmental Quality, MDEQ, all of their employees and officers, and the Department's contractors from and against any and all claim, demand, cause of action, liability, loss, damage, injury, suit, judgment, debt and cost, including attorney's fees or expenses on the part of any Contracted Party, their agents or employees or any other parties arising out of or incident to, any and all Work under the terms of this Agreement.

### **4. RELATIONSHIP STATUS**

The Contracted Party acknowledges and agrees that MDEQ is not a party, in any manner whatsoever, to any contract between the SUB-RECIPIENT and the construction contractor(s), engineer(s), attorney(s), equipment supplier(s), contractor(s), or between any other parties of any kind whatsoever (hereinafter collectively referred to as "vendor"). The SUB-RECIPIENT and Contracted Party also acknowledge and agree that any benefit to vendors contracting with the SUB-RECIPIENT or Contracted Parties arising from, or associated with this Agreement is strictly incidental and all such vendors are not, and are not intended to be considered as third party beneficiaries under any agreement between MDEQ and the SUB-RECIPIENT.

Upon execution of any contract between the SUB-RECIPIENT and any other party in regard to the project, MDEQ does not assume any authorities, duties, responsibilities, or liabilities under such contract. The SUB-RECIPIENT and Contracted Party shall not have any authority to bind or otherwise obligate MDEQ, directly or indirectly, under any contract or agreement between the SUB-RECIPIENT and any other party. The SUB-RECIPIENT, Contracted Party and its vendors acknowledge and agree that any action taken by MDEQ in its role of grantor, or in its separate and distinct role as regulator shall not in any way change or alter its position as that of grantor.

MDEQ does not have any authority, duty, responsibility, or liability in contract claims or dispute identification, negotiation, resolution, or any other actions regarding contract claims under the contract(s) between the SUB-RECIPIENT and any other party. The SUB-RECIPIENT and the Contracted Party acknowledge and agree that MDEQ is not obligated to review, comment on, approve, or discuss the merits of any contract claims presented by or to any party. Any MDEQ reviews, approvals, observations, presence at meetings, written communications, verbal communications or other actions are not to be interpreted as addressing the merits of any claims, nor are they to be construed as interpreting the contract between the SUB-RECIPIENT and the Contracted Party or any other parties.

### **5. ACCESS TO RECORDS**

Treasury, the Treasury Office of Inspector General, the Government Accountability Office, MDEQ, the State or any duly authorized representatives shall have the right of timely and unrestricted access to any of Contracted Party's books, documents, papers, and other records,

including electronic records, which are maintained or produced as a result of the agreement and Project for the purpose of making audits, investigations, examinations, excerpts, transcripts, and copies of such documents. This right also includes timely and reasonable access to the SUB-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.

## **6. RECORD RETENTION AND RIGHT TO AUDIT**

The Contracted Party shall maintain and retain books, documents, papers, financial records, and other records, including electronic records, which are maintained or produced as a result of the agreement and the Project. These records must be retained for a minimum of three years after final payment under the agreement is made. These records shall be made available during the term of the agreement and the subsequent three-year period for examination, transcription, and audit by MDEQ, the Mississippi State Auditor's Office, its designees, or other authorized bodies, including the Office of Inspector General and Treasury. If any litigation, claim, investigation, or audit relating to Federal Award No. RDCGR470155 ("Award") or an activity funded under the Award 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.

## **7. RIGHT TO INSPECT WORK; SITE ACCESS**

Treasury, the Treasury Office of Inspector General, the Government Accountability Office, MDEQ and their representatives, invitees, and consultants, and Departments and Agencies of the State of Mississippi, and any of their duly authorized representatives', shall have access and the right to conduct announced and unannounced onsite and offsite physical visits to inspect all work hereunder.

## **8. CONFLICT OF INTEREST**

The Contracted Party covenants that he presently has no interest and shall not acquire any interest direct or indirect in the above described Project or any parcels therein, where applicable, or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contracted Party further covenants that, in the performance of this agreement, no person having any such interest shall be employed.

The Contracted Party agrees to establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have a family, business, or other tie.

## **9. COOPERATION & EVALUATION**

Both parties agree to assist and cooperate with the MDEQ or its duly designated representatives in the monitoring of the Project or projects to which the agreement relates, and to provide in

form and manner approved by MDEQ such monitoring reports, progress reports, and the like as may be required and to provide such reports at the times specified.

Further, both parties agree to cooperate with MDEQ or its duly designated representatives by providing timely responses to all reasonable requests for information to assist in evaluation of the accomplishments of the Project and the agreement for a period of ten (10) years after the date on which the Final Reports are provided.

## **APPENDIX II TO 2 CFR PART 200: CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS**

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In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 USC 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 USC. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 USC. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 USC 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 USC 3702 and 3704,

as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 USC 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 USC 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 USC 7401-7671q.) and the Federal Water Pollution Control Act (33 USC 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 USC 7401-7671q) and the Federal Water Pollution Control Act as amended (33 USC 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 USC 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.323.

(K) See §200.216.

(L) See §200.322.

## **PROCUREMENT OF RECOVERED MATERIALS**

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The prime contractor must comply with federal regulations regarding procurement of recovered materials found at 2 CFR §200.323.

2 CFR §200.323 requires the Project Owner and its contractors to 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 CFR 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 during 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.



## **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OF EQUIPMENT**

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The prime contractor must comply with federal regulations regarding prohibition on certain telecommunications and video surveillance services or equipment found at 2 CFR §200.216, which states:

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

(2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115-232, section 889 for additional information.

(d) See also §200.471.

## **DOMESTIC PREFERENCES FOR PROCUREMENTS**

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The prime contractor must comply with federal regulations regarding domestic preferences for procurements found at 2 CFR §200.322, which states:

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) “Manufactured products” means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

## **CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS**

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Documentation of compliance with the following requirements is a matter of contractor responsibility. When subcontracting, the contractor must submit documentation of good faith efforts to meet the project's MBE/WBE requirements before contracted work can commence. (MBE/WBE requirements are outlined below and can be found at 2. C. F. R. §200.321.) Failure on the part of the contractor to submit proper documentation may cause the Owner not to execute or to terminate the contract.

(a) The prime contractor must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises; and,
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

The prime contractor should note that this requirement mandates two responsibilities. Separate solicitations must be made of minority and women's business enterprises.

### **SUBMITTAL OF MINORITY BUSINESS ENTERPRISE AND WOMEN'S BUSINESS ENTERPRISE (MBE/WBE) DOCUMENTATION**

Prior to contract execution, the prime contractor must submit:

- A written certification that no subcontracts will be issued.
- OR -
- The Subcontractor Listing Form detailing all subcontractors that will perform work on the project, including name, contact person, address, phone, and status (MBE, WBE or Non).

If subcontractors will be utilized, the prime contractor must submit the following for subcontracts proposed to be awarded to MBE/WBE enterprises:

- A certification from each MBE and/or WBE firm declaring its status as a MBE or WBE firm. This can be an MDOT, SBA or MDA certification. A self-certification is acceptable, if the certification specifies the basis for MBE/WBE designation (e.g., the business is 51% owned and daily operation is controlled by one or more women or minority owners).

If subcontractors will be utilized, the prime contractor must submit the following for subcontracts proposed to be awarded to Non-MBE/WBE:

- For all subcontracts for which there are capable certified MBE/WBE firms existing to potentially perform the work, letters transmitted to MBE and WBE firms requesting quotes or proposals for specific subcontracting opportunities and encouraging inquiries for further details. Solicitations should have been sent in a timely manner, including allowed response time. (See “Sample Letter from Contractor to MBE/WBE Firms” below.)
- A listing of certified MBE and WBE firms from whom quotes or proposals were received, if any, who were not awarded subcontracts.
- Evidence that each Non-MBE/WBE subcontractor selected for the scope of work, was lower in price than each MBE/WBE proposal (or that there is some other acceptable reason to select the Non-MBE/WBE) and that the scope of work was the same for both the MBE/WBE and Non-MBE/WBE.

**The contractor may utilize the following resources to assist in MBE/WBE affirmative outreach:**

- MDOT Disadvantaged Business Entity (DBE) Website:  
<http://sp.mdot.ms.gov/Civil%20Rights/Pages/DBE.aspx>
- MDA Minority Business Enterprise/Women Business Enterprise (MBE/WBE) Directory:  
<https://minority.mississippi.org/MinorityBusinessDirectory.aspx>

**Should the Prime Contractor intend to later issue a subcontract, the above affirmative steps must be followed and documentation of such submitted to the Owner for review as described under this section.**

**SAMPLE LETTER FROM CONTRACTOR TO MBE/WBE FIRMS**

**(CONTRACTOR'S LETTERHEAD)**

[DATE]

[MBE/WBE COMPANY NAME]

[ADDRESS]

[CITY, STATE ZIP]

RE: [NAME OF PROJECT]

Dear [MBE/WBE FIRM]:

This company intends to submit a bid on the above referenced project.

We are soliciting a proposal from you for any item or items on this project for which you are qualified to subcontract. You may submit proposals to subcontract items of construction or for project materials and supplies if you are a distributor of materials or equipment.

A [BID SCHEDULE OR DESCRIPTION OF THE SPECIFIC ITEM TO BID] is attached for your review. You are encouraged to submit proposals on any item(s) for which you are qualified to subcontract. Proposals must be submitted by [SUBMITTAL DEADLINE] to be considered.

For further details, you are encouraged to contact [NAME OF OWNER REPRESENTATIVE] by email at [EMAIL ADDRESS] or by telephone at [TELEPHONE NUMBER] during normal business hours.

Sincerely,

[NAME OF REPRESENTATIVE]

[NAME OF COMPANY]

Enclosure: [BID SCHEDULE OR DESCRIPTION OF THE SPECIFIC ITEM TO BID]

# MISSISSIPPI EMPLOYMENT PROTECTION ACT OF 2008

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## TITLE 71. LABOR AND INDUSTRY CHAPTER 11. EMPLOYMENT PROTECTION ACT

Miss. Code Ann. § 71-11-1

### § 71-11-1. Legislative findings

The Legislature finds that when illegal immigrants have been sheltered and harbored in this state and encouraged to reside in this state through the benefit of work without verifying immigration status, these practices impede and obstruct the enforcement of federal immigration law, undermine the security of our borders, and impermissibly restrict the privileges and immunities of the citizens of Mississippi. The Legislature further finds that illegal immigration is encouraged when public agencies within this state provide public benefits without verifying immigration status. The Legislature further finds that the Tenth Amendment to the United States Constitution reserves to the states those powers not delegated to the United States by the Constitution. Therefore, the Legislature declares that it is a compelling public interest of this state to discourage illegal immigration by requiring all agencies within this state to fully cooperate with federal immigration authorities in the enforcement of federal immigration laws. The Legislature also finds that other measures are necessary to ensure the integrity of various governmental programs and services.

## TITLE 71. LABOR AND INDUSTRY CHAPTER 11. EMPLOYMENT PROTECTION ACT

Miss. Code Ann. § 71-11-3

§ 71-11-3. Definitions; verification of work eligibility status of new hires; employer liability; exemptions; penalties for violation.

- (1) This chapter shall be known as the "Mississippi Employment Protection Act."
- (2) The provisions of this section shall be enforced without regard to race, gender, religion, ethnicity or national origin.
- (3) For the purpose of this section only, the following words shall have the meanings ascribed herein unless the content clearly states otherwise:
  - (a) "Employer" is any person or business that is required by federal or state law to issue a United States Internal Revenue Service Form W-2 or Form 1099 to report income paid to employed or contracted personnel in Mississippi.
  - (b) "Employee" is any person or entity that is hired to perform work within the State of Mississippi and to whom a United States Internal Revenue Service Form W-2 or Form 1099 must be issued.
  - (c) "Third-party employer" is any person or company that provides workers for another person or company. This includes, but is not limited to, leasing companies and contract employers.
  - (d) "Status verification system" means the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996,

Public Law 104-208, Division C, Section 403(a); 8 USC, Section 1324a, and operated by the United States Department of Homeland Security, known as the E-Verify Program.

(e) "Unauthorized alien" means an alien as defined in Section 1324a(h)(3) of Title 8 of the United States Code.

(f) "Public employer" means every department, agency or instrumentality of the state or a political subdivision of the state.

(g) "Subcontractor" means a subcontractor, contract employee, staffing agency or any contractor regardless of its tier.

(4) (a) Employers in the State of Mississippi shall only hire employees who are legal citizens of the United States of America or are legal aliens. For purposes of this section, a legal alien is an individual who was lawfully present in the United States at the time of employment and for the duration of employment, or was permanently residing in the United States under color of law at the time of employment and for the duration of employment.

(b) (i) Every employer shall register with and utilize the status verification system to verify the federal employment authorization status of all newly hired employees.

(ii) No contractor or subcontractor shall hire any employee unless the contractor or subcontractor registers and participates in the status verification system to verify the work eligibility status of all newly hired employees.

(iii) No contractor or subcontractor who enters into a contract with a public employer shall enter into such a contract or subcontract unless the contractor or subcontractor registers and participates in the status verification system to verify information of all newly hired employees.

(c) The provision of this section shall not apply to any contracts entered into on or before July 1, 2008.

(d) It shall be a discriminatory practice for an employer to discharge an employee working in Mississippi who is a United States citizen or permanent resident alien while retaining an employee who the employing entity knows, or reasonably should have known, is an unauthorized alien hired after July 1, 2008, and who is working in Mississippi in a job category that requires equal skill, effort and responsibility, and which is performed under similar working conditions, as defined by 29 USC, Section 206(d) (1), as the job category held by the discharged employee.

(e) An employing entity which, on the date of the discharge in question, was enrolled in and used the status verification system to verify the employment eligibility of its employees in Mississippi hired after July 1, 2008, shall be exempt from liability, investigation or suit arising from any action under this section.

(f) No cause of action for a violation of this section shall lie under any other Mississippi law but shall arise solely from the provisions of this section.

(5) Any employer that complies with the requirements of this section shall be held harmless by the Mississippi Department of Employment Security, provided the employer is not directly involved in the creation of any false documents, and provided that the employer did

not knowingly and willfully accept false documents from the employee.

(6) (a) All third-party employers that conduct business in Mississippi shall register to do business in Mississippi with the Mississippi Department of Employment Security before placing employees into the workforce in Mississippi.

(b) Third-party employers shall provide proof of registration and any participation in the status verification system to any Mississippi employer with whom they do business.

(7) (a) State of Mississippi agencies and political subdivisions, public contractors and public subcontractors and private employers with two hundred fifty (250) or more employees shall meet verification requirements not later than July 1, 2008.

(b) Employers with at least one hundred (100) but less than two hundred fifty (250) employees shall meet verification requirements not later than July 1, 2009.

(c) Employers with at least thirty (30) but less than one hundred (100) employees shall meet verification requirements not later than July 1, 2010.

(d) All employers shall meet verification requirements not later than July 1, 2011.

(e) (i) Any employer violating the provisions of this section shall be subject to the cancellation of any state or public contract, resulting in ineligibility for any state or public contract for up to three (3) years, the loss of any license, permit, certificate or other document granted to the employer by any agency, department or government entity in the State of Mississippi for the right to do business in Mississippi for up to one (1) year, or both.

(ii) The contractor or employer shall be liable for any additional costs incurred by the agencies and institutions of the State of Mississippi, or any of its political subdivisions, because of the cancellation of the contract or the loss of any license or permit to do business in the state.

(iii) Any person or entity penalized under this section shall have the right to appeal to the appropriate entity bringing charges or to the circuit court of competent jurisdiction.

(f) The Department of Employment Security, State Tax Commission, Secretary of State, Department of Human Services and the Attorney General shall have the authority to seek penalties under this section and to bring charges for noncompliance against any employer or employee.

(8) (a) There shall be no liability under this section in the following circumstances:

(i) An employer who hires an employee through a state or federal work program that requires verification of the employee's social security number and provides for verification of the employee's lawful presence in the United States in an employment-authorized immigration status;

(ii) Any candidate for employment referred by the Mississippi Department of Employment Security, if the Mississippi Department of Employment Security has verified the social security number and provides for verification of the candidate's lawful presence in the United States in an employment-authorized immigration status; or



(iii) Individual homeowners who hire workers on their private property for noncommercial purposes, unless required by federal law to do so.

(b) (i) Compliance with the sections of this statute shall not exempt the employer from regulations and requirements related to any federal laws or procedures related to employers.

(ii) This section shall not be construed as an attempt to preempt federal law.

(c) (i) It shall be a felony for any person to accept or perform employment for compensation knowing or in reckless disregard that the person is an unauthorized alien with respect to employment during the period in which the unauthorized employment occurred. Upon conviction, a violator shall be subject to imprisonment in the custody of the Department of Corrections for not less than one (1) year nor more than five (5) years, a fine of not less than One Thousand Dollars (\$ 1,000.00) nor more than Ten Thousand Dollars (\$ 10,000.00), or both.

(ii) For purposes of determining bail for persons who are charged under this section, it shall be a rebuttable presumption that a defendant who has entered and remains in the United States unlawfully is deemed at risk of flight for purposes of bail determination.

## EXAMPLE OF E-VERIFY CERTIFICATION LETTER

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Date \_\_\_\_\_

TO: Project Owner  
P. O. Box 12345  
Anytown, MS 12345

RE: Compliance with Mississippi Employment Protection Act of 2008 and the United States  
Illegal Immigration Reform and Immigration Responsibility Act of 1996 (E-Verify)

Project Name \_\_\_\_\_  
Project Number \_\_\_\_\_

The purpose of this letter is to inform you that \_\_\_\_\_ (Contractor and/or Subcontractor's  
Company Name \_\_\_\_\_) is in compliance with the Mississippi Employment Protection Act of 2008  
as described in Senate Bill 2988 of the 2008 Regular Session of the Mississippi Legislature and  
the United States Illegal Immigration Reform and Immigration Responsibility Act of 1996. Our  
E-verify registration number is \_\_\_\_\_.

Attached, for your review, is a copy of the documentation showing our company's  
participation in the E-Verify program and upon request, copies of employee's certifications will  
be provided as they are kept in the employee's personnel file.

Our company understands if compliance with the above-mentioned Act is not followed  
consequences may occur as contemplated in that Act.

Should you have any questions, please do not hesitate to contact me.

