



REQUEST FOR QUALIFICATIONS: ENVIRONMENTAL MANAGEMENT SERVICES

INTRODUCTION:

The Sullivan County Land Bank Corporation (SCLBC) is issuing this Request for Proposals (RFP) to solicit qualified firms to provide Environmental Assessment, Remediation and Redevelopment Management services to implement a 2019 USEPA Brownfield Remediation grant for a property acquired by the SCLBC.

The intent of this RFP is to select a responder who will carry out the scope of work detailed below. A copy of the work plan submitted for the USEPA Brownfield Hazardous Substance grant is available on request.

This RFP is open to consultants and firms eligible and qualified to do Environmental Assessments. Certified Minority and Women-owned Business Enterprises (M/WBE) are encouraged to apply, and M/WBE participation is a priority under the project's grant funding. For more information about M/WBE certification, contact New York State/Empire State Development's Division of Minority- and Women-Owned Business Development at (518) 292-5250 or at <http://www.esd.ny.gov/MWBE.html>.

This RFP is being made under USEPA's Brownfields program for revitalization of sites where redevelopment is complicated by real or perceived contamination from hazardous substances and is subject to the EPA Cooperative Agreement.

More information on the Land Bank, including its adopted procurement policy, is available at www.sullivancountylandbank.org

BACKGROUND

The SCLBC was incorporated in February of 2017 and is working with the redevelopment of the historic Monticello Manor property located at 15 High Street in the Village of Monticello, New York (the "Property"). Situated on 5.6 acres in the heart of Monticello, the Property is located within a 10 minute drive of the newly constructed Resorts World Catskills Casino, YO1 Spa, Kartrite Water Park as well as Route 17 and the Shortline Bus Terminal. With easy access to New York City as well as the entire Catskills Park and region, Monticello Manor presents a unique and exciting development opportunity.

The Site is on a 5.6-acre parcel of land identified by Tax Map Number 107.-1-11.1, located at 15 High Street in the Village of Monticello in Sullivan County, NY. The Site improved with five (5) structures along with a paved access road and parking area. Structures include one (1) main three-story structure located in the approximate center of the Site built circa 1920s, one (1) secondary three-story structure located southeast of the main structure built around 1931, and three (3) small storage structures that are situated to the north of the main structure. The paved access road extends north off of High Street and leads up to the main structure and further extends to the north side of the Site where there is a parking area. The remainder of the Site consists of unimproved woodlands.

The Site is currently owned by the SCLB who obtained ownership on December 2, 2019 from the County, after the bankruptcy of the most recent property owner, and after the County obtained it through the municipal tax foreclosure process. The Site has been reportedly unoccupied since 2008, however previous use includes operation as an assisted living facility for adults and prior to that a hospital. Installed during the prior use of the site is one (1) Underground Storage Tank (UST) and three (3) Above Ground Storage Tanks (AST). Since the site has been unoccupied the state of the buildings and other structures have significantly deteriorated and the Site has been subject to dumping of debris and various suspect containers.

Pursuant to the above, the Land Bank is seeking qualified firms to provide Environmental Consulting Services to implement the remediation plan and scope of work for the Monticello Manor property.

PROPOSED CLEANUP PLAN

The October 2019 Phase II ESA results identified the presence of volatile organic compounds, semi-volatile organic compounds, and metals above the respective Part 375/CP-51 SCOs/SSSCOs unrestricted use criteria, as well as one underground storage tank (UST), five above ground storage tanks (AST), miscellaneous debris and suspect containers, and the potential presence of asbestos containing material (ACM) and lead based paint (LBP) within the existing structures. Impacted soils are present across the site at depths ranging from surface grade to 5' below surface grade. Bedrock is roughly 5' below grade and groundwater was not detected during investigation. Proposed cleanup activities are remediation of "hot spot" soil including excavation of contaminated materials and backfill with clean fill, ACM and LBP abatement, removal of ASTs and removal and closure of UST. The expected outcomes of the project include achieving technical and administrative compliance with the NYSDEC site remediation regulations in preparation for redevelopment.

MISCELLANEOUS REQUIREMENTS

The Land Bank will not be responsible for any expenses incurred by any firm in preparing or submitting a proposal. All proposals shall provide a straightforward, concise delineation of the firm's capabilities to satisfy the requirements set forth herein. Successful firms will be expected to execute a contract with the Land Bank.

Qualification packages shall be signed by the individual or authorized principal of the responding party. The Land Bank reserves the right to reject any and all responses received or to negotiate separately in any manner necessary to serve the best interests of the Land Bank.

Any selected firm is prohibited from assigning, transferring, conveying, subletting or otherwise disposing of any agreement or its rights, title, or interest therein or its power to execute such agreement to any other person, company or corporation without the prior written consent of the Land Bank. Any contract entered into by the Land Bank with a contractor may not include an exclusion for labor law and any contractor's contract with subcontractors must provide for the same.

SERVICES REQUESTED

The Land Bank desires to engage one (1) or more qualified firms to provide Environmental Management Services to implement the USEPA Brownfield Remediation grant that was awarded to the Land Bank in 2020. The firms must have the knowledge and experience needed to implement the grant program and to effectively carryout the grant requirements.

QUALIFICATION OF RESPONDENTS

Consultants submitting qualifications shall demonstrate appropriate expertise and qualifications within their fields, typically at least (7) years' experience and a proven track record of providing professional services to clients in analyzing and addressing their needs and in meeting clients' goals and objectives. Qualifications should highlight any experience working for government or non-profit organizations on community development initiatives, especially in situations involving grant programs and funding sources identified above or with similar programs.

Consultants shall possess required licensure or certifications as appropriate in the fields of any of the services to be provided. Past success in assisting government or non-for-profit clients in obtaining funding for technical or feasibility studies and for implementing capital projects is a plus. Also, please include work experience with local municipalities and/or community groups within Sullivan County, if applicable.

In addition to the above, Responders must comply with the provisions of all applicable Federal Regulations i.e. 40 CFR Part 31 and 40 CFR Part 35 Subpart O. More information can be found here:

[http://www.versuslaw.com/cfr/40cfr/40cfr=00001\(precCh_I\)@341058.000.asp](http://www.versuslaw.com/cfr/40cfr/40cfr=00001(precCh_I)@341058.000.asp)

INSURANCE

The contractor shall continuously maintain, during the term of any contract entered into with the Land Bank, insurance in amounts and types as follows:

- a) Commercial General Liability insurance, including contractual liability coverage, in an amount not less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury and Two Million Dollars (\$2,000,000.00) per occurrence for property damage. The Sullivan County Land Bank shall be named an additional insured. Additionally, the Land Bank may require contractors to name third parties as additional insured on a project-by project basis, as specified by the Land Bank.
- b) Comprehensive Automobile Liability coverage on owned, hired, leased, or non- owned autos with limits not less than \$500,000 combined for each accident because of bodily injury sickness or disease, sustained by any person, caused by accident, and arising out of the ownership, maintenance or use of any automobile for damage because of injury to or destruction of property, including the loss of use thereof, caused by accident and arising out of the ownership, maintenance or use of any automobile. The Sullivan County Land Bank shall be named an additional insured.
- c) Workers' Compensation and Employer's Liability insurance in compliance with all applicable New York State laws and regulations and Disability Benefits insurance, if required by law. The Contractor shall furnish to the Land Bank, prior to its execution of the Contract, the documentation required by the State of New York Workers' Compensation Board of coverage or exemption from coverage pursuant to §57 and §220 of the Workers' Compensation Law. In accordance with General Municipal Law §108, the Contract shall be void and of no effect unless the Contractor shall provide and maintain coverage during the Term for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
- d) Professional Liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) on either a per-occurrence or claims-made coverage basis.

INDEMNIFICATION

To the fullest extent of the law, the successful firm shall defend, indemnify and save harmless the Land Bank, its employees and agents, from and against all claims, damages, losses and expenses (including, without limitation, reasonable attorneys' fees) arising out of, or in consequence of, any negligent or intentional act or omission of the successful firm, its employees, agents, subcontractors or subcontractor employees to the extent of its or their responsibility for such claims, damages, losses and expenses.

NON-COLLUSIVE CERTIFICATE

By submission of this RFP, each firm and each person signing on behalf of any firm certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his knowledge and belief:

- 1) The prices in this proposal have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other firm or with any competitor; and
- 2) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the firm and will not knowingly be disclosed by the firm prior to opening, directly or indirectly, to any other firm or to any competitor; and
- 3) No attempt has been made or will be made by the firm to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.