Sincerely,

President of Company

**If you are not already enrolled you may enroll by going to the E-Verify Web site at  
[www.uscis.gov/e-verify](http://www.uscis.gov/e-verify) follow the directions and tutorial.**

**SUBCONTRACTOR LISTING FORM** (v.10.22.2020)

The prime contractor must submit this form to the Owner prior to contract execution and must update it for each subcontractor performing any work resulting from this contract. If additional lines are needed, this form may be duplicated.

<b>Subcontractor Name and Contact Person</b>	<b>Subcontractor Address and Phone Number</b>	<b>Subcontractor DUNS or UEI #</b>	<b>MBE (Y/N)</b>	<b>WBE (Y/N)</b>	<b>On Site during this period (Y/N)</b>

**COMPLETED BY:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY****STATE OF MISSISSIPPI****MDEQ AGREEMENT NO. 22-00070****COUNTY OF HINDS****SUB-AWARD AGREEMENT (Governmental Entities)**

This document is a Sub-Award Agreement (this "Agreement") between the Mississippi Department of Environmental Quality ("MDEQ") and Mississippi Gulf Coast Regional Convention and Visitors Bureau, DUNS 002299110 ("SUB-RECIPIENT", and together with MDEQ, the "Parties", and each, a "Party") to provide grant funds for the Work specified in Article 4, Scope of Work.

**1. Source of the Funds**

The grant funds provided by this Agreement are made available pursuant to the "Direct Component" of the RESTORE Act, provided through the U.S. Department of the Treasury ("Treasury") pursuant to Federal Award # RDCGR470160, CFDA 21.015, Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States (RESTORE ACT), (hereinafter referenced as "Federal Award"), awarded on February 11, 2022. This Federal Award is fully incorporated by reference into this Agreement as Attachment "A", and is an integral part of this Agreement.

**2. Project**

Under this Agreement, MDEQ agrees to disburse funds to SUB-RECIPIENT in accordance with the terms herein to pay the costs associated with SUB-RECIPIENT's implementation of the project entitled "Gulf Coast Tourist Wayfinding and Informational Signage" ("Project").

**3. Purpose**

The purpose of this Project is to support the promotion of tourism in the Gulf Coast Region by implementing tourist wayfinding and informational signage across the Mississippi Gulf Coast to attract visitors and enhance the visitor experience. This Project is not for Research and Development. Further detail of the Project is provided in Attachment "A" of this Agreement.

**4. Scope of Work**

SUB-RECIPIENT shall perform the tasks as described and identified in Attachment "A" (the "Work").

**5. Terms and Conditions**

This Agreement and the SUB-RECIPIENT are subject to the terms and conditions of this Agreement, the terms and conditions of the Federal Award, including any Special Award Conditions, a copy of which is attached hereto as Attachment "A", the Standard Sub-Award Terms and Conditions, a copy of which is attached hereto as Attachment "B" and fully incorporated herein by reference, the RESTORE Act Financial Assistance Standard Terms and Conditions and Program-Specific Terms and Conditions under the Direct Component, a copy of which is attached hereto in Attachment "A" and fully incorporated herein by reference, and the RESTORE Act, 33 U.S.C. § 1321(t) *et seq.*, Treasury's Regulations governing the RESTORE Act, 31 C.F.R. § 34 *et seq.*, and all applicable terms and conditions in 2 C.F.R. Part 200 of the Office of Management and Budget ("OMB") Uniform Guidance for Grants and Cooperative Agreements, as amended, including Appendix II to Part 200, and all other OMB circulars, executive orders or other federal laws or regulations applicable to the services provided under this Agreement. All of these terms and conditions of this Agreement apply to the SUB-RECIPIENT and, as applicable, its Contractors/Contracted Parties.

## **6. Period of Performance**

The Period of Performance shall commence on upon execution of this Agreement by MDEQ's Executive Director and shall end on April 30, 2024 ("Period of Performance"). The SUB-RECIPIENT agrees to complete all tasks included in the Scope of Work within this Period of Performance, unless otherwise specified in writing by MDEQ. If, at any time during the Period of Performance of this Agreement, SUB-RECIPIENT determines, based on the work performed to date, that the work cannot be completed within the Period of Performance, SUB-RECIPIENT shall so notify MDEQ immediately in writing.

## **7. Consideration and Payment**

- A. *Consideration.* As consideration for the performance of the tasks included in this Agreement, MDEQ agrees to reimburse SUB-RECIPIENT an amount not to exceed Nine Hundred Thousand and 00/100 Dollars (\$900,000.00) (the "Maximum Amount").
- B. *Payment.* Subject to available funding, as set forth in the Standard Sub-Award Terms and Conditions and all other terms and conditions of this Agreement, MDEQ shall pay all properly-invoiced amounts due to SUB-RECIPIENT within forty-five (45) days after MDEQ's receipt of such invoice, except for any amounts disputed by MDEQ in good faith. Legislative approval may be required where MDEQ receives any claim of payment from SUB-RECIPIENT that includes work performed outside a one-year period from receipt of such invoice.
  - i. *Request for Payment.* SUB-RECIPIENT shall request payment of funds hereunder for Project costs on a reimbursement basis (such requests, "Reimbursement Requests"), unless otherwise directed by MDEQ. SUB-RECIPIENT shall submit monthly Reimbursement Requests and supporting documentation of costs incurred as required by MDEQ to [invoices@mdeq.ms.gov](mailto:invoices@mdeq.ms.gov). All Reimbursement Requests for time periods ending June 30 of any year, during the Period of Performance under this Agreement,

shall be submitted no later than July 31 of that same year. Final invoice(s) shall be submitted to MDEQ no later than forty-five (45) days after the end date of this Agreement. The monthly Reimbursement Request shall include breakdowns of personnel, position, dates worked, tasks performed, hourly rate, and totals for each personnel cost included in the Reimbursement Request. SUB-RECIPIENT shall make Reimbursement Requests in accordance with the following procedures and subject to the following terms and conditions:

1. SUB-RECIPIENT may make Reimbursement Requests no more frequently than once monthly during the Period of Performance of this Agreement.
2. SUB-RECIPIENT shall only request payment under this Agreement for the costs necessary to complete the Scope of Work specifically stated and required under this Agreement.
3. SUB-RECIPIENT shall not request payment under this Agreement for services the SUB-RECIPIENT or its contractors may provide under any other Sub-award or Contract.
4. Any funds that are paid by MDEQ to the SUB-RECIPIENT that are not necessary for the completion of the Work in this Agreement must be returned to MDEQ within thirty (30) days from receiving MDEQ's written notification for return of funds.
5. SUB-RECIPIENT understands that no payment, including final payment, shall be interpreted as acceptance of defective and incomplete Work, and SUB-RECIPIENT shall remain responsible for performance in strict compliance with this Agreement. If MDEQ rejects, condemns or fails to approve any part of the Scope of Work, it may issue a Notice to Cure or terminate this Agreement.
6. MDEQ reserves the right to refuse to pay all or any part of the funds requested in a Reimbursement Request for any of the following reasons: 1) at MDEQ's discretion, the costs SUB-RECIPIENT is seeking reimbursement for are not reasonable or necessary for the completion of the Work in this Agreement, 2) at MDEQ's discretion, the costs are ineligible for reimbursement under this Project, 3) at the time the request is submitted SUB-RECIPIENT has failed to comply with any term or condition of this Agreement, 4) at the time the request is submitted the SUB-RECIPIENT has otherwise failed to perform the Work to date in accordance with the Scope of Work, or 5) at the time the request is submitted the SUB-RECIPIENT has otherwise failed to comply with applicable state, federal, or local laws and regulations.

- ii. Indirect Cost Rate. The current indirect cost rate is 0% for the SUB-RECIPIENT regarding this Agreement.

#### **8. Progress Reports**

SUB-RECIPIENT shall provide required progress reports as determined by MDEQ.

#### **9. Final Payment and Report**

Notwithstanding any other provision of this Agreement, and notwithstanding the submission of any Reimbursement Request by SUB-RECIPIENT, MDEQ shall not pay more than ninety-five percent (95%) of the Maximum Amount until such time as the SUB-RECIPIENT has completed the Work, submitted the Final Report, as defined below, required pursuant to this section, and received MDEQ's written acceptance of such Final Report. Within forty-five (45) days after MDEQ's written acceptance of such Final Report, MDEQ shall disburse to SUB-RECIPIENT all or such portion of the five-percent (5%) holdback as is properly payable to SUB-RECIPIENT for Work performed under this Agreement. However, if MDEQ is satisfied that the Project is proceeding on schedule and on budget, MDEQ (acting in its sole discretion) may reduce the holdback from five-percent (5%).

When SUB-RECIPIENT has performed all the Work, SUB-RECIPIENT shall transmit to MDEQ a comprehensive report on the Work, along with the corresponding results (the "Final Report"). As appropriate, the Final Report should include copies of any publications, press releases, and other documents, materials, and products developed as part of the Project, including, without limitation, photographs, video footage, and other electronic representations of the Project and Work. The Final Report shall be provided by SUB-RECIPIENT to MDEQ within forty-five (45) days of Project completion. Upon acceptance of Final Report, MDEQ will process final Reimbursement Request.

Upon satisfactory completion of the Work performed under this Agreement, as a condition before final payment under this Agreement or as a termination settlement under this Agreement, the SUB-RECIPIENT shall certify to MDEQ, on a form provided by MDEQ, that the Final Payment amount is the remaining amount that the SUB-RECIPIENT is owed under this Agreement and that no additional payment for its Work under this Project will be submitted for reimbursement. Unless otherwise provided in the Agreement, by state law or otherwise expressly agreed to by the Parties in this Agreement, final payment under this Agreement or settlement upon termination of this Agreement shall not constitute a waiver of MDEQ's claims against the SUB-RECIPIENT or its sureties under this Agreement.

#### **10. Financial Management and Compliance**

MDEQ requires that the SUB-RECIPIENT have in place, prior to the receipt of funds, a financial management system that will be able to isolate and trace every dollar funded under this Agreement from receipt to expenditure and have on file appropriate support documentation for each transaction. Examples of documentation are copies of checks paid to vendors, vendor invoices, bills of lading, purchase vouchers, payrolls, bank statements and reconciliations, and real property and easement appraisals. Prior to the submittal of any such documentation to MDEQ, SUB-RECIPIENT shall redact, in accordance with the definition of "Protected Personally

Identifiable Information found in 2. C.F.R. § 200.1, all information reflecting an individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal, medical and financial records, educational transcripts. This does not include Personally Identifiable Information (PII) that is required by law to be disclosed. (See also §200.1 PII). SUB-RECIPIENT and any Contracted Parties (as such term is defined in the "Contracts" provision of this Agreement) are limited to the travel rates of the State of Mississippi, including dining and hotels, in place at the time of the expenditure for which reimbursement is sought; and SUB-RECIPIENT shall audit any such invoice for same, clearly indicating the actual expense and the adjustment, if any.

SUB-RECIPIENT certifies that all information provided to MDEQ or its representatives as part of the initial risk assessment for this Work is complete and accurate. SUB-RECIPIENT agrees to submit to and cooperate with MDEQ in any additional risk assessment evaluation and periodic audit procedures to ensure adequate financial management of all funds. Further, SUB-RECIPIENT shall continue to implement any recommendations and/or corrective action plan set forth in the report transmitted to SUB-RECIPIENT based on the findings of the systems and processes for financial management, a copy of which is attached hereto as Attachment "C" and incorporated herein in its entirety.

## **11. Contracts**

SUB-RECIPIENT must notify MDEQ in writing prior to contracting any portion of the Work. MDEQ, in its sole discretion, shall have the right to reject the letting of any such contract. If MDEQ, in its sole discretion, determine that any proposed contractor of SUB-RECIPIENT under this Agreement has a conflict of interest with respect to Treasury, MDEQ, SUB-RECIPIENT or the Project, MDEQ shall have the right to reject the letting of any such contract. If any potential conflict of interest exists, the Parties will resolve it according to the applicable laws and regulations. MDEQ's failure to reject the letting of any contract under this Agreement shall not be deemed in any way to provide for the incurrence of any obligation of MDEQ in addition to the Funds. If SUB-RECIPIENT makes or issues any contract in coordination with this Agreement, then SUB-RECIPIENT will be deemed to have represented and warranted to MDEQ at each such time, in connection with such contract, as follows:

- A. in making such contract, SUB-RECIPIENT has complied with all applicable State and Federal laws, regulations, rules, orders, and other governmental mandates, including, without limitation, those pertaining to procurement, acquisition, and other contracting actions by SUB-RECIPIENT;
- B. in making such contract, SUB-RECIPIENT has complied with its internal policies and procedures applicable to procurement, acquisition, or contracting actions;
- C. each contractor is qualified to perform the applicable Work and is authorized to do business in the State of Mississippi;
- D. each contractor is required under its agreement with SUB-RECIPIENT to perform



the applicable Work within budgeted costs identified for such Work;

- E. each contractor has agreed to conduct its activities related to the Work in compliance with all terms and conditions of this Agreement, and all applicable State and Federal laws, regulations, rules, orders, and other governmental mandates;
- F. each contractor has agreed to obtain and maintain all appropriate bonds and insurance against liability for injury to persons or property from any and all activities undertaken by such contractor related to the Work in accordance with applicable state and federal laws, including, without limitation Miss. Code Ann. § 31-5-51; and
- G. no contractor has any conflict of interest with respect to MDEQ, Treasury, the SUB-RECIPIENT or the Project.

SUB-RECIPIENT shall be responsible for accountability of funds, compliance with Project specifications, and Project management by its contractors. MDEQ shall not bear responsibility for any liability caused or incurred by any contractor in performing Work. MDEQ shall not be deemed by virtue of this Agreement to have any contractual obligation to, or relationship with, any of SUB-RECIPIENT's Contractors, and the Parties agree and acknowledge that, as between MDEQ and SUB-RECIPIENT, all Work shall be deemed to be the responsibility of, and performed by, SUB-RECIPIENT. No contractor or other recipient of funds from MDEQ under this Agreement shall be deemed to be an agent, representative, employee or servant of MDEQ in connection with this Agreement. Parties with whom contracts or sub-award agreements are entered into by the SUB-RECIPIENT shall be referred to herein as "Contractor", "Contracted Party", or "Contracted Parties". In addition to ensuring that its Contracted Parties follow the applicable terms in this Agreement, SUB-RECIPIENT shall require all terms and conditions set forth in Attachments "A" and "D" attached hereto in all agreements between the SUB-RECIPIENT and Contracted Parties, and in all agreements between Contracted Parties and their contractors/sub-contractors.

## **12. Public Communications and Logo Usage**

Unless otherwise required by applicable law (based upon the reasonable advice of counsel), SUB-RECIPIENT shall not make any public announcements, communicate with any news media, or provide materials to the public related to this Agreement without first obtaining the written consent of MDEQ. This includes any materials prepared for presentations or materials prepared for distribution to the public. The Parties shall cooperate as to the timing and contents of any such announcement prior to any such communications to the public. The SUB-RECIPIENT must provide materials subject to this provision to MDEQ, for determination of approval, ten (10) days prior to the anticipated publication or other form of public release of such materials. This provision shall not be deemed to limit the SUB-RECIPIENT's ability to discuss this Agreement or Work in meetings required to be held as open meetings by Miss. Code Ann. § 25-41-1 *et seq.*, or as otherwise necessary to inform the public of the existence of the Project as is reasonably tailored to keep the public informed of project progress or to address public safety or planning concerns. This provision shall also not apply to any publications, notices, communications, transmittals or the like required of SUB-RECIPIENT to comply with its contractual obligations related to this Agreement,

for procurement of vendors, or compliance with applicable state, federal or local law applicable to the Agreement or Work.

Any publications (except scientific articles or papers appearing in scientific, technical, or professional journals), or signage produced with funds from this Agreement and the Federal Award, or informing the public about the activities funded in whole or in part by this Agreement and the Federal Award, must clearly display the following language:

This project was paid for [in part] with federal funding from the U.S. Department of the Treasury and the Mississippi Department of Environmental Quality 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 Agreement 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 or the Mississippi Department of Environmental Quality.

### **13. Notices**

All notices, requests, consents, claims, demands, waivers and other communications hereunder shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by facsimile or e-mail of document(s) (with confirmation of transmission) if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective Parties at the following addresses (or at such other address for a Party as shall be specified in a notice given in accordance with this subsection):

If to MDEQ:

Attention: Melanie Green

Address: P.O. Box 2261

Jackson, MS 39225

Phone: 601.961.5270

E-mail: [mgreen@mdeq.ms.gov](mailto:mgreen@mdeq.ms.gov)

If to SUB-RECIPIENT:           Attention: Judy Young  
  Address: 2350 Beach Blvd Ste A  
  Biloxi, MS 39351  
  Phone: 228.896.6699  
  E-mail: judy@coastalmississippi.com

**14. Counterparts**

Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same Agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[SIGNATURE PAGE FOLLOWS]

For the faithful performance and consideration provided under the terms of this Agreement, the parties hereto have caused this Agreement to be executed by their undersigned authorized representatives.

**MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY**



Chris Wells  
Executive Director

5/27/22  
Date

**MISSISSIPPI GULF COAST REGIONAL CONVENTION AND VISITORS BUREAU**



Signature of Authorized Representative

Judy Young  
Printed Name

Executive Director  
Title

5/26/22  
Date

**ATTACHMENT A**  
**FEDERAL AWARD**



1. DATE ISSUED MM/DD/YYYY  
02/11/2022

1a. SUPERSEDES AWARD NOTICE dated  
except that any additions or restrictions previously imposed  
remain in effect unless specifically rescinded

2. CFDA NO.  
21.015 - Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of  
the Gulf Coast States

3. ASSISTANCE TYPE Formula Grant

4. GRANT NO. 1 RDCGR470160-01-00  
Formerly

5. TYPE OF AWARD  
Other

4a. FAIN RDCGR470160

5a. ACTION TYPE New

6. PROJECT PERIOD MM/DD/YYYY  
From 02/03/2022 Through 08/03/2024

7. BUDGET PERIOD MM/DD/YYYY  
From 02/03/2022 Through 08/03/2024

8. TITLE OF PROJECT (OR PROGRAM)  
Gulf Coast Tourist Wayfinding and Informational Signage

**U.S. DEPARTMENT OF THE TREASURY**  
**Office of the Fiscal Assistant Secretary**  
**Office of Gulf Coast Restoration**

1500 Pennsylvania Ave., N.W.  
Washington, DC 20220-0001

**NOTICE OF AWARD**  
**AUTHORIZATION (Legislation/Regulations)**  
**Resources and Ecosystems Sustainability, Tourist Opportunities, and**  
**Revived Economies of the Gulf Coast States**

9a. GRANTEE NAME AND ADDRESS  
Environmental Quality, Mississippi Department Of  
515 E Amite St  
Jackson, MS 39201-2709

9b. GRANTEE PROJECT DIRECTOR  
Mr. Chris Wells  
515 E AMITE ST  
JACKSON, MS 39201-2709  
Phone: 601-961-5545

10a. GRANTEE AUTHORIZING OFFICIAL  
Mr. Chris Wells  
515 E AMITE ST  
JACKSON, MS 39201-2709  
Phone: 601-961-5545

10b. FEDERAL PROJECT OFFICER  
Shelby Servais  
1500 Pennsylvania Ave NW  
Washington, DC 20220-0001  
Phone: 202-281-9187

ALL AMOUNTS ARE SHOWN IN USD

<b>11. APPROVED BUDGET (Excludes Direct Assistance)</b>		<b>12. AWARD COMPUTATION</b>	
I Financial Assistance from the Federal Awarding Agency Only		a. Amount of Federal Financial Assistance (from Item 11m) 1,099,513.00	
II Total project costs including grant funds and all other financial participation		b. Less Unobligated Balance From Prior Budget Periods 0.00	
a. Salaries and Wages	41,193.00	c. Less Cumulative Prior Award(s) This Budget Period 0.00	
b. Fringe Benefits	12,770.00	<b>d. AMOUNT OF FINANCIAL ASSISTANCE THIS ACTION</b> 1,099,513.00	
c. Total Personnel Costs	53,963.00	<b>13. Total Federal Funds Awarded to Date for Project Period</b> 1,099,513.00	
d. Equipment	0.00	<b>14. RECOMMENDED FUTURE SUPPORT</b> (Subject to the availability of funds and satisfactory progress of the project):	
e. Supplies	512.00	YEAR	TOTAL DIRECT COSTS
f. Travel	1,880.00	a. 2	d. 5
g. Construction	0.00	b. 3	e. 6
h. Other	900,000.00	c. 4	f. 7
i. Contractual	116,813.00	<b>15. PROGRAM INCOME SHALL BE USED IN ACCORD WITH ONE OF THE FOLLOWING ALTERNATIVES:</b>	
<b>j. TOTAL DIRECT COSTS</b>	<b>1,073,168.00</b>	a. DEDUCTION	
k. INDIRECT COSTS	26,345.00	b. ADDITIONAL COSTS	
<b>l. TOTAL APPROVED BUDGET</b>	<b>1,099,513.00</b>	c. MATCHING	
m. Federal Share	1,099,513.00	d. OTHER RESEARCH (Add / Deduct Option)	
n. Non-Federal Share	0.00	e. OTHER (See REMARKS)	
<b>REMARKS (Other Terms and Conditions Attached -</b>		<b>16. THIS AWARD IS BASED ON AN APPLICATION SUBMITTED TO, AND AS APPROVED BY, THE FEDERAL AWARDOING AGENCY ON THE ABOVE TITLED PROJECT AND IS SUBJECT TO THE TERMS AND CONDITIONS INCORPORATED EITHER DIRECTLY OR BY REFERENCE IN THE FOLLOWING:</b>	
See next page <input checked="" type="radio"/> Yes <input type="radio"/> No		a. The grant program legislation	
		b. The grant program regulations.	
		c. This award notice including terms and conditions, if any, noted below under REMARKS.	
		d. Federal administrative requirements, cost principles and audit requirements applicable to this grant.	
		In the event there are conflicting or otherwise inconsistent policies applicable to the grant, the above order of precedence shall prevail. Acceptance of the grant terms and conditions is acknowledged by the grantee when funds are drawn or otherwise obtained from the grant payment system.	

AUTHORIZING OFFICIAL:

17.OBJ CLASS 410008	18a. VENDOR CODE 2818369	18b. EIN 640629297	18a. UEI	18b. DUNS 809389878	20. CONG. DIST. 03
FY-ACCOUNT NO.	DOCUMENT NO.	ADMINISTRATIVE CODE	AMT ACTION FIN ASST	APPROPRIATION	
21. a. Direct	b. RDCGR470160	c. RDC	d. \$1,099,513.00	e.	
22. a.	b.	c.	d.	e.	
23. a.	b.	c.	d.	e.	

**NOTICE OF AWARD (Continuation Sheet)**

<b>PAGE 2 of 4</b>	<b>DATE ISSUED</b> 02/11/2022
<b>GRANT NO. 1 RDCGR470160-01-00</b>	

**REMARKS:**

With the issuance of this award, Treasury is providing authorization for the recipient to charge pre-award costs to the award and to drawdown funds as reimbursement for these pre-award costs, provided that these pre-award costs were necessary for the efficient and timely performance of the scope of work and would have been allowable if incurred after the date of the award.

MDEQ contracts include work beyond the scope of work for this award. MDEQ may use project funds to reimburse both of its contractors solely for their work on this project. The funds under this award may be used only for the approved scope of work, which includes only activities directly related to this project, per 2 C.F.R. 200.405.

This award is approved by Gregory J. Till, Authorizing Official. Accepting this award in GrantSolutions.gov constitutes acceptance of this award and the Standard Terms and Condition and Programmatic Terms and Conditions and Special Award Conditions.

NOTICE OF AWARD (Continuation Sheet)

PAGE 3 of 4	DATE ISSUED 02/11/2022
GRANT NO. 1 RDCGR470160-01-00	

Federal Financial Report Cycle			
Reporting Period Start Date	Reporting Period End Date	Reporting Type	Reporting Period Due Date
02/03/2022	03/31/2022	Semi-Annual	04/30/2022
04/01/2022	09/30/2022	Semi-Annual	10/30/2022
10/01/2022	03/31/2023	Semi-Annual	04/30/2023
04/01/2023	09/30/2023	Semi-Annual	10/30/2023
10/01/2023	03/31/2024	Semi-Annual	04/30/2024
04/01/2024	08/03/2024	Final	12/01/2024

**OTHER PROJECT-SPECIFIC PARAGRAPHS**

- The Gulf Coast Tourist Wayfinding and Informational Signage project is awarded to Mississippi Department of Environmental Quality under the RESTORE Act Direct Component program to support tourism promotion on the Mississippi Gulf Coast through wayfinding and informational signage. The project objectives are to stimulate the economy and promote tourism by attracting more visitors and enhance the visitor experience in the Mississippi Gulf Coast Region. The project will benefit the coastal communities of the Mississippi Gulf Coast Region. The subrecipient, Mississippi Gulf Coast Regional Convention and Visitors Bureau will carry out the scope of work for the project.

**RESTORE Act - FUNDING AUTHORIZATION**

1. Total Amount of Federal Funds Awarded to Date for Project Period <i>Line 13 of NoA/Amendment</i>	Amount of Funding Restrictions	Amount of Financial Assistance This Action <i>Line 12d of NoA/Amendment</i>	Amount Authorized for ASAP Account this Action	Notes
\$1,099,513.00	\$0.00	\$1,099,513.00	\$1,099,513.00	Initial Authorization, with a maximum draw limit of \$344,513.00, per SAC #1.

**RESTORE Act - SPECIAL AWARD CONDITIONS**

- Special Award Condition 1:** An ASAP Maximum Draw Limit of \$344,513.00 is in place for this award. The ASAP Maximum Draw Limit allows MDEQ to draw funds from ASAP as necessary up to the allowable amount budgeted for costs other than subrecipient construction activities (\$755,000.00). MDEQ may request an increase in the maximum draw limit for subrecipient construction costs with the submission of its written request to Treasury for permission to commence with construction, per Section W.6. of RESTORE Act Financial Assistance Standard Terms and Conditions and Program-Specific Terms and Conditions.

**Special Award Condition 2:** MDEQ must submit to Treasury the Planning and Implementation Guide



NOTICE OF AWARD (Continuation Sheet)

PAGE 4 of 4	DATE ISSUED 02/11/2022
GRANT NO. 1 RDCGR470160-01-00	

developed by the subrecipient, including details of gateway treatments to be undertaken, identification of locations, and updated Performance Measure #2 Target, prior to requesting permission to commence with construction.

**Special Award Condition 3:** MDEQ must submit to Treasury a proposed Estimated Useful Life for each property expenditure and request a determination from Treasury as to whether the federal interest should be documented on the treatment for each site per Section W.8 of the RESTORE Act Financial Assistance Standard Terms and Conditions and Program-Specific Terms and Conditions.

**Special Award Condition 4:** MDEQ must submit to Treasury an updated Environmental Checklist completed by the subrecipient, as well as identify and obtain any required permits and easement agreements necessary for implementation, prior to requesting permission to commence with construction.

# **AWARD ATTACHMENTS**

**Environmental Quality, Mississippi Department Of**

**1 RDCGR470160-01-00**

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- 1. Approved Scope of Work**
- 2. Standard and Program Specific Terms and Conditions - December 2018**

# **APPROVED SCOPE OF WORK**

**The Approved Scope of Work includes all information provided with the grant application. The attached documents, taken from the grant application, provide a summary of the scope of work approved with this grant award.**

## **Approved Scope of Work: Gulf Coast Tourist Wayfinding and Informational Signage**

### **Project Description:**

#### **Executive Summary**

This project will support the promotion of tourism in the Gulf Coast Region by implementing tourist wayfinding and informational signage across the Mississippi Gulf Coast (Coast) to attract visitors and enhance the visitor experience.

The GoCoast Tourism Committee identified the lack of directional and informational signage appealing to visitors as one of the gaps in the market inhibiting tourism promotion activities. Implementation of additional signage will increase awareness and visibility of the Mississippi Gulf Coast's many tourism attractions and opportunities. Improving wayfinding and informational signage will enhance the visitor experience, which encourages repeat visitation and longer length of stay. Also, tourist wayfinding and informational signage along major thoroughfares will help promote attractions and experiences available on the Mississippi Gulf Coast to travelers passing through the market. It is anticipated that this effort will be regionally coordinated to enhance and strengthen regional branding efforts. This project will support implementation of tourist wayfinding and informational signage. Activities may also include, but are not limited to, planning and coordination, installation, program oversight and management, development, coordination, and execution of the grant award between the Mississippi Department of Environmental Quality (MDEQ) and Treasury and agreements between MDEQ and subrecipient.

This project aligns with the tourism priorities developed by the GoCoast 2020 Commission. This project qualifies as an eligible activity for Direct Component funding through 31 C.F.R. §34.201(h) – promotion of tourism in the Gulf Coast Region, including promotion of recreational fishing, and 33 U.S.C. §1321 (t)(1)(B)(ii)(I) of the RESTORE Act. This activity will be implemented by Mississippi Gulf Coast Regional Convention and Visitors Bureau (d/b/a Coastal Mississippi).

**Need:** Additional tourist wayfinding and informational signage is needed to increase the visibility of the Mississippi Gulf Coast's many tourism assets and experiences to attract visitors and enhance the visitor experience.

**Purpose:** The purpose of this project is to support tourism promotion on the Mississippi Gulf Coast through wayfinding and informational signage appealing to visitors.

**Objective:** Implement additional tourist wayfinding and informational signage to attract visitors and enhance the visitor experience.

**How the proposed project activity will be carried out in the Gulf Coast Region:** This project will be implemented in Harrison, Hancock and Jackson Counties, Mississippi. Coastal Mississippi's administrative office is located in Harrison County, Mississippi.

#### **MDEQ Scope of Work**

MDEQ, as the eligible entity under the Direct Component, will be the recipient of this grant from Treasury. MDEQ will issue a sub-award to Coastal Mississippi for project implementation. MDEQ will serve as the pass-through entity and provide project management and oversight throughout the life of the grant.

## **Pre-Award**

Estimated Timeline: 7/16/2018 – Award Date

During the Pre-Award period, MDEQ will perform a risk assessment of the sub-recipient, including operational, legal, regulatory, and budgetary assessments. The risk assessment will include other considerations of such factors as described in 2 C.F.R. §200.331(b). The risk assessment informs the level of sub-recipient monitoring needed during the grant award. Activities also include the development, coordination, and execution of the grant award between MDEQ and Treasury and the sub-award agreement between MDEQ and sub-recipient, as well as any Task 1 activities (see below) that occur prior to grant award. Detail regarding pre-award costs incurred are included in Attachment B, Budget Justification. Additional costs may be incurred on the activities described below until the award is issued. The anticipated roles and responsibilities of the MDEQ staff for the Pre-Award Period are identified below:

*Acting Director of the Office of Restoration* – Provide direct oversight of task activities including development, coordination, and execution of the grant award between MDEQ and Treasury, the risk assessment and sub-award agreement development and execution.

*Program Management Division Chief* – Provide essential insight to the development, coordination, and execution of the grant award between MDEQ and Treasury and sub-award agreement development and execution.

*Environmental Engineer II* – Work directly with the sub-recipient and MDEQ staff to develop a monitoring plan, development, coordination, and execution of the grant award between MDEQ and Treasury and develop and execute the sub-award agreement.

*Environmental Engineer In Training* – Support Environmental Admor III with activities occurring during the Pre-Award Period.

*Accounting Chief* – Work directly with the sub-recipient to perform the risk assessment, develop a monitoring plan, development, coordination, and execution of the grant award between MDEQ and Treasury, and development and execution of the sub-award agreement.

*Staff Counsel* – Support MDEQ staff with the risk assessment, identifying and development of a monitoring plan, development, coordination, and execution of the grant award between MDEQ and Treasury, and development and execution of the sub-award agreement.

Contractual support has been and will be provided as well. Contractual support includes support of MDEQ with activities occurring during the Pre-Award Period. The anticipated roles and responsibilities of MDEQ contractors for the Pre-Award Period are identified below:

### ***Covington Civil and Environmental, LLC***

*Project Management Support* – Work directly with MDEQ and the sub-recipient to support risk assessment activities, support the development of the monitoring plan, development, coordination, and execution of the grant award between MDEQ and Treasury, and assist with the development and execution of the sub-award agreement.

### ***Balch and Bingham***

*Legal Counsel* – Support MDEQ staff with the risk assessment, identifying and development of a monitoring plan, development, coordination, and execution of the grant award between MDEQ and Treasury, and development and execution of the sub-award agreement.

**Task 1: MDEQ Project Management, Oversight and Construction Monitoring**  
Estimated Timeline: Award + 30 months

Project management includes the oversight, coordination, and monitoring of grant activities, sub-recipient activities, and funds expended under this project. MDEQ, with contractual support, will undertake project management, coordination, and monitoring activities to ensure compliance with all grant and sub-award agreement terms and conditions, 2 C.F.R. Part 200, 31 C.F.R. Part 34, Treasury's Standard Terms and Conditions, applicable Special Award Conditions, applicable state and local laws and regulations and the RESTORE Act. Activities under this task may include, but are not limited to:

- Ensuring compliance with 2 C.F.R. Part 200.
- Preparation, negotiation, and issuance of sub-award agreement; including, all terms and conditions in the MDEQ/Treasury grant agreement and all sub-award agreement requirements in 2 C.F.R. § 200.331(a).
- Compliance and performance monitoring in accordance with grant and sub-award agreement terms and conditions. Monitoring activities may include, but not be limited to, monthly status meetings, site visits, on site financial and operational reviews.
- Preparing and reviewing federal financial and performance reports including, SF-425 (Federal Financial Report), SF-PPR (Performance Progress Report), RESTORE Act Status of Performance Report, Direct Component Activity Milestones Report, updates to SF-424A if needed and interim reporting on significant developments.
- Compliance review of sub-recipient reimbursement requests to ensure costs are eligible based on 2 C.F.R. Part 200 Cost Principles and consistent with grant and sub-award agreement scope of work and budget.
- Reconciliation of expenditures and overall project budget management.
- Overall project scope and schedule management.
- Preparation and participation in audit activities and Office of the Inspector General audits.
- Preparation and participation in Treasury grant monitoring activities.
- Activities associated with MDEQ program transparency objectives (e.g., restore.ms project information updates, procurement notices, etc.).
- Grant and sub-award closeout.

Construction monitoring includes the oversight, coordination, and monitoring of construction activities and funds expended under this project. MDEQ, with contractual support, will undertake construction monitoring activities which may include, but are not limited to:

- Oversight of budgeting and cost estimating.
- Monitoring construction project controls.
- Performing construction observations.
- Assisting with construction project close-out.
- Monitoring commencement of activities in accordance with grant and sub-award agreement terms and conditions.
- Reviewing construction costs with budgets and estimates.
- Reviewing construction activities for reporting.

The anticipated roles and responsibilities of the MDEQ staff are identified below:

*Acting Director of the Office of Restoration* – Provide oversight on all project activities; responsible for reporting progress to the MDEQ Executive Director.

*Program Management Division Chief* – Provide support on all project activities including assistance with project monitoring.

*Environmental Engineer II* – Work directly with sub-recipient to monitor project activities and compliance with grant and sub-award agreement terms and conditions.

*Environmental Engineer In Training* – Support Program Management Division Chief and Environmental Admor III with oversight of project activities and sub-award compliance monitoring.

*Accounting Chief* – Work with project managers to oversee financial activities and processing reimbursement requests and funding drawdowns.

*Administrative Assistant* – Provide support on all project activities as needed.

*Accountant/Auditor IV* – Provide support on all project activities including processing financial requests and managing project files.

*Staff Counsel* – Provide support on all project activities, as needed.

Contractual support will be provided as well. Contractual support includes support of MDEQ with activities occurring in this task. The anticipated roles and responsibilities of the MDEQ contractors are identified below:

***Covington Civil and Environmental, LLC***

*Project Management* – Provide support for MDEQ’s oversight of all project activities, work closely with sub-recipient to monitor project activities for compliance with grant and sub-award agreement terms and conditions, and project financial activities, including reviewing reimbursement requests. Provide construction oversight support to MDEQ, as needed.

***Balch and Bingham***

*Legal Counsel* – Provide legal support to MDEQ, as needed.

**Task 2: Coastal Mississippi Project Implementation**

Estimated Timeline: Award + 24 months

Direct Component funds in the amount of \$900,000.00 will be provided to Coastal Mississippi in a subaward agreement for planning, implementation and administrative support of the Gulf Coast Tourist Wayfinding and Informational Signage project. This Project aims to create a sense of arrival in Coastal Mississippi and promote the area’s attractions through gateway treatments at strategic locations in Hancock, Harrison and Jackson Counties. Gateway treatments would mark the entrances and exits so that visitors know they are on roads on or leading to the Mississippi Gulf Coast. The gateway treatments may include monuments, artwork, infrastructure, signs, roadside markers, and landscaping to help create a unique sense of place with a theme and feel distinctive to the Mississippi Gulf Coast, while providing useful information and direction to those visiting the area.

***Project Planning and Development Activities***

Coastal Mississippi, with contractual support, will develop an in-depth plan and implementation guide for the project. The plan development will include coordination with stakeholders, engineering and design of gateway treatments and identification of locations. Planning activities will also include identifying and obtaining any required permitting and easement agreements necessary for implementation.

***Project Implementation***

Coastal Mississippi, with contractual support, will implement gateway treatments as determined in Project Planning and Development Activities. Gateway treatments implemented will be based on the final plans and specifications developed during project planning. Anticipated implementation

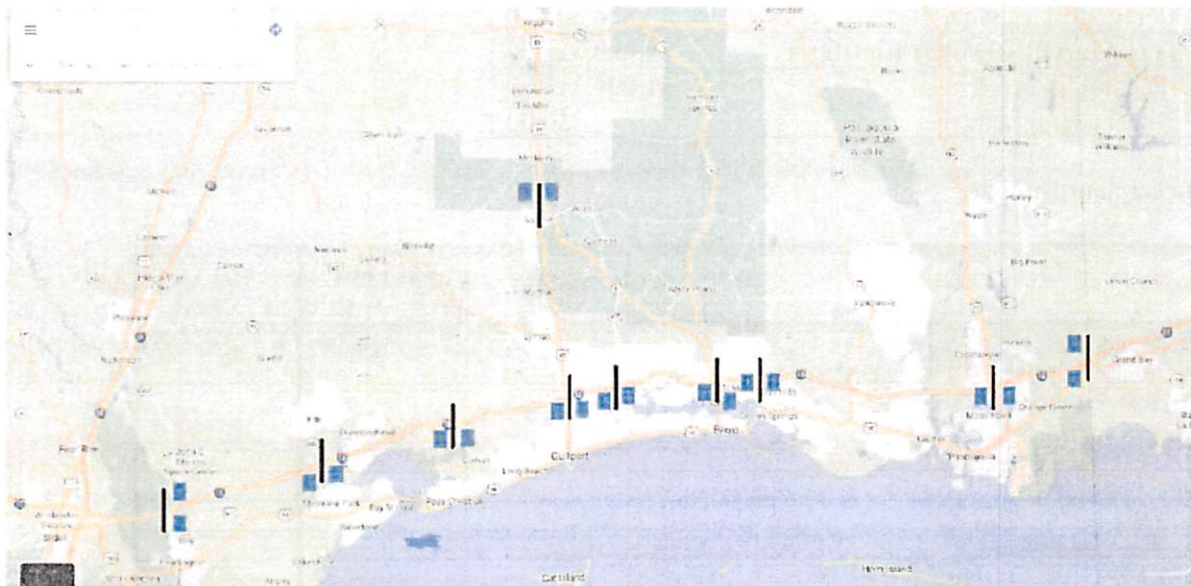
components which will be further refined during project planning, include, but are not limited to, the following:

- Iconic **Gateway Monuments** for I-10 East and Westbound at State line
- Iconic **Gateway Signs and thematic roadway treatments** for highways that approach the Coast
- Signs and treatments for entrances to Cities and Counties along the Coast

See *Project Location Map* upload for potential locations which will be further evaluated during project planning.

### ***Project Oversight and Administration***

Coastal Mississippi will procure grant administration services to support overall project compliance and administration. Procurement activities for planning, implementation and grant administration support will be conducted in accordance with federal procurement standards.



LA-MS State Line  
Highway 603 Exit  
Menge Avenue Exit  
Highway 49/I-10 Interchange  
Cowan Lorraine Road/ Highway 605 Exit  
I-10/I-110 D'iberville Exit

Ocean Springs/ Highway 51 Exit  
Pascagoula/ Moss Point/ Highway 63 Exit  
MS-AL State Line  
Highway 49 North/ South at Highway 67

**Project Location Map.** Coastal Mississippi Suggested Signage Locations for Wayfinding Grant



**Budget:**

<b>Approved Budget for NoA</b> (Based on SF-424A)	
a. Salaries and Wages	\$41,193.00
b. Fringe Benefits	\$12,770.00
c. Total Personnel Costs	\$53,963.00
d. Equipment	\$0.00
e. Supplies	\$512.00
f. Travel	\$1,880.00
g. Construction	\$0.00
h. Other	\$900,000.00
i. Contractual	\$116,813.00
j. TOTAL DIRECT COSTS	\$1,073,168.00
k. INDIRECT COSTS	\$26,345.00
<b>l. TOTAL APPROVED BUDGET</b>	<b>\$1,099,513.00</b>
m. Federal Share	\$1,099,513.00
n. Non-Federal Share	\$0.00

**Subrecipient Budget:**

Cost Classification	OTHER	RESTORE (SUB-AWARD)	TOTAL FUNDING
Administrative and Legal Expenses	\$ -	\$ 45,000.00	\$ 45,000.00
Land, Structure, Rights-of-Way, Appraisals, Etc.	-	-	-
Relocation Expenses and Payments	-	-	-
Architectural and Engineering Fees	-	100,000.00	100,000.00
Other Architectural and Engineering Fees	-	-	-
Project Inspection Fees	-	-	-
Site Work	-	-	-
Demolition and Removal	-	-	-
Construction	-	755,000.00	755,000.00
Equipment	-	-	-
Miscellaneous	-	-	-
<b>SUBTOTAL</b>	<b>\$ -</b>	<b>\$ 900,000.00</b>	<b>\$ 900,000.00</b>
Contingencies	-	-	-
<b>SUBTOTAL</b>	<b>\$ -</b>	<b>\$ 900,000.00</b>	<b>\$ 900,000.00</b>
Project Income	-	-	-
<b>TOTAL SUB-RECIPIENT BUDGET</b>	<b>\$ -</b>	<b>\$ 900,000.00</b>	<b>\$ 900,000.00</b>

**Milestones:**

No	Milestone	Estimated Completion Timeframe (award + # months)
1	Sub-recipient Risk Assessment Complete	1
2	Sub-Award Executed	2
3	Planning and Implementation Guide Complete	12
4	Construction Procurement Complete	15
5	Implementation/Construction Complete	24
6	Grant Closeout	30

**Performance Measures:**

#	Measure	Baseline	Target	Target Date
1	Planning and Implementation Guide Complete	0	1	Award + 12 months
2	Number of Wayfinding and Informational Signs Implemented	0	16*	Award + 24 months

\*Measure #2 Target may be updated based upon completion of planning activities.

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

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

**December 2018**



# TABLE OF CONTENTS

<b>RESTORE ACT FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS AND PROGRAM-SPECIFIC TERMS AND CONDITIONS</b> .....	1
A PROGRAM-SPECIFIC TERMS AND CONDITIONS - AWARDS UNDER THE DIRECT COMPONENT.....	2
B PROGRAM-SPECIFIC TERMS AND CONDITIONS - AWARDS UNDER THE CENTERS OF EXCELLENCE RESEARCH GRANTS PROGRAM .....	3
<b>STANDARD TERMS AND CONDITIONS - AWARDS UNDER THE DIRECT COMPONENT AND AWARDS UNDER THE CENTERS OF EXCELLENCE RESEARCH GRANTS PROGRAM</b>	
C FINANCIAL REQUIREMENTS .....	4
D RECIPIENT REPORTING AND AUDIT REQUIREMENTS.....	7
E FINANCIAL MANAGEMENT SYSTEM AND INTERNAL CONTROL REQUIREMENTS .....	9
F RECORDS RETENTION REQUIREMENTS.....	10
G THE FEDERAL GOVERNMENT'S RIGHT TO INSPECT, AUDIT, AND INVESTIGATE .....	11
H AWARD DISBURSEMENT .....	12
I EFFECT OF A GOVERNMENT SHUTDOWN ON DISBURSEMENTS AND THE AVAILABILITY OF TREASURY PERSONNEL .....	13
J NOTIFICATIONS AND PRIOR APPROVALS .....	13
K PROPERTY .....	14
L AMENDMENTS AND CLOSEOUT.....	15
M REMEDIES FOR NONCOMPLIANCE.....	16
N DEBTS .....	17
O NON-DISCRIMINATION REQUIREMENTS.....	18
P REQUIREMENT TO CHECK DEBARMENT AND SUSPENSION STATUS OF SUBRECIPIENTS, CONTRACTORS, SUBCONTRACTORS AND VENDORS .....	20
Q DRUG FREE WORKPLACE.....	20
R LOBBYING RESTRICTIONS.....	20
S PROCUREMENT .....	22
T RESEARCH INVOLVING HUMAN SUBJECTS .....	24
U ENVIRONMENTAL REQUIREMENTS.....	24
V MISCELLANEOUS REQUIREMENTS AND PROVISIONS .....	25
<b>SUPPLEMENTAL STANDARD TERMS AND CONDITIONS - AWARDS UNDER THE DIRECT COMPONENT FOR ACQUISITION AND IMPROVEMENTS TO REAL PROPERTY</b>	
W ACQUISITION AND IMPROVEMENTS TO REAL PROPERTY .....	35

# 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; and,
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. Administrative costs do not include indirect costs that are identified specifically with, or readily assignable to facilities, as defined in 2 C.F.R. § 200.414. Costs borne by subrecipients 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 any claim for compensation was filed and paid out by the Oil Spill Liability Trust Fund after July 6, 2012.

**3. Remedies for Noncompliance**

- 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, per 31 C.F.R. § 34.804, Treasury will make no additional payments to the recipient from the Gulf Coast Restoration Trust Fund (Trust Fund), including no payments from the Trust Fund for activities, projects, or programs until the recipient has either (1) deposited an amount equal to the amount expended for the ineligible activities in the 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 it 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 when it submits the report to the Council.

## STANDARD TERMS AND CONDITIONS

### AWARDS UNDER THE DIRECT COMPONENT AND 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 F, and any Treasury regulations incorporating these requirements.
- 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 related to 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 for costs incurred prior to the effective date of this Award, which are allowable only if:

- a. Treasury specifically authorized these costs in writing on or after the issuance date 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 an accepted de minimis rate or 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 by the recipient or the subrecipient during the period of performance of the award or subrecipient agreement, as applicable, must be included in the approved budget and be used for the purposes of the Award 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 which includes a budget by federal object class categories or fixed amount (2 CFR 200.332) if approved by Treasury. 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 by Treasury, 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 through a legally binding written agreement, 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.
- b. In the remarks section of each SF-425 submitted, the recipient must describe by federal budget class category the use of all funds received by the recipient and subrecipient (if applicable).
- c. The report must be signed by an authorized certifying official who is the employee authorized by the recipient organization to submit financial data on its behalf.
- d. 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"), a "RESTORE Act Status of Performance Report," (standard format provided by Treasury, OMB Approval No. 1505-0250) and an updated "RESTORE Act Milestones Report," (standard format provided by Treasury, OMB Approval No. 1505-0250) 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 performance 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. SF-PPR: 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 by the recipient and any subrecipients (if applicable);
      - 2) Summarize any key accomplishments, including milestones completed for the reporting 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 or any subrecipient 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. If the scope of work is not on schedule, the recipient should propose a revised schedule and update its milestone report.

c) In Section B-3:

Summarize any significant findings or events, including any data compiled, collected, or created, if applicable.

d) In Section B-4:

Describe any activities to disseminate or publicize results of the activity, project, or program, including data and its repository and citations for publications resulting from this Award.

e) In Section B-5:

- 1) Describe all efforts taken to monitor contractor and/or subrecipient performance, including site visits, during the reporting period.
- 2) For subawards, indicate whether the subrecipient(s) submitted an audit to the recipient, and if so, whether the recipient issued a management decision on any findings; and
- 3) For awards where Davis-Bacon Act provisions are applicable, indicate whether the recipient and/or subrecipient(s) received and reviewed certified weekly payroll records and/or whether the recipient or subrecipient(s) conducted labor interviews.
- 4) 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. "RESTORE Act Status of Performance Report": Instructions are provided on the report form.
- iii. "RESTORE Act Milestones Report": Instructions are provided on the report form.

**3. Interim Reporting on Significant Developments per 2 C.F.R. § 200.328(d)**

- 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 the Single Audit Act and 2 C.F.R. Part 200 Subpart F – Audit Requirements.

#### 5. Operational Self-Assessment

The recipient must submit a revised *Operational Self-Assessment* form 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 its 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 [Direct Component OSA or Centers of Excellence OSA](#).

### 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 for the state's own funds. All other recipients must expend and account for Award funds in accordance with federal 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, RESTORE Act Milestones Report, and RESTORE Act 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 noncompliance. When and if an instance of noncompliance cannot be remedied by the recipient, the recipient must promptly report the instance of noncompliance 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, all conflict of interest and other procurement rules governing a particular contract, and any bid protests;
  - b. Copies of all subawards and all documents related to a subaward. For competitively selected subawards, documents may include those relevant to and required by the recipient's or subrecipient's selection process such as 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;
  - c. All documentation of site visits, reports, audits, and other monitoring of contractors (vendors) and subrecipients;
  - 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, RESTORE Act Milestones Reports, and RESTORE Act 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 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.
  4. 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.

## **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).

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 either with or without pre-approval of drawdown requests: (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 noncompliance 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.
2. If reimbursement is used, Treasury may require pre-approval of drawdown requests. If Treasury requires pre-approval of drawdown requests, Treasury will provide the recipient with instructions on what billing to submit. 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.
3. 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.
4. 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 the Automated Clearing House (ACH) for next day or future day payments only. Awards paid through ASAP.gov may contain controls or withdrawal limits set by Treasury.
5. 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, 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.

6. 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 activity, project, or program costs and the proportionate share of any allowable indirect costs. Advances should not be drawn down more than three business 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.
7. 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).
8. 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.
9. 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. 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), unless described in the application and approved in this Award.;
  - vi. 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, unless described in the application and approved in this Award.
- 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 for real property, equipment, supplies, and intangible property. The recipient must also comply with the RESTORE Act requirements concerning the acquisition of land and interests in land at 31 C.F.R. § 34.803.
- b. No real property or interest in real property may be acquired under this Award unless authorized in the approved scope of work.

## 2. Supplies and Equipment

- a. Requirements that are applicable to recipients that are states:
  - i. Equipment: The recipient must use, manage, and dispose of equipment acquired under this Award in accordance with state laws and procedures.
  - ii. Supplies: 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:
  - i. Equipment and Supplies: During the period of performance, the recipient must seek disposition instructions from Treasury for equipment and/or unused or residual supplies acquired under this Award if the current fair market value of the equipment and/or unused or residual supplies is greater than \$5,000 per unit. The recipient must seek disposition instructions before disposing of the property 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 equipment and/or 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.
- b. Within 90 calendar days after the end of the period of performance, unless the recipient requests, and Treasury approves, an extension, the recipient must submit any outstanding SF-PPR and RESTORE Act Status of Performance reports, as well as the required reporting on subawards, if applicable, plus a final SF-425 report. In the remarks section of the final SF-425 report, the recipient

must describe by federal budget class category the final use of all funds received by the recipient and subrecipient (if applicable).

- c. 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.
- d. The recipient must promptly refund any balances of unobligated cash that Treasury paid.
- e. Following receipt of reports in paragraph (a) 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;
  - iii. The recipient's obligations regarding audits, property management and disposition (if applicable), and records retention.

#### **M REMEDIES FOR NONCOMPLIANCE**

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.3, above, applicable to Direct Component awards):
  - a. Impose additional Special Award Conditions such as:
    - i. Allowing payment only on a reimbursement basis, with pre-approval of drawdown requests,
    - ii. Requiring additional reporting or more frequent submission of the SF-425, SF-PPR, or RESTORE Act 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 noncompliance;
  - 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 noncompliance has occurred, provide details regarding the instance of noncompliance, and indicate the remedy that Treasury proposes to pursue. The recipient

will 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 noncompliance 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 noncompliance 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 180.
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 [https://www.fiscal.treasury.gov/fsreports/rpt/cvfr/cvfr\\_home.htm](https://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 and contracts 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, as amended (42 U.S.C. §§ 12101 et seq.) ("ADA"), including the ADA Amendments Act of 2008 (Public Law 110-325, "ADAAA"), 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;
- f. Any other applicable non-discrimination law(s).

2. **Regulatory Provisions**

- a. Treasury Title VI regulations, 31 C.F.R. Part 22, implement Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. §§ 2000d, et seq.) which prohibits discrimination on the grounds of race, color, or national origin under programs or

activities receiving federal financial assistance;

- b. Treasury Title IX regulations, 31 C.F.R. Part 28, implement Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681 et seq.) which prohibits discrimination on the basis of sex under federally assisted education programs or activities;
- c. Treasury Age Discrimination regulations, 31 C.F.R. Part 23, implement the Age Discrimination Act of 1975, which prohibits discrimination on the basis of age in programs and activities receiving federal financial assistance.

### **3. 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 EO 11246 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.

### **4. 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.

### **5. 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 a proposed subrecipient or contractor (if the contract is expected to equal or exceed \$25,000) or its principals, does not appear 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 they verify that their contractors (for contracts expected to equal or exceed \$25,000), subcontractors (for subcontracts expected to equal or exceed \$25,000), or principals that the subrecipients or contractors 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, or 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. **Lobbying Restrictions**
  - a. Solely for the purposes of Section R of these Standard Terms and Conditions, "recipient" is used as defined at 31 C.F.R. § 21.105(0). Solely for the purposes of Section R of these Standard Terms and Conditions, "award recipient" refers to the recipient of this RESTORE Act award from Treasury.
  - b. All recipients must comply with the provisions of 31 U.S.C. § 1352, as amended, and with regulations at 31 C.F.R. Part 21. No appropriated funds may be expended by the recipient of a Federal grant to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant or the extension, continuation, renewal, amendment, or modification of any Federal grant.



## 2. Certification

- a. Each person who requests or receives from Treasury a RESTORE Act grant shall file with Treasury a certification, set forth in Appendix A of 31 C.F.R. Part 21, that the person has not made, and will not make, any payment prohibited under 31 U.S.C. § 1352, as amended.
- b. The certification shall be filed pursuant to 31 C.F.R. § 21.100(a) and (b).
- c. Any subrecipient, at any tier, who receives a subaward exceeding \$100,000 under this award, shall file with the tier above them a certification, set forth in appendix A of 31 C.F.R. Part 21, that the subrecipient as not made, and will not make, any payment prohibited by 31 C.F.R. § 21.100(a). Pursuant to 31 C.F.R. 21.100(d), the certification shall be filed to the next tier above.
- d. Any contractor or subcontractor, at any tier, who receives a contract or subcontract exceeding \$100,000 under this award, shall file with the tier above them a certifications, set forth in Appendix A of 31 C.F.R. Part 21, that the contractor or subcontractor has not made, and will not make, any payment prohibited by 31 U.S.C. § 1352, as amended. Pursuant to 31 C.F.R. 21.100(d), the certification shall be filed to the next tier above.
- e. Every certification filed shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared with any tier to which the erroneous representation if forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification. If a person fails to file a required certification, the United States may pursue all available remedies, including those authorized by 31 U.S.C. § 1352.

## 3. Disclosure of Lobbying Activities

- a. The award recipient of this RESTORE Act grant from Treasury, if this grant exceeds \$100,000, shall file with Treasury disclosure form SF-LLL, set forth in Appendix B of 31 CF.R. Part 21, if that award recipient is paid or will pay any funds, other than Federal appropriated funds, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant.
- b. Every recipient of a subaward under this RESTORE Act grant from Treasury, if this grant exceeds \$100,000, shall file with the tier above it the disclosure form SF-LLL, set forth in Appendix B of 31 C.F.R. Part 21, if that recipient has paid or will pay any funds, other than Federal appropriated funds, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant. Each tier who receives the completed and signed SF-LLL disclosure form shall forward it to the tier above it, and the award recipient of this RESTORE Act grant from Treasury will forward it to Treasury.
- c. Every recipient of a contract or subcontract under this RESTORE Act grant from Treasury, if this grant exceeds \$100,000, shall file with the tier above it the disclosure form SF-LLL, set forth in Appendix B of 31 C.F.R. Part 21, if that recipient has paid or will pay any funds, other than Federal appropriated funds, to any person for influencing or attempting to influence an officer or employee

of any agency, a Member of Congress, an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant. Each tier who receives the completed and signed SF-LLL disclosure form shall forward it to the tier above it, and the award recipient of this RESTORE Act grant from Treasury will forward it to Treasury.

- d. Every SF-LLL disclosure form filed shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared with any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification. If a person fails to file a required disclosure, the United States may pursue all available remedies, including those authorized by 31 U.S.C. § 1352,
- e. Pursuant to 31 C.F.R. § 21.110(c), every recipient must file a new disclosure form at the end of each calendar quarter in which a payment, or an agreement to make a payment, is made which would have otherwise required reporting at the time of application. Moreover, if an event occurs during the calendar quarter which materially affects the accuracy of information reported on the disclosure form previously submitted, the submitter must file a new disclosure form. Events which "materially affect" the accuracy of information already reported include:
  - i. A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action;
  - ii. A change in the persons(s) influencing or attempting to influence; and/or
  - iii. A change in the Federal official(s) contacted to influence or attempt to influence a covered Federal action,
- f. The award recipient must submit its form SF-LLLs, as well as those received from subrecipients, contractors and subcontractors, to Treasury within 30 calendar 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.
- g. The award recipient must include a statement in all subaward, contracts and subcontracts exceeding \$100,000 in federal funds, that the subaward, contract, or subcontract is subject to 31 U.S.C. § 1352,
- h. The award recipient must require subrecipients, contractors and subcontractors to submit form SF-LLL to the award recipient with 15 calendar 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 from previously filed.

## 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. 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 notify the recipient in writing of the final determination.
4. Requirements applicable to recipients and subrecipients 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.
5. Requirements applicable to recipients and subrecipients 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*.
6. Contracting with small and minority businesses, women's business enterprise, and labor surplus area firms, 2 C.F.R. § 200.321. Recipients and subrecipients that are not states must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:
  - a. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
  - b. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
  - c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;
  - d. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
  - e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and,
  - f. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in (a) through (e) of this paragraph.

**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 and subrecipient, as appropriate, 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 but not limited to the following federal statutes, regulations, 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, as amended (54 U.S.C. § 300101 et seq.) and Archeological and Historic Preservation Act, as amended (54 U.S.C. § 312501 et seq.)
2. The National Environmental Policy Act of 1969, as amended (42 U.S.C. § 4321 et seq.)
3. Clean Air Act, as amended (42 U.S.C. § 7401 et seq.), Clean Water Act, as amended (33 U.S.C. § 1251 et seq.), and EO 11738
4. The Flood Disaster Protection Act of 1973, as amended (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, as amended, (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 (42 U.S.C. § 9601 note)
12. Magnuson-Stevens Fishery Conservation and Management Act, as amended (16 U.S.C. §1801)
13. Marine Mammal Protection Act, as amended (16 U.S.C § 31)
14. Migratory Bird Treaty Act, as amended (16 U.S.C. §§ 703-712)
15. Responsibilities of Federal Agencies to Protect Migratory Birds, EO 13186
16. Bald and Golden Eagle Protection Act, as amended (16 U.S.C. § 668-668d)
17. Marine Protection, Research and Sanctuaries Act (33 U.S.C. §§ 1401-1445 and 16 U.S.C. §§ 1431—1445)
18. National Marine Sanctuaries Act, as amended (16 U.S.C. § 1431 et seq.)
19. Rivers and Harbors Act of 1899 (33 U.S.C § 407)
20. Environmental Justice in Minority Populations and Low Income Populations, EO 12898, as amended
21. Flood Management, EO 11988, as amended by EO 13690, and Protection of Wetland, EO11990, May 24, 177, as amended by EO 12608
22. Farmland Protection Policy Act, as amended (7 U.S.C. § 4201 et. seq.)
23. Coral Reef Protection, EO 13089
24. Invasive Species, EP 13112

**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 of 1986 (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, as amended (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, Fictitious, or Fraudulent Claims, as amended (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, as amended (31 U.S.C. 18 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, as amended (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, as amended (5 U.S.C. §§ 1501-1508 and §§ 7321-7326) 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 and 13270, as amended, 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 at <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, as amended, (16 U.S.C. § 1531 et seq.); Marine Mammal Protection Act, as amended, (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, as amended, (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, as amended. (22 U.S.C. § 7104(g)), 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, *as defined in 2 C.F.R. §175.25(d)*, 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 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.
- 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 § 103 of the TVPA, as amended (22 U.S.C. § 7102).

11. The Federal Funding Accountability and Transparency Act of 2006, as amended. (Pub. L. No. 109-282, 31 U.S.C. § 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 at <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 § 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or § 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
- 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. to uniquely identify business entities.

12. **Recipient Integrity and Performance Matters (80 FR 43301, July 22, 2015) Reporting of Matters Related to Recipient Integrity and Performance**

a. *General Reporting Requirement*

If the total value of the recipient's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then the recipient during that period of time must maintain the accuracy of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIS)) about civil, criminal, or administrative proceedings described in paragraph b. of

this award term and condition. This is a statutory requirement under § 872 of Public Law 110-417, as amended (41 U.S.C. § 2313). As required by § 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

b. *Proceedings About Which The Recipient Must Report*

The recipient must submit the information required about each proceeding that:

- i. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- ii. Reached its final disposition during the most recent five year period; and
- iii. Is one of the following:
  - 1) A criminal proceeding that resulted in a conviction, as defined in paragraph e. of this award term and condition;
  - 2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
  - 3) An administrative proceeding, as defined in paragraph e. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
  - 4) Any other criminal, civil, or administrative proceeding if:
    - a) It could have led to an outcome described in paragraph b.iii. 1), 2), or 3) of this award term and condition;
    - b) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
    - c) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

c. *Reporting Procedures*

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph b of this award term and condition. The recipient does not need to submit the information a second time under assistance awards that the recipient received if they already provided the information through SAM because they were required to do so under Federal procurement contracts that they were awarded.

d. *Reporting Frequency*

During any period of time when the recipient is subject to the requirement in paragraph 1 of this award term and condition, the recipient must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that they have not reported previously or affirm that there is new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

e. *Definitions*

For purposes of this award term and condition:

- i. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- ii. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- iii. Total value of currently active grants, cooperative agreements, and procurement contracts includes—
  - 1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
  - 2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

13. **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."

14. **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, as amended, and OMB Memorandum M-05-24, as amended. 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.14. 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 140-2, 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; or
  - iii. Upon subaward or contract completion or termination.

#### 15. Foreign Travel

- a. The recipient and subrecipient may not use funds from this Award for travel outside of the United States unless Treasury provides prior written approval.
- b. The recipient and subrecipient must comply with the provisions of the Fly America Act, as amended, (49 U.S.C. § 40118). The implementing regulations of the Fly America Act are found at 41 C.F.R. §§ 301-10.131–301-10.143.
- 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.

#### 16. 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.

## **SUPPLEMENTAL STANDARD TERMS AND CONDITIONS - AWARDS UNDER THE DIRECT COMPONENT FOR ACQUISITION AND IMPROVEMENTS TO REAL PROPERTY**

### **W ACQUISITION AND IMPROVEMENTS TO REAL PROPERTY**

#### **1. Compliance with State, Local and Federal Requirements**

The project must comply with all applicable federal laws and regulations, and with all requirements for state, and local laws and ordinances to the extent that such requirements do not conflict with federal laws. The recipient is also responsible for supervising the design, bidding, construction, and operation of construction projects in compliance with all award requirements. The recipient must comply with, and must require all contractors and subcontractors, to comply with all federal, state, and local laws and regulations. The recipient must ensure compliance with special award conditions which may contain conditions that must be satisfied prior to advertisement of bids, start of construction, or other critical event.

#### **2. Title**

Prior to receiving Treasury authorization to start construction, the recipient must furnish evidence, satisfactory to Treasury, that the recipient has acquired good and merchantable title free of all mortgages, foreclosable liens, or encumbrances, to all land, rights of way and easements necessary for the completion of the project.

#### **3. Permitting Requirements**

Prior to receiving Treasury authorization to start construction, the recipient must furnish evidence, satisfactory to Treasury, that recipient has received all federal, state and local permits necessary for the completion of the project.

#### **4. Federal Interest in Real Property**

"Federal interest" refers to real property that is acquired or improved, in whole or in part, with RESTORE Act Direct Component funds, which must be held in trust by the Recipient for the benefit of the project for the Estimated Useful Life of the project, during which period Treasury retains an undivided equitable reversionary interest in the real property (i.e., the "federal interest").

#### **5. Estimated Useful Life**

Property that is acquired or improved, in whole or in part, with federal assistance is held in trust by the recipient for the purpose(s) for which the award was made for the Estimated Useful Life. Estimated Useful Life means the period of years that constitutes the expected useful lifespan of a project, as determined by Treasury, during which Treasury

anticipates obtaining the benefits of the project pursuant to project purposes authorized by the RESTORE Act. For this award the recipient has proposed an Estimated Useful Life from the date of construction completion. Treasury's issuance of the grant agreement represents its concurrence with the recipient's proposed Estimated Useful Life.

The recipient's obligation to the federal government continues for the Estimated Useful Life of the project, as determined by Treasury, during which Treasury retains an undivided equitable reversionary interest (the "federal interest") in the property improved, in whole or in part, with the Treasury investment.

If Treasury determines that the recipient has failed or fails to meet its obligations under the terms and conditions of this award, Treasury may exercise its rights or remedies with respect to its federal interest in the project. However, Treasury's forbearance in exercising any right or remedy in connection with the federal interest does not constitute a waiver thereof.

#### **6. Commencement of Construction**

The recipient should not commence construction prior to the date of the Award. The recipient must make a written request to Treasury for permission to commence construction after the construction contractor has been selected and at least 30 days prior to construction. For project costs to be eligible for Treasury reimbursement, Treasury must determine that the award of all contracts with associated costs are in compliance with the scope of the project and all terms and conditions of this award, and all necessary permits have been obtained, and the federal interest is secure. No construction funds may be drawn from ASAP without Treasury's written permission. If the recipient commences construction prior to Treasury's determination, the recipient proceeds at its own risk.

Treasury will only review contract amendments or change orders which change the scope of a contract.

#### **7. Use of Real Property**

Encumbering real property on which there is a federal interest without prior Treasury approval is an unauthorized use of the property and of project trust funds under this award. See 2 C.F.R. § 200.316. Real property or interest in real property may not be used for purposes other than the authorized purpose of the award without the express, prior written approval of Treasury, for as long as the federal government retains an interest in the property. The property must not be sold, conveyed, transferred, assigned, mortgaged, or in any other manner encumbered except as expressly authorized in writing by Treasury. The recipient must maintain facilities constructed or renovated with grant funds in a manner consistent with the purposes for which the funds were provided for the duration of the Estimated Useful Life.

In the event that the real property or interest in real property is no longer needed for the originally authorized purpose, the recipient must obtain disposition instructions from Treasury consistent with 2 C.F.R. § 200.311.

#### **8. Recording the Federal Interest in the Real Property**

To document the federal interest, the recipient agrees to prepare and properly record a "Covenant of Purpose, Use and Ownership" (Covenant), or, where a subrecipient is the title owner, to ensure that the subrecipient prepares and properly records a "Covenant of Purpose, Use and Ownership" (Covenant) on the property acquired or improved with federal assistance funds. See 2 C.F.R. § 200.316. This Covenant does not establish a



traditional mortgage lien in that it does not establish a traditional creditor relationship requiring the periodic repayment of principal and interest, or the ability of Treasury to foreclose on the real property at any time. Rather, pursuant to the Covenant, the recipient and/or the subrecipient, as applicable, acknowledges that it holds title to the real property in trust for the public purposes of the financial assistance award and agrees, among other commitments, that it will repay the federal interest if it disposes of or alienates an interest in the real property, or uses it in a manner inconsistent with the public purposes of the award, during the Estimated Useful Life of the property.

- a. The Covenant must be satisfactory in form and substance to Treasury, must include the name and current address of the recipient and subrecipient (if applicable), the grant award number, amount and date of award and subrecipient agreement (if applicable), date of the purchase of property (if applicable), and the Estimated Useful Life of the project. It must also include statements that the real property will only be used for purposes consistent with the RESTORE Act; that it will not be mortgaged or used as collateral, sold or otherwise transferred to another party, without the written permission of Treasury; and that the federal interest cannot be subordinated, diminished, nullified or released through encumbrance of the property, transfer of the property to another party or any other action the recipient/subrecipient takes without the written permission of Treasury.
- b. The recipient agrees to provide to Treasury an attorney's title opinion as to the title owner of the property, and to properly record, in accordance with applicable law, the Covenant in the real property records in the jurisdiction in which the real property is located in order to provide public record notice to interested parties that there are certain restrictions on the use and disposition of the real property during its Estimated Useful Life, and that Treasury retains an undivided equitable reversionary interest in the real property to the extent of its participation in the project for which funds have been awarded.
- c. Treasury requires an opinion of counsel for the recipient to substantiate that the document has been properly recorded.
- d. Failure to properly and timely file and maintain documentation of the federal interest may result in appropriate enforcement action, including, but not limited to, disallowance of the cost of the acquisition or improvement by Treasury.
- e. The Federal Interest must be perfected and recorded/filed in accordance with state and/or local law concurrent with the acquisition of the real property, where an award includes real property acquisition, and for construction of buildings and projects to improve the real property, no later than the date construction and/or improvement work commences.
- f. When the Estimated Useful Life of the project is ended, the federal interest is extinguished and the federal government has no further interest in the real property.

Exclusions from the requirement that the federal interest on real property be recorded will be at Treasury's sole discretion. The types of projects for which Treasury may agree to this exclusion are those projects for which federal funds will not be used to fund the construction of built structures, improvements to state parks, water and sewer lateral line projects affecting private properties, and shoreline stabilization projects.

9. **Administration, Operation and Maintenance**

The recipient agrees to administer, operate, and maintain the project for its Estimated

Useful Life in the same manner in which it operates and maintains similar facilities and equipment owned by it, and in accordance with state and local standards, laws and regulations. The recipient must not be in breach of its obligations under this award except to the extent the failure to fulfill any obligation is due to an Uncontrollable Force.

“Uncontrollable Force” means an event beyond the reasonable control of, and without the fault or negligence of, the party claiming the Uncontrollable Force that prevents the recipient from honoring its contractual obligations under this Agreement and which, by exercise of the recipient’s reasonable care, diligence and foresight, such recipient was unable to avoid. Uncontrollable Forces include, but are not limited to:

- a. Strikes or work stoppage;
- b. Floods, earthquakes, or other natural disasters; terrorist acts; and
- c. Final orders or injunctions issued by a court or regulatory body having competent subject matter jurisdiction which the recipient, claiming the Uncontrollable Force, after diligent efforts, was unable to have stayed, suspended, or set aside pending review by a court of competent subject matter jurisdiction. Neither the unavailability of funds or financing, nor conditions of national or local economies or markets must be considered an Uncontrollable Force.

10. **Reporting Requirement**

The recipient must complete and submit to Treasury a report on the status of the real property or interest in real property in which the federal government retains an interest, using a *SF-429 Real Property Status Report* form annually for the first three years after real property acquisition or completion of construction, and thereafter every five years until the end of the Estimated Useful Life or time of disposition, whichever is less. All reports must be for the period ending December 31, or any portion thereof, beginning with the year of completion of construction or real property acquisition, and are due no later than 30 days following the end of the reporting period.

11. **Insurance**

The recipient must, at a minimum, provide the equivalent insurance coverage for real property improved with federal funds as provided to property owned by the recipient state, county or parish, in compliance with 2 C.F.R. § 200.310.

12. **Bonding**

For construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold, the recipient or pass-through entity may request in writing that Treasury accept its bonding policy and requirements. If Treasury determines that the federal interest in the project is adequately protected, the recipient or pass-through entity need not comply with the following three bonding requirements. For all other recipients and pass-through entities, the minimum requirements for construction or facility improvement contracts or subcontracts exceeding the simplified acquisition threshold are as follows:

- a. A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual instruments as may be required within the time specified.

- b. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- c. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

**13. Floodplain Requirements**

In accordance with 44 C.F.R. Part 9, prior to Treasury's authorization to commence construction in a designated 100-year floodplain, the recipient must provide evidence satisfactory to Treasury of a Floodplain Notice, that the 30-day period established for receipt of comments from the public in response to public notice published regarding the potential for adverse project impact on the values and functions of a designated 100-year floodplain has expired and that identified concerns (if any) have been addressed to Treasury's satisfaction. This notice may be satisfied through a federal/state environmental assessment process used as the vehicle for public notice, involvement, and explanation per 44 C.F.R. § 9.8(2).

In addition, prior to Treasury's authorization to commence construction of structures and/or buildings within a designated 100-year floodplain, the recipient must provide evidence satisfactory to Treasury of the following:

- a. Floodplain Protection: That the project engineer/architect has certified that the project facility will be adequately protected from damage by floods in this area of apparent potential flood hazard. The evidence must include adequate justification for the Base Flood Elevation designation for the financial assistance award site.
- b. Floodplain Insurance: That the community is participating in the National Flood Insurance Program, and that as required, the recipient will purchase flood insurance.

**14. Goals for Women and Minorities in Construction**

Department of Labor regulations set forth in 41 C.F.R. § 60-4 establish goals and timetables for participation of minorities and women in the construction industry. These regulations apply to all federally assisted construction contracts in excess of \$10,000. The recipient must comply with these regulations and must obtain compliance with 41 C.F.R. § 60-4 from contractors and subcontractors employed in the completion of the project by including such notices, clauses and provisions in the Solicitations for Offers or Bids as required by 41 C.F.R. § 60-4.

- a. The goal for participation of women in each trade area must be as follows:  
From April 1, 1981, until further notice: 6.9 percent;
- b. All changes to this goal, as published in the Federal Register in accordance with the Office of Federal Contract Compliance Programs regulations at 41 C.F.R. § 60-4.6, or any successor regulations, must hereafter be incorporated by reference into these Special Award Conditions; and,
- c. Goals for minority participation must be as prescribed by Appendix B-80, Federal Register, Volume 45, No. 194, October 3, 1980, or subsequent publications. The recipient must include the "Standard Federal Equal

Employment Opportunity Construction Contract Specifications" (or cause them to be included, if appropriate) in all federally assisted contracts and subcontracts. The goals and timetables for minority and female participation may not be less than those published pursuant to 41 C.F.R. § 60-4.6.

15. **Davis Bacon Act, as amended (40 U.S.C. §§ 3141–3148)**

Davis-Bacon Act-related provisions are applicable for a construction project if it is for the construction of a project that can be defined as a "treatment works" in 33 U.S.C § 1292; or for a construction project regardless of whether it is a "treatment works" project if it is receiving federal assistance from another federal agency operating under an authority that requires the enforcement of Davis-Bacon Act-related provisions. When required, all prime construction contracts in excess of \$2,000 awarded by the non-Federal entity must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. §§ 3141–3144, and §§ 3146–3148) as supplemented by Department of Labor regulations (29 C.F.R. Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition contracts must be required to pay wages not less than once a week.

The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to Treasury. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. Part 3, "Contracts and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation or which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to Treasury.

16. **Equal Opportunity Clause**

Pursuant to 41 C.F.R. § 60-1.4(b), Federally assisted construction contracts, for construction which is not exempt from the requirements of the equal opportunity clause, 41 C.F.R. Part 60-1—Obligations of Contractors and Subcontractors, [t]he [recipient] hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 C.F.R. Chapter 60, which is paid for in whole or in part with funds obtained from the federal government or borrowed on the credit of the federal government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

***41 C.F.R. § 60-1.4 Equal opportunity clause.***

*During the performance of this contract, the contractor agrees as follows:*

*(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:*

*Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.*

*(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.*

*(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.*

*(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.*

*(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.*

*(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.*

*(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.*

*(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The*

*contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:*

*Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.*

*The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.*

*The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.*

*The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.*

#### **17. 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. All new construction and alteration projects must comply with the 2010 Standards.

**ATTACHMENT B****STANDARD SUB-AWARD TERMS AND  
CONDITIONS****1. APPLICABLE LAW**

The Agreement shall be governed by and construed in accordance with the laws of the State of Mississippi and applicable federal law excluding, its conflicts of laws provisions, and any litigation with respect thereto shall be brought in the courts of the State. SUB-RECIPIENT shall comply with applicable federal, state, and local laws and regulations.

**2. AVAILABILITY OF FUNDS**

It is expressly understood and agreed that the obligation of MDEQ to proceed under this Agreement is conditioned upon the availability of the funds from state, federal, and/or other funding sources. If the funds anticipated for the continuing fulfillment of the Agreement are, at any time, not forthcoming or insufficient, either through the failure of the federal government to provide funds or of the State of Mississippi to appropriate funds or the discontinuance or material alteration of the program under which funds were provided or if funds are not otherwise available to MDEQ, MDEQ shall have the right upon ten (10) working days written notice to the SUB-RECIPIENT, to terminate this Agreement without damage, penalty, cost or expenses to MDEQ of any kind whatsoever. The effective date of termination shall be as specified in the notice of termination.

**3. REPRESENTATION REGARDING CONTINGENT FEES**

SUB-RECIPIENT represents that it has not retained a person to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee.

**4. REPRESENTATION REGARDING GRATUITIES**

SUB-RECIPIENT represents that it has not violated, is not violating, and promises that it will not violate the prohibition against gratuities set forth in Section 6-204 (Gratuities) of the *Mississippi Public Procurement Review Board Office of Personal Service Contract Review Rules and Regulations* and Section 9.105 (Gratuities) of the Mississippi Procurement Manual.

**5. PROCUREMENT REGULATIONS**

The SUB-RECIPIENT shall comply with current federal law, rules and regulations, and, in particular, 2 C.F.R. §§ 200.318, General Procurement Standards, through 200.327, Contract Provisions, in any procurement required to complete the tasks in the Scope of Work. The SUB-RECIPIENT shall also ensure that every purchase order or contract includes any clauses required by 2 C.F.R. § 200.327 Contract provisions, as identified in Appendix II to 2 C.F.R. Part 200.

## **6. SUB-AWARDS**

If the SUB-RECIPIENT is authorized to make a sub-award, the SUB-RECIPIENT must include and incorporate the terms and conditions of the Federal Award, and any Special Award Conditions, the terms and conditions of this Agreement and any attachments, in all lower tier sub-awards. Further, the SUB-RECIPIENT, who makes a sub-award, must follow and carry out all the responsibilities of a pass-through entity described at 2 C.F.R. Part 200.

## **7. COMPLIANCE WITH LAWS**

The SUB-RECIPIENT understands that MDEQ is an equal opportunity employer and therefore, maintains a policy which prohibits unlawful discrimination based on race, color, creed, sex, age, national origin, physical handicap, disability, genetic information, or any other consideration made unlawful by federal, state, or local laws. All such discrimination is unlawful, and the SUB-RECIPIENT agrees during the Period of Performance of the Agreement that the SUB-RECIPIENT will strictly adhere to this policy in its employment practices and work performance under this Agreement. The SUB-RECIPIENT shall comply with, and all activities under this Agreement shall be subject to, all applicable federal, state, and local laws and regulations, as now existing and as may be amended or modified.

## **8. STOP WORK ORDER**

A. *Order to Stop Work:* MDEQ may, by written order to SUB-RECIPIENT at any time and without notice to any surety, require SUB-RECIPIENT to stop all or any part of the work called for by this Agreement. This order shall be for a specified period not exceeding ninety (90) days after the order is delivered to SUB-RECIPIENT, unless the parties agree to any further period. Any such order shall be identified specifically as a stop work order issued pursuant to this clause. Upon receipt of such an order, SUB-RECIPIENT shall forthwith comply with its terms and take all reasonable steps to minimize the occurrence of costs allocable to the work covered by the order during the period of work stoppage. Before the stop work order expires, or within any further period to which the Parties shall have agreed, MDEQ shall either:

- i. cancel the stop work order; or,
- ii. terminate the work covered by such order as provided in the Termination for Default clause or the Termination for Convenience clause of this Agreement.

B. *Cancellation or Expiration of the Order:* If a stop work order issued under this clause is canceled at any time during the period specified in the order or if the period of the order or any extension thereof expires, SUB-RECIPIENT shall have the right to resume work. An appropriate adjustment may be made in the Period of Performance or Maximum Amount, or both, and the Agreement shall be modified in writing accordingly if:



- i. The stop work order results in an increase in the time required for, or in SUB-RECIPIENT's cost properly allocable to, the performance of any part of this Agreement; and
  - ii. SUB-RECIPIENT provides a written claim for such an adjustment within thirty (30) days after the end of the period of work stoppage; provided that MDEQ decides that the facts justify such action and any such claim asserted may be received and acted upon at any time prior to final payment under this Agreement.
- C. *Termination of Stopped Work*: If a stop work order is not canceled and the work covered by such order is terminated for default or convenience, the reasonable costs resulting from the stop work order may be allowed by adjustment or otherwise.

## **9. E-PAYMENT**

SUB-RECIPIENT agrees to accept all payments in United States currency via the State of Mississippi's electronic payment and remittance vehicle. MDEQ agrees to make payment in accordance with Mississippi law on "Timely Payments for Purchases by Public Bodies," which generally provides for payment of undisputed amounts by the agency within forty-five (45) days of receipt of invoice. Miss. Code Ann. § 31-7-305.

## **10. E-VERIFICATION**

If applicable, SUB-RECIPIENT represents and certifies that it will ensure its compliance with the Mississippi Employment Protection Act of 2008 and will register and participate in the status verification system for all newly hired employees. Miss. Code Ann. §§ 71-11-1, *et seq.* The term "employee" as used herein means any person that is hired to perform work within the State. As used herein, "status verification system" means the Illegal Immigration Reform and Immigration Responsibility Act of 1996 that is operated by the United States Department of Homeland Security, also known as the E-Verify Program, or any other successor electronic verification system replacing the E-Verify Program. SUB-RECIPIENT agrees to maintain records of such compliance. Upon request of the State of Mississippi and after approval of the Social Security Administration or Department of Homeland Security, when required, SUB-RECIPIENT agrees to provide a copy of each such verification. SUB-RECIPIENT further represents and certifies that any person assigned to perform services hereafter meets the employment eligibility requirements of all immigration laws.

## **11. TRANSPARENCY**

This Agreement, including any accompanying exhibits, attachments, and appendices, is subject to the "Mississippi Public Records Act of 1983" and its exceptions. See Miss. Code Ann. §§ 25-61-1 *et seq.* and Miss. Code Ann. § 79-23-1. In addition, this Agreement is subject to the provisions of the Mississippi Accountability and Transparency Act of 2008. Miss. Code Ann. §§ 27-104-151, *et seq.* Unless exempted from disclosure due to a court-issued protective order, a copy of this executed Agreement may be posted to the Department of Finance and Administration's independent agency Agreement website for public access at

<http://www.transparency.mississippi.gov>. Information identified by SUB-RECIPIENT as trade secrets or other proprietary information, including confidential vendor information, or any other information which is required confidential by state or federal law or outside the applicable freedom of information statutes will be redacted.

## **12. PAYMODE**

Payments by state agencies using the statewide accounting system shall be made and remittance information provided electronically as directed by MDEQ. These payments shall be deposited into the bank account of SUB-RECIPIENT's choice. MDEQ may, at its sole discretion, require the SUB-RECIPIENT to submit invoices and supporting documentation electronically at any time during the Period of Performance of this Agreement. The SUB-RECIPIENT understands and agrees that MDEQ is exempt from the payment of taxes. All payments shall be in United States currency.

## **13. TERMINATION**

The Agreement may be terminated as follows:

### **A. TERMINATION FOR CONVENIENCE**

- i. *Termination.* The MDEQ may, when the interests of the State so require, terminate this Agreement in whole or in part, for the convenience of the State. MDEQ shall give written notice of the termination to SUB-RECIPIENT specifying the part of the Agreement terminated and when termination becomes effective.
- ii. *SUB-RECIPIENT's Obligations.* SUB-RECIPIENT shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination SUB-RECIPIENT will stop work to the extent specified. SUB-RECIPIENT shall also terminate outstanding orders and contracts as they relate to the terminated work. SUB-RECIPIENT shall settle the liabilities and claims arising out of the termination of contracts and orders connected with the terminated work. MDEQ may direct SUB-RECIPIENT to assign SUB-RECIPIENT's right, title, and interest under terminated orders or contracts to MDEQ. SUB-RECIPIENT must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so.

### **B. TERMINATION FOR DEFAULT**

If SUB-RECIPIENT refuses or fails to perform any of the provisions of this Agreement with such diligence as will ensure its completion within the time specified in this Agreement or any extension thereof or otherwise fails to satisfy the Agreement provisions or commits any other substantial breach of this Agreement, MDEQ may notify SUB-RECIPIENT in writing of the delay or nonperformance, and if not cured in ten (10) days or any longer time specified in writing by MDEQ, MDEQ may terminate SUB-RECIPIENT's right to proceed with the Agreement or such part of the Agreement as to

which there has been delay or a failure to properly perform. In the event of termination in whole or in part, MDEQ may procure similar supplies or services in a manner and upon terms deemed appropriate by MDEQ. SUB-RECIPIENT shall continue performance of the Agreement to the extent it is not terminated and shall be liable for excess costs incurred in procuring similar goods or services.

Notwithstanding termination of the Agreement and subject to any directions by MDEQ, SUB-RECIPIENT shall take timely, reasonable, and necessary action to protect and preserve property in the possession of SUB-RECIPIENT in which the State has an interest.

### **C. TERMINATION UPON BANKRUPTCY**

This Agreement may be terminated in whole or in part by MDEQ upon written notice to SUB-RECIPIENT, if SUB-RECIPIENT should become the subject of bankruptcy or receivership proceedings, whether voluntary or involuntary, or upon the execution by SUB-RECIPIENT of an assignment for the benefit of its creditors. In the event of such termination, SUB-RECIPIENT shall be entitled to recover just and equitable compensation for satisfactory work performed under this Agreement, but in no case shall said compensation exceed the total Maximum Amount.

## **14. DISPUTES**

Before pleading to any judicial system at any level, the SUB-RECIPIENT must exhaust all administrative remedies. A written complaint must first be sent to the Executive Director of MDEQ. The decision of the Executive Director shall be reduced to writing and a copy thereof mailed or furnished to the SUB-RECIPIENT within fourteen (14) days after receipt of information requested by MDEQ or the Executive Director. If the decision of the Executive Director does not resolve the matter, successive administrative remedies may, at the SUB-RECIPIENT's option, include bringing the complaint before the Mississippi Commission on Environmental Quality pursuant to Miss. Code Ann. Section 49-17-35 and -41. In the alternative, at the SUB-RECIPIENT's option, the decision of the Executive Director may be deemed the final agency action on the complaint. Appeals from the decision of the Executive Director or the Commission shall follow procedures outlined in Miss. Code Ann. Section 49-17-41.

## **15. ANTI-ASSIGNMENT/CONTRACTING**

SUB-RECIPIENT acknowledges that it was selected by MDEQ to perform the Work required hereunder based, in part, upon SUB-RECIPIENT's special skills and expertise. Unless contractors are otherwise identified and approved in accordance with the "Contracts" provision of this Agreement, SUB-RECIPIENT shall not assign, contract, or otherwise transfer this Agreement, in whole or in part without the prior written consent of MDEQ, which MDEQ may, in its sole discretion, approve or deny without reason. Any attempted assignment or transfer of its obligations without such consent shall be null and void. No such approval by MDEQ of any contract shall be deemed in any way to provide for the incurrence of any obligation of MDEQ in addition to the Maximum Amount agreed upon in this Agreement, nor create any contractual relationship between MDEQ and any Contracted Parties. Contracts shall be subject to the terms

and conditions of this Agreement and to any conditions of approval that MDEQ may deem necessary. Subject to the foregoing, this Agreement shall be binding upon the respective successors and assigns of the parties.

## **16. AUTHORITY TO PARTICIPATE IN THIS AGREEMENT**

The SUB-RECIPIENT certifies that (a) it is a Mississippi governmental entity; (b) entry into and performance under this Agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and (c) notwithstanding any other provision of this Agreement to the contrary, that there are no existing legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this Agreement.

## **17. DEBARMENT AND SUSPENSION**

SUB-RECIPIENT certifies to the best of its knowledge and belief, that it:

- A. is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any federal department or agency or any political subdivision or agency of the State of Mississippi;
- B. has not, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or Agreement or Contract under a public transaction;
- C. has not, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against it for a violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- D. is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of these offenses enumerated in paragraphs two (2) and (3) of this certification; and,
- E. has not, within a three-year period preceding this Agreement, had one or more public transactions (federal, state, or local) terminated for cause or default.

## **18. CONFIDENTIALITY**

- A. *Information Designated by Contractor as Confidential.* Any disclosure of those materials, documents, data and other information, which SUB-RECIPIENT has designated in writing as proprietary and confidential shall be subject to the provisions of Miss. Code Ann. §§ 25-61-9 and 79-23-1. As provided in this Agreement, the personal or professional services to be provided, the price to be paid, and the term of the Agreement shall not be deemed to be a trade secret or confidential commercial or financial information.

**B. *Public Records.*** Notwithstanding any provision to the contrary contained herein, all Parties recognize that MDEQ is a public agency of the State of Mississippi and is subject to the Mississippi Public Records Act. Miss. Code Ann. §§ 25-61-1 *et seq.* If a public records request is made for any information provided to MDEQ pursuant to this Agreement and designated by the SUB-RECIPIENT in writing as trade secrets or other proprietary confidential information, MDEQ shall following provisions of Miss. Code Ann. §§ 25-61-9 and 79-23-1 before disclosing such information. MDEQ shall not be liable to SUB-RECIPIENT for disclosure of information required by court order or required by law.

**C. *Disclosure of Confidential Information.*** In the event that either party to this Agreement receives notice that a third party requests divulgence of Confidential Information or otherwise protected information and/or has served upon it a subpoena or other validly issued administrative or judicial process ordering divulgence of Confidential Information or otherwise protected information, that party shall promptly inform the other party and thereafter respond in conformity with such subpoena to the extent mandated by law. This section shall survive the termination or completion of this Agreement. The parties agree that this section is subject to and superseded by Mississippi Code Annotated §§ 25-61-1 *et seq.*

**D. *Wrongful Disclosure of Confidential Information.*** Any liability resulting from the wrongful disclosure of Confidential Information on the part of SUB-RECIPIENT or its contractor shall rest with SUB-RECIPIENT. Disclosure of any Confidential Information by SUB-RECIPIENT or its subcontractor without the express written approval of MDEQ may result in the immediate termination of this Agreement.

**E. *Exceptions to Confidential Information.*** SUB-RECIPIENT and the State shall not be obligated to treat as confidential and proprietary any information disclosed by the other party ("**Disclosing Party**") which is:

- (1) Rightfully known to the recipient prior to negotiations leading to this Agreement, other than information obtained in confidence under prior engagements;
- (2) Generally known or easily ascertainable by nonparties to this Agreement;
- (3) Released by the Disclosing Party to any other person, firm, or entity (including governmental agencies or bureaus) without restriction;
- (4) Independently developed by the recipient without any reliance on confidential information;
- (5) Part or later becomes part of the public domain or may be lawfully obtained by the State or SUB-RECIPIENT from any nonparty; or
- (6) Disclosed with the Disclosing Party's prior written consent; or

(7) As otherwise required to be disclosed by law.

## **19. FAILURE TO ENFORCE**

Failure by MDEQ, at any time, to enforce the provisions of this Agreement shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of this Agreement or any part thereof or the right of MDEQ to enforce any provision at any time in accordance with its terms.

## **20. FORCE MAJEURE**

Each Party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond the reasonable control and without the fault or negligence of such party and/or its contractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, earthquakes, floods, or other natural disasters ("force majeure events"). When such a cause arises, SUB-RECIPIENT shall notify MDEQ immediately in writing of the cause of its inability to perform, how it affects its performance, and the anticipated duration of the inability to perform. Delays in delivery or in meeting completion dates due to force majeure events shall automatically extend such dates for a period equal to the duration of the delay caused by such events, unless MDEQ determines it to be in its best interest to terminate the Agreement.

## **21. INDEMNIFICATION**

The SUB-RECIPIENT agrees to maintain responsibility for the Project and agrees to provide proper operation and maintenance of all facilities for the life of the Project. SUB-RECIPIENT's tort liability, as an entity of the State of Mississippi, is determined and controlled in accordance with Mississippi Code Annotated §§ 11-46-1 *et seq.*, including all defenses and exceptions contained therein. Nothing in this Agreement shall have the effect of changing or altering this liability or of eliminating any defense available to the State under statute.

## **22. SUB-RECIPIENT STATUS**

The SUB-RECIPIENT shall, during the entire Period of Performance of this Agreement, be construed to be an independent SUB-RECIPIENT. Nothing in this Agreement is intended to nor shall be construed to create an employer-employee relationship or a joint venture relationship.

The SUB-RECIPIENT represents that it is qualified to perform the duties to be performed under this Agreement and that it has, or will secure, if needed, at its own expense, applicable personnel who are qualified to perform the duties required under this Agreement. Such personnel shall not be deemed in any way, directly or indirectly, expressly or by implication, to be employees of MDEQ.

Any person assigned by the SUB-RECIPIENT to perform the services hereunder shall be an employee or independent contractor of the SUB-RECIPIENT, who shall have the sole right to hire and discharge its employees and/or independent contractors under this Agreement.

The SUB-RECIPIENT shall pay, when due, all salaries and wages of its employees and accepts exclusive responsibility for the payment of federal income tax, state income tax, social security, unemployment compensation and any other withholdings that may be required. This provision is solely for the benefit of MDEQ, and nothing herein shall be construed to create or impose any contractual or agency relationship between MDEQ and SUB-RECIPIENT'S contractors, subcontractors, employees or agents.

### **23. INSURANCE**

SUB-RECIPIENT is self-insured for liability under the Mississippi Tort Claims Act, Miss. Code Ann. § 11-46-1, *et seq.* The SUB-RECIPIENT must also maintain appropriate insurances to cover property, this includes any equipment purchased under this Agreement. Should the SUB-RECIPIENT procure additional insurance against liability for injury to persons or property, it should have MDEQ named as additional insureds on all such policies for any work performed by SUB-RECIPIENT pursuant to this Agreement and provide MDEQ with appropriate Certificates of Insurance and endorsements reflecting such additions within thirty (30) days after this Agreement is fully-executed.

Notwithstanding this Section, the Sub-recipient and its Contracted Parties agree to and shall maintain insurance that is required by applicable state, federal, and local laws and regulations.

### **24. ENTIRE AGREEMENT**

This Agreement, including all attachments, represents the entire and integrated agreement between the Parties hereto and supersedes all prior negotiations, representations or agreements, irrespective of whether written or oral. This Agreement may be altered, amended, or modified only by a written document executed by MDEQ and the SUB-RECIPIENT. SUB-RECIPIENT acknowledges that it has thoroughly read this Agreement and all its attachments and has had the opportunity to receive competent advice and counsel necessary for it to form a full and complete understanding of all rights and obligations herein.

### **25. AMENDMENTS OR MODIFICATION**

This Agreement may only be amended, modified, or supplemented by written agreement signed by the Parties hereto.

### **26. ORAL STATEMENTS**

No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this Agreement. All modifications to the Agreement must be made in writing by the MDEQ and agreed to by SUB-RECIPIENT.

## **27. OWNERSHIP OF DOCUMENTS AND WORK PAPERS**

MDEQ shall own all documents, files, reports, work papers and working documentation, electronic or otherwise, created in connection with the Project which is the subject of this Agreement, except for SUB-RECIPIENT's internal administrative and quality assurance files and internal project correspondence. SUB-RECIPIENT shall deliver such documents and work papers to MDEQ. The foregoing notwithstanding, SUB-RECIPIENT shall be entitled to retain a set of such work papers for its files.

## **28. RECORD RETENTION AND ACCESS TO RECORDS**

Provided SUB-RECIPIENT is given reasonable advance written notice and such inspection is made during normal business hours of SUB-RECIPIENT, Treasury, the Government Accountability Office, MDEQ, the State or any duly authorized representatives shall have unimpeded, prompt access to any of SUB-RECIPIENT's books, documents, papers, and other records which are maintained or produced as a result of the Project for the purpose of making audits, investigations, examinations, excerpts, transcriptions, and copies of such documents. This right also includes timely and reasonable access to the SUB-RECIPIENT's personnel for the purpose of interview and discussion related to such documents. All records related to this Agreement shall be retained by SUB-RECIPIENT for a minimum of ten (10) years after final payment is made under this Agreement and all pending matters are closed; however, if any audit, litigation or other action arising out of or related in any way to this Project is commenced before the end of the ten (10) year period, the records shall be retained for one (1) year after all issues arising out of the action are finally resolved or until the end of the ten (10) year period, whichever is later.

SUB-RECIPIENT is not required to retain the above-mentioned records for the ten-year period prescribed in this Section and the "Right to Audit" provision only if all of the following conditions are satisfied:

A. SUB-RECIPIENT has provided all of the documents described above and in the "Right to Audit" provision to MDEQ prior to the expiration of the ten (10) year retention period and a certification stating the same is simultaneously provided in writing to MDEQ;

B. no audit, litigation or other action arising out of or related in any way to this Project is commenced before SUB-RECIPIENT provides the records and corresponding certification to SUB-RECIPIENT, in which case, SUB-RECIPIENT shall retain the records until all issues arising out of the action are finally resolved; and

C. SUB-RECIPIENT provides MDEQ a minimum of thirty (30) days' written notice before providing the above-mentioned records and corresponding certification.

## **29. RIGHT TO AUDIT**



SUB-RECIPIENT shall maintain such financial records and other records as may be prescribed by the MDEQ or by applicable federal and state laws, rules, and regulations. SUB-RECIPIENT shall retain these records for a period of ten years after final payment. These records shall be made available during the term of the Agreement and the subsequent ten-year period for examination, transcription, and audit by MDEQ, the Mississippi State Auditor's Office, its designees, or other authorized bodies, including the Office of Inspector General and Treasury.

### **30. RIGHT TO INSPECT WORK; ACCESS**

Treasury, the Government Accountability Office, MDEQ and their representatives, invitees, and consultants shall have access and the right to conduct announced and unannounced onsite and offsite physical visits to inspect all Work hereunder. Notwithstanding any review or inspection by Treasury, the Government Accountability Office, MDEQ and their representatives, invitees, and consultants, SUB-RECIPIENT shall not be relieved of its responsibility for performance of the Work or the submission of reports as expressly set forth in this Agreement solely by virtue of such inspection or review of the Work. SUB-RECIPIENT shall provide MDEQ and its representatives, invitees, and consultants with the opportunity to participate in site inspections, meetings, and/or teleconferences, as appropriate, related to SUB-RECIPIENT's performance of the Work.

### **31. SEVERABILITY**

If any part of this Agreement is declared to be invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision of the Agreement that can be given effect without the invalid or unenforceable provision, and to this end the provisions hereof are severable. In such event, the Parties shall amend the Agreement as necessary to reflect the original intent of the Parties and to bring any invalid or unenforceable provisions in compliance with applicable law.

### **32. THIRD PARTY ACTION NOTIFICATION**

SUB-RECIPIENT shall give the MDEQ prompt notice in writing of any action or suit filed, and prompt notice of any claim made against SUB-RECIPIENT by any entity that may result in litigation related in any way to this Agreement.

### **33. UNSATISFACTORY WORK**

If, at any time during Period of Performance, the service performed or work done by SUB-RECIPIENT is considered by MDEQ to be unsatisfactory, MDEQ shall notify the SUB-RECIPIENT of such and the SUB-RECIPIENT will be required to correct such service or work. If, at any time during Period of Performance, the service performed or work done by SUB-RECIPIENT is considered by MDEQ to create a condition that threatens the health, safety, or welfare of the environment, citizens and/or employees of the State of Mississippi, SUB-RECIPIENT shall, on being notified by MDEQ, immediately correct such deficient service or work. In the event SUB-RECIPIENT fails, after notice, to correct the deficient

service or work immediately, MDEQ shall have the right to order the correction of the deficiency by separate Agreement or with its own resources at the expense of SUB-RECIPIENT.

#### **34. WAIVER**

No delay or omission by either Party to this Agreement in exercising any right, power, or remedy hereunder or otherwise afforded by Agreement, at law, or in equity shall constitute an acquiescence therein, impair any other right, power or remedy hereunder or otherwise afforded by any means, or operate as a waiver of such right, power, or remedy. No waiver by either Party to this Agreement shall be valid unless set forth in writing by the Party making said waiver. No waiver of or modification to any term or condition of this Agreement will void, waive, or change any other term or condition. No waiver by one Party to this Agreement of a default by the other Party will imply, be construed as or require waiver of future or other defaults.

#### **35. COMPLIANCE WITH MISS. CODE ANN. § 31-5-37**

If applicable, SUB-RECIPIENT shall ensure that Contracted Parties and bidders solicited for contract awards pursuant to this Agreement comply with the requirements of Miss. Code. Ann. § 31-5-37. SUB-RECIPIENT shall require all bidders for any contract of Five Thousand Dollars (\$5,000.00) or more procured or to be procured with funds received pursuant to this Agreement to submit a certification with their bid that said bidder will comply with the provisions of Miss. Code. Ann. § 31-5-37. In addition, within seven (7) days of any such contract award procured or to be procured with funds received pursuant to this Agreement, SUB-RECIPIENT shall require the Contracted Party to submit to both SUB-RECIPIENT and the Mississippi Department of Employment Security ("MDES") an employment plan which conforms to the requirements contained in Miss. Code. Ann. § 31-5-37(2).

From the date written notice of any such contract award is received and until ten (10) business days after the receipt of the employment plan by MDES, the Contracting Party and any contractors shall not hire any personnel to fill vacant positions for the project except residents of the State of Mississippi who are to be verified by MDES and/or those qualified individuals who are submitted by MDES. However, the Contracting Party or contractor is authorized to employ Mississippi residents to begin work immediately if such persons are verified by MDES after employment by the Contracting Party or contractor. SUB-RECIPIENT shall vacate the contract award in the event the Contracting Party fails to comply with the provisions of Miss. Code Ann. § 31-5-37.

#### **36. CONFLICT OF INTEREST**

The SUB-RECIPIENT shall immediately notify MDEQ in writing of any potential conflict of interest resulting from the representation of or service to other clients or otherwise affecting this Agreement in any way. If any such conflict occurs before it is discovered, the SUB-RECIPIENT shall notify MDEQ of such conflict within five (5) working days of such discovery. If such conflict cannot be resolved to MDEQ's satisfaction, MDEQ reserves the right to terminate this Agreement per the "Termination for Convenience" clause.

**37. SUCESSORS AND ASSIGNS**

This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective permitted successors and permitted assigns.

**38. NO THIRD-PARTY BENEFICIARIES**

This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns, and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

**39. EVALUATION**

SUB-RECIPIENT agrees to cooperate with MDEQ by providing timely responses to all reasonable requests for information to assist in evaluation of the accomplishments of the Project and this Agreement for a period of ten (10) years after the date on which the Final Reports are provided.

**40. VENUE**

Venue for the resolution of any dispute, according to Disputes Clause of this Agreement, and any subsequent litigation shall be in Jackson, Hinds County, Mississippi.

**41. HEADINGS**

The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

**ATTACHMENT C****SYSTEMS AND PROCESSES FOR FINANCIAL MANAGEMENT  
RECOMMENDATIONS AND/OR CORRECTIVE ACTION PLAN**

An evaluation for the assessment of uncontrolled risks of the SUB-RECIPIENT's systems and processes for financial management was performed as of part of the initial sub-award process by MDEQ, acting on behalf of the State of Mississippi, as administrator of this Sub-Award Agreement. No corrective action is required to the SUB-RECIPIENT's systems and processes at the time of this award. MDEQ requests the SUB-RECIPIENT provide the following information to MDEQ as part of observations made during the evaluation:

1. SUB-RECIPIENT agrees to provide MDEQ with a copy of their annual audited financial statements within 60 days of the report release date throughout the program performance period.
2. SUB-RECIPIENT agrees to promptly notify MDEQ of any significant changes made to the SUB-RECIPIENT's current policies and procedures that would impact financial management systems and processes, specifically those communicated as part of the evaluation, from which the current residual risk levels were derived.
3. SUB-RECIPIENT agrees to promptly notify MDEQ of any level of fraud or abuse discovered within the organization without regard to materiality that is related to the operation of the Project, as well as other pervasive deficiencies identified for grant management practices from any source, both external and internal, throughout the program performance period.
4. If deficiencies, significant deficiencies and/or material weaknesses are reported to the SUB-RECIPIENT, as part of any assurance, attestation, or monitoring engagement during the program performance period, SUB-RECIPIENT agrees to provide its response(s) and/or corrective action plan(s) to MDEQ so that prompt action can be taken by MDEQ to mitigate any elevated level of uncontrolled risk that could potentially impact MDEQ's or the SUB-RECIPIENT's ability to comply with Federal Award and/or Sub-Award requirements.

**ATTACHMENT D****SUB-AWARD TERMS AND CONDITIONS  
FOR CONTRACTED PARTIES****1. AUTHORITY TO PARTICIPATE IN THIS AGREEMENT**

The Contracted Party certifies that (a) it is either a 1) state agency, 2) a validly organized business that is authorized to do business in the state of Mississippi, 3) a nongovernmental organization, or 4) political subdivision of the state of Mississippi with valid authority to enter into this agreement and; (b) entry into and performance under this agreement is not restricted or prohibited by any loan, security, financing, contractual, or other agreement of any kind; and (c) notwithstanding any other provision of this Agreement to the contrary, that there are no existing legal proceedings, either voluntary or otherwise, which may adversely affect its ability to perform its obligations under this agreement.

**2. DEBARMENT AND SUSPENSION**

Contractor/Contracted Parties certifies to the best of its knowledge and belief, that it:

- A. is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any federal department or agency or any political subdivision or agency of the State of Mississippi;
- B. has not, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction;
- C. has not, within a three-year period preceding this agreement, been convicted of or had a civil judgment rendered against it for a violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- D. is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of these offenses enumerated in paragraphs two (2) and (3) of this certification; and,
- E. has not, within a three-year period preceding this Agreement, had one or more public transactions (federal, state, or local) terminated for cause or default.

This agreement is subject to 31 C.F.R. Part 19.

### **3. INDEMNIFICATION**

To the extent allowed by state law, Contracted Party agrees to indemnify and save, release and hold harmless the State of Mississippi, the Commission on Environmental Quality, MDEQ, all of their employees and officers, and the Department's contractors from and against any and all claim, demand, cause of action, liability, loss, damage, injury, suit, judgment, debt and cost, including attorney's fees or expenses on the part of any Contracted Party, their agents or employees or any other parties arising out of or incident to, any and all Work under the terms of this Agreement.

### **4. RELATIONSHIP STATUS**

The Contracted Party acknowledges and agrees that MDEQ is not a party, in any manner whatsoever, to any contract between the SUB-RECIPIENT and the construction contractor(s), engineer(s), attorney(s), equipment supplier(s), contractor(s), or between any other parties of any kind whatsoever (hereinafter collectively referred to as "vendor"). The SUB-RECIPIENT and Contracted Party also acknowledge and agree that any benefit to vendors contracting with the SUB-RECIPIENT or Contracted Parties arising from, or associated with this Agreement is strictly incidental and all such vendors are not, and are not intended to be considered as third party beneficiaries under any agreement between MDEQ and the SUB-RECIPIENT.

Upon execution of any contract between the SUB-RECIPIENT and any other party in regard to the project, MDEQ does not assume any authorities, duties, responsibilities, or liabilities under such contract. The SUB-RECIPIENT and Contracted Party shall not have any authority to bind or otherwise obligate MDEQ, directly or indirectly, under any contract or agreement between the SUB-RECIPIENT and any other party. The SUB-RECIPIENT, Contracted Party and its vendors acknowledge and agree that any action taken by MDEQ in its role of grantor, or in its separate and distinct role as regulator shall not in any way change or alter its position as that of grantor.

MDEQ does not have any authority, duty, responsibility, or liability in contract claims or dispute identification, negotiation, resolution, or any other actions regarding contract claims under the contract(s) between the SUB-RECIPIENT and any other party. The SUB-RECIPIENT and the Contracted Party acknowledge and agree that MDEQ is not obligated to review, comment on, approve, or discuss the merits of any contract claims presented by or to any party. Any MDEQ reviews, approvals, observations, presence at meetings, written communications, verbal communications or other actions are not to be interpreted as addressing the merits of any claims, nor are they to be construed as interpreting the contract between the SUB-RECIPIENT and the Contracted Party or any other parties.

### **5. ACCESS TO RECORDS**

Treasury, the Treasury Office of Inspector General, the Government Accountability Office, MDEQ, the State or any duly authorized representatives shall have the right of timely and unrestricted access to any of Contracted Party's books, documents, papers, and other records,

including electronic records, which are maintained or produced as a result of the agreement and Project for the purpose of making audits, investigations, examinations, excerpts, transcripts, and copies of such documents. This right also includes timely and reasonable access to the SUB-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.

## **6. RECORD RETENTION AND RIGHT TO AUDIT**

The Contracted Party shall maintain and retain books, documents, papers, financial records, and other records, including electronic records, which are maintained or produced as a result of the agreement and the Project. These records must be retained for a minimum of three years after final payment under the agreement is made. These records shall be made available during the term of the agreement and the subsequent three-year period for examination, transcription, and audit by MDEQ, the Mississippi State Auditor's Office, its designees, or other authorized bodies, including the Office of Inspector General and Treasury. If any litigation, claim, investigation, or audit relating to Federal Award No. RDCGR470160 ("Award") or an activity funded under the Award 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.

## **7. RIGHT TO INSPECT WORK; SITE ACCESS**

Treasury, the Treasury Office of Inspector General, the Government Accountability Office, MDEQ and their representatives, invitees, and consultants, and Departments and Agencies of the State of Mississippi, and any of their duly authorized representatives', shall have access and the right to conduct announced and unannounced onsite and offsite physical visits to inspect all work hereunder.

## **8. CONFLICT OF INTEREST**

The Contracted Party covenants that he presently has no interest and shall not acquire any interest direct or indirect in the above described Project or any parcels therein, where applicable, or any other interest which would conflict in any manner or degree with the performance of his services hereunder. The Contracted Party further covenants that, in the performance of this agreement, no person having any such interest shall be employed.

The Contracted Party agrees to establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have a family, business, or other tie.

## **9. COOPERATION & EVALUATION**

Both parties agree to assist and cooperate with the MDEQ or its duly designated representatives in the monitoring of the Project or projects to which the agreement relates, and to provide in

**form and manner approved by MDEQ such monitoring reports, progress reports, and the like as may be required and to provide such reports at the times specified.**

**Further, both parties agree to cooperate with MDEQ or its duly designated representatives by providing timely responses to all reasonable requests for information to assist in evaluation of the accomplishments of the Project and the agreement for a period of ten (10) years after the date on which the Final Reports are provided.**



## Objective

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The Advanced Meetings Facilities Search feature makes it easy for meeting planners to find venues in your destination for their event. The feature allows for powerful searches based on the amenities offered by your members/partners, held in your Simpleview CRM Member/Partner User Group. Users can filter by specific amenity data that is associated with your member/partner accounts. Meeting planners can specify and filter listings by amenities, such as number of sleeping rooms, number of meeting rooms, square footage, capacity, venue type and location.

## Specifications

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- What It Does
  - o Filters venue options by a variety of criteria useful for meeting planners, such as number of sleeping rooms, meeting rooms, total square feet and capacity.
  - o 'Location' and 'Venue Type' filters can be applied, in addition to amenities mentioned above.
  - o Keyword search toolbar allows meeting planners to search by the venue's/facility's name
  - o 'Sort By' dropdown allows site users to filter results by their highest value criteria.
  - o Search results can display image, venue name, contact information and relevant amenity information.
  - o Provides a way to integrate the 'Click to Compare' feature, which allows users to get a side-by-side comparison of relevant amenities at chosen venues
    - Click to Compare is a separate, but related, feature and requires a separate work order.
- How It Works
  - o Uses amenity information on the member/partner account to provide the most appropriate venues, according to the search specifications.
  - o Insert specific numbers or use the slider bar to set a numerical range for filter options.
  - o Displays the venues that best match search criteria, ordered according to the highest valued amenity.
- Why It Helps
  - o Makes it easy for meeting planners to search and find venues for their upcoming events.

## Example

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Sleeping Rooms:  to    
 Meeting Rooms:  to    
 Total Sq. Ft.:  to    
 Largest Mtg Rm Sq. Ft.:  to    
 Capacity:  to    
 Setup Style:   Location:   
 Sort By:  Keyword:   
 Advanced Search   Reset Search

## Cost Summary

The cost outlined below includes the project management fee, implementation, training and licensing. The quote is valid for 30 days. Any change or addition to the above scope of work will result in the creation of a new work order.

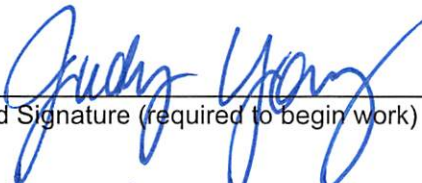
	One-Time Fee	Annual Fee
Implementation	-	-
Licensing	-	\$1,700/year
<b>Total Costs</b>	-	<b>\$1,700/year</b>

The above implementation costs reflect one-time fees and recurring costs reflect an annual licensing fee. This annual licensing fee will be added to your overarching CMS Licensing Fee, which is billed on the anniversary of that CMS Licensing Fee (as referenced in the signed contract dated XX).


You will be billed a pro-rated amount based on that annual licensing fee (in the case that it is actively being billed) from the signature of this work order up to your anniversary date, then the full annual licensing fee will be added to your overarching CMS Licensing Fee for the remainder of your three-year licensed term. The annual licensing fee covers browser updates, bug fixes, API updates, point upgrades and version upgrades as they become available.

## Moving Forward

In order for Simpleview to proceed with the project execution, we will need your signature accepting the project and budget.

  
 \_\_\_\_\_  
 Authorized Signature (required to begin work)

  
 \_\_\_\_\_  
 Today's Date

  
 \_\_\_\_\_  
 Printed Name

  
 \_\_\_\_\_  
 Organization

## Objective

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Click to Compare enhances the Meetings Facilities Search tool on your website. Each listing that displays in the Meetings Facilities Search will have an option to “Compare” it to other listings in the results. This allows meeting planners to select up to four different properties to compare against each other. The selected properties then display in a grid format comparing the amenities each location offers. Amenities that can be compared include the number of sleeping rooms, meeting rooms, size of the largest meeting room, total square footage and any other amenities you have designated to show on your website.

## Specifications

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- What It Does
  - Click to Compare allows meeting planners to easily compare and contrast the amenities offered by up to four properties on your website.
  - It aggregates amenity data and displays it in a grid format for easy comparison.
- How It Works
  - Click to Compare uses amenity data associated with the account in Simpleview CRM, and displays it alongside the amenity data of other selected properties.
  - All active amenity fields set to ‘Show on Web’ will display in the comparison grid. If a property does not have a value in that amenity field in Simpleview CRM, it will display as a blank value.
- Why It Helps
  - Helps meeting planners visually compare the amenities offered by multiple properties on one page.
  - Meeting planners can select any listings in the Meetings Facility Search to compare with others.
  - Click to Compare integrates with the filters available on the Meetings Facility Search. This means that the meeting planner can define the ranges of their search filters first, and then compare properties within their specified ranges.

# Example




WEATHER WEDDINGS DISCOUNTS TRAVEL TRADE SPORTS COMMISSION PARTNERS MEDIA


THINGS TO DO EVENTS HOTELS RESTAURANTS ABOUT DENVER BLOG

## COMPARE FACILITIES


Facility Info



**ARVADA CENTER FOR THE ARTS & HUMANITIES**  
801 Highland Blvd  
Arvada, CO 80003



**CHILDREN'S MUSEUM OF DENVER AT MARSICO CAMPUS**  
321 Children's Museum Dr  
Denver, CO 80209



**ARTWORK NETWORK GALLERY & EVENT CENTER**  
875 Santa Fe Dr  
Denver, CO 80204

Details			
SLEEPING ROOMS			
MEETING ROOMS	8	5	2
LARGEST ROOM		100	1,000
TOTAL SQ FT	9,300		4,500
CATERING			Available On-Site
TYPE OF VENUE			
TYPE OF EVENT			

## Cost Summary

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The cost outlined below includes project management fee, implementation, training and licensing. The quote is valid for 30 (thirty) days. Any change or addition to the above scope of work will result in the creation of a new Work Order.

	One-Time Fee	Annual Fee
Implementation	-	-
Annual Licensing (3 years)	-	\$2,500/year
<b>Total Costs</b>	-	<b>\$2,500/year</b>

The above implementation costs reflect one-time fees and recurring costs reflect an annual licensing fee. This annual licensing fee will be added to your overarching CMS Licensing Fee, which is billed on the anniversary of that CMS Licensing Fee (as referenced in the signed contract dated XX).

You will be billed a pro-rated amount based on that annual licensing fee (in the case that it is actively being billed) from the signature of this work order up to your anniversary date, then the full annual licensing fee will be added to your overarching CMS Licensing Fee for the remainder of your three-year licensed term. The annual licensing fee covers browser updates, bug fixes, API updates, point upgrades and version upgrades as they become available.

## Moving Forward

---

In order for Simpleview to proceed with the project execution, we will need your signature accepting the project and budget.

Authorized Signature: \_\_\_\_\_

*Judy Young*

Printed Name: \_\_\_\_\_

*Judy Young*

Today's Date: \_\_\_\_\_

*5/26/22*

Organization: \_\_\_\_\_

*Coastal Mississippi*

Please sign digitally via SignNow.com. For help with signing digitally, see this help page:

<https://www.signnow.com/features/easily-sign-documents-online>

... or please contact [cs@simpleviewinc.com](mailto:cs@simpleviewinc.com) with questions!



**Group Contract**

**Date:** Tuesday, May 24, 2022      **Client Contact:** Zach Holifield  
**Group Name:** One Coast  
**Address:** P.O. Box 8005  
                     Biloxi, MS 39535  
**Arrival:** Wednesday, July 27, 2022      **Business Phone:** (228) 896-6699  
**Departure:** Thursday, July 28, 2022      **Email:** zachary@coastalmississippi.com  
**Sales Manager:** Terry Watkins      **Fax:**

**SCOPE OF EVENTS**

**ROOM BLOCK:** S7OCG22

**ROOM & RATE INFORMATION: Pearl River Resort – Golden Moon**

	Occupancy	GM-Nonsmoking Double Double		GM-Nonsmoking King	
		Rooms	Rate	Rooms	Rate
Wed 07/27/2022	S	25	\$159.00	25	\$159.00

Rate above does not reflect 7% applicable sales tax.

This is a courtesy block that individuals will call in and make their own reservations. The block will automatically drop on July 6, 2022 and rates will be rack rate if rooms are available. One Coast is not responsible for rooms not utilized.

Please sign the Pearl River Group Request Form and Letter of Agreement to secure room block and function space by **Tuesday, May 31, 2022**.

  
 \_\_\_\_\_  
 Authorized Representative/Date:



## Group Contract

Mr. Zach Holifield  
Director of Leisure Business Development  
Coastal Mississippi  
P.O. Box 8005  
Biloxi, MS 39535

**Name of Event:** Coastal Mississippi- Fair Rooms  
**Arrival/Departure:** Wednesday, July 27, 2022 - Thursday, July 28, 2022

**Anticipated Attendance:** 50+

Dear Mr. Holifield:

This agreement is between MISSISSIPPI BAND OF CHOCTAW INDIANS d/b/a Choctaw Resort Development Enterprise (hereinafter "Hotel") and Coastal Mississippi (hereinafter "Client").

Whereas, the Hotel and Client wish to clarify the terms and services as more particularly provided in this Agreement.

### **GUEST ROOM BLOCK/ARRIVAL & DEPARTURE PATTERN**

Hotel agrees to a total room block of 50 room nights. All rates require an additional 7% sales tax. Please refer to "Group Request Form" for all room block information. All room types are not guaranteed and are subject to availability. Client must provide a fourteen (14) day written notice should there be any variation pattern. The arrival/departure pattern is not cumulative. Any rooms not occupied on any scheduled night will not be carried forward to the next night and will automatically revert back to the Hotel. (*See Guest Room & Incidental Deposits*)

### **GROUP AGENDA**

See attached "Group Request Form" for a complete outline of your room block, function space and special event requirements. Verify all information and advise us if there are any errors, additions or omissions.

Hotel reserves the right to alter your meeting room assignments, while guaranteeing to meet the requirements of the group as recognized in this program.

Should your room block decrease, we expect your meeting needs to decrease proportionately.

Prior to thirty (30) days of the initial arrival, the Convention Services Department will contact you to finalize your meeting and banquet needs. All outside services must be approved by the Convention Services Department prior to the event for proper internal coordination.



## Group Contract

### RESERVATIONS

#### *Individual Call-In*

Individuals may make their own reservations by calling the Pearl River Resort Reservations Department at 1-866-44-PEARL. Attendees are to identify themselves with the group code **S7OCG22** order to receive the applicable room rate. **It is very important that each individual gives the agent the correct group code.**

Cashier check, valid credit cards or money orders are acceptable. No cancellations or name changes will be accepted less than twenty-four (24) hours prior to arrival. Any cancellation received less than twenty-four (24) hours prior to arrival or no-shows will be charged one (1) night room charge including tax as penalty. **Please be aware that anyone checking into a room must be at least 21 years of age.**

### RESERVATION CUT-OFF

All reservations must be received at Hotel by 12:00 AM **Wednesday, July 6, 2022**. Reservations made after the cut-off date will be accommodated at the current rack rate, subject to availability.

Client's Initials \_\_\_\_\_

### BLOCK AVAILABILITY

A block review of room pick-up versus block will be conducted sixty (60) days and thirty (30) days prior to arrival. It is anticipated that at thirty (30) days prior to arrival, seventy percent (70%) of your room block will be reserved. If at thirty (30) days, the required seventy percent (70%) is not confirmed, Hotel reserves the right to adjust your block accordingly after notification.

### CHECK-IN AND CHECK-OUT TIME

Check-in time is 4:00 PM and check-out time is 11:00 AM.

### GUEST ROOM INCIDENTAL DEPOSIT

A \$75.00 incidental deposit is required for all guest rooms. This may be only accepted in the form of a credit or debit card. **NO CASH will be ACCEPTED.**

### PAYMENT METHOD

Credit Card- Individuals will call in to make their own reservations prior to the cut-off date with a credit card.

\*\*\* Hotel Reserves the right to pre-authorize charges before guest's arrival.





## Group Contract

### BILLING INFORMATION

*Hotel and Client agree on the following:*

GUARANTEE METHOD:	Individuals- credit cards
ROOM & TAX:	Individuals
CATERING FOOD & BEVERAGE	Individuals
INCIDENTALS:	Individuals

### CANCELLATION

There will be no penalty for individual cancellations made up to twenty-four (24) hours prior to arrival, not to exceed 10% of the room block provided for in this Hotel Agreement.

Hotel reserves the right in its sole discretion to immediately cancel this entire agreement without liability, releasing all guest rooms and meeting space commitments with no obligation to Client if engaged in any activity that may adversely affect the Hotel, our employees or guests. Cancellation may occur at any time prior to or during the actual dates of the event and Client shall have no recourse, except refund of deposits, against Hotel or our partners, affiliates, subsidiaries, officers, employees and agents.

### TRANSPORTATION

Transportation to and from the Hotel can be provided by Pearl River Transportation Department for a fee. Please contact your Convention Services Coordinator to make the necessary arrangements.

### SECURITY

Hotel cannot be held liable for items left unsecured. Security can be provided for valuable goods for a fee. Please contact your Convention Services Coordinator for assistance.

### ALCOHOLIC BEVERAGES

The Mississippi State Alcoholic Beverage Commission regulates the sales, service, and consumption of all alcoholic beverages. Hotel has an alcoholic beverage license subject to regulations governed by the Mississippi State Alcoholic Beverage Commission; any violations, which may jeopardize the Hotel's license, will not be permitted.

The Mississippi State Alcoholic Beverage Commission's policy is that no alcohol or alcoholic beverages may be brought into or on the Hotel's premises from outside sources.



## Group Contract

### CHOICE OF LAW

Any controversy or claim arising out of this Hotel Agreement shall be construed according to the laws of the Mississippi Band of Choctaw Indians and the State of Mississippi (pursuant to Section 1-1-4, Choctaw Tribal Code). Exclusive venue and jurisdiction shall be in the Tribal Courts of the Mississippi Band of Choctaw Indians. This Agreement and any related documents are subject to the Choctaw Tribal Court Claims Act. Nothing contained in this Agreement or any related documents shall be construed or deemed to provide recourse to Government Services Division assets.

### INDEMNIFICATION

Client shall indemnify, defend and hold Hotel (including without limitation Hotel's officers, directors, employees, representatives, independent contractors and agents) harmless for, from and against any and all losses, expenses, costs, liabilities, damages, claims, suits and demands arising from or attributable to the acts or omissions of Client (including but not limited to Client's officers, directors, employees, representatives, sub-contractors and agents.)

### FORCE MAJEURE

The Hotel shall not be liable for non-performance or delays not caused by the Hotel's fault or neglect, nor for non-performance or delays caused by strikes, lockouts or other labor disturbances, riots, authority of law, acts of God or means beyond Hotel's control. In no event shall the Hotel be liable for incidental, consequential or special damages arising out of or relating to this Hotel Agreement.

### MISCELLANEOUS

This Hotel Agreement shall insure to the benefit of and be binding upon the assigns, successors, agents and representatives of the parties hereto.

Nothing in this Hotel Agreement is intended or shall be construed to create or establish an agency, partnership or joint venture relationship between the parties hereto.

The captions appearing in the Hotel Agreement have been inserted as a matter of convenience and in no way defines, limit or enlarge the scope of this Hotel Agreement or any of the provisions thereof.

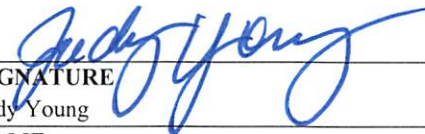
This Hotel Agreement together with the contents of this proposal is the full and complete understanding. Please sign and return the enclosed copy by **Tuesday, May 31, 2022**. If the Hotel Agreement is not executed and returned by said date, this offer will automatically terminate. Space is confirmed only after receipt of this Hotel Agreement signed by Client.



### Group Contract

This Hotel Agreement constitutes the entire agreement between the parties and may be modified only in writing by the client or the Hotel. If Client has any questions regarding this Hotel Agreement, please contact **Terry Watkins** at 601-663-039, cell 601-650-6068 or [terry.watkins@pearlriverresort.com](mailto:terry.watkins@pearlriverresort.com).

**AGREED AND ACCEPTED BY:**

  
\_\_\_\_\_  
SIGNATURE  
Judy Young  
\_\_\_\_\_  
NAME  
Executive Director  
\_\_\_\_\_  
TITLE  
Coastal Mississippi  
\_\_\_\_\_  
ORGANIZATION  
5/26/22  
\_\_\_\_\_  
DATE