MWBE PROMOTION

It is the policy of the Land Bank that Minority-Owned Business Enterprises (MBE) and Women-Owned Business Enterprises (WBE) are afforded the maximum opportunity to participate in the performance of contracts. It is also the Land Bank's goal to award Procurement Contracts to those procurement contractors who have evidenced compliance with the laws of the State of New York prohibiting discrimination in employment. Please fill out Schedule A, if applicable.

AFFIRMATIVE ACTION

As required by Executive Law §312, and in compliance with the Land Bank's procurement policy, any contractor awarded a procurement contract in excess of \$25,000 for services rendered to the Land Bank must acknowledge this affirmative action policy and agree to implement the same by making every reasonable effort to award any subcontracts (none of hereby authorized) to MBEs and WBEs and to utilize minority and labor in the performance of any agreement that is awarded to the contractor. Specifically, any contractor awarded a contract in excess of \$25,000 dollars will be expected to abide by the following provisions:

- 1) The contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. For purposes of this section, affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation.
- 2) At the request of the contracting agency, the contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the contractor's obligations herein.
- 3) The contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the MWBE Threshold Contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

NON-DISCRIMINATION POLICY

In accordance with Article 15 of NY Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor agrees that neither it nor any of its subcontractors shall, by reason of age, race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics or marital status refuse to hire or employ or to bar or to discharge from employment such individual or to discriminate against such individual in compensation or in terms, conditions or privileges of employment.

EVALUTION OF RESPONSES

Proposals must present a sufficient level of detail that will allow for the evaluation and comparison with other competing proposals. The intent is to choose the most qualified, experienced contractor, with a contract price which is fair and reasonable to all parties.

Depth of expertise and amount of experience of the Respondent and its key personnel. (20%)

Depth of experience with USEPA Remediation grants (30%)

Organizational capacity and the ability to respond in a timely fashion. (15%)

Quality/Completeness of Proposal Submission (10%)

Fee Schedule and Affordability (25 %)

PROPOSED FEE SCHEDULE

The proposed fee schedule should outline the costs for testing services (i.e. costs per sample, lab costs, hourly rates, mapping and report costs, etc.) and should define the billing cycle or method used by the firm.

Include partners, associates and employees that would be primarily responsible for the work accomplished in this proposal.

It is anticipated that there will be periodic communications via phone, fax, email, or other medium. Identify how or if this will be billed.

PROPOSAL SUBMISSION

Consultants shall submit an electronic of the proposal, and should include at a minimum the following items:

1. Cover Letter identifying your firms and submittal requirements.
2. Statement of qualifications, experience and approach to environmental assessment projects (include state licensure or certifications where applicable).
3. Record of relevant previous projects, services and/or collaborations on similar municipality sponsored or other community development projects.
4. Hourly Rates of Principals and Key Staff, as well as a schedule of any incidental costs typically billed to projects, and whether these costs /rates are negotiable. Please identify the one staff member who will be directly responsible for all activities in connection with the proposed project.
5. References, at least three (3), including names and contact information.
6. Proposed Work Plan, indicating division of tasks, deliverables, scheduling of progress reports, and project coordination meetings
7. Project Management Plan
8. Project Budget broken down to correspond to the Proposed Work Plan
9. Estimated Calendar and time to perform the work; and estimated level-of-effort by task (person hours)
10. MWBE Proof, if applicable. (Schedule A)
11. Full disclosure regarding the Responders status, and status of parent companies, subsidiaries, affiliates, and subcontractors as potential responsible parties for the proposed project. (Schedule B)
12. Verification that contractor is not disbarred from receiving Federal funds. (Schedule C)
13. Proposed revisions, if applicable, to proposed contract to be executed, if selected. (Attachment A)
14. Clauses or subclauses indicating compliance with all applicable Federal Regulations. (Attachment B)

Due date for submittal of responses is Tuesday January 5, 2021. No proposal will be accepted after 4:00pm on this date.

Respondents may submit by mail, fax, in person or email to:

Jill M. Weyer, Executive Director
Sullivan County Land Bank Corporation
100 North Street, PO Box 5012, Monticello, NY 12701
Tele: (845) 807-0541 Fax: (845) 807-0546
Email: info@sullivancountylandbank.org

SCHEDULE "A"

For Informational Purposes Only

QUESTIONNAIRE REGARDING BUSINESS ENTERPRISES OWNED AND CONTROLLED BY PERSONS OF COLOR OR WOMEN

As part of the SCLBC's program to encourage the meaningful and significant participation of business enterprises owned and controlled by persons of color or women in SCLBC contracts, we request that you answer the questions listed below.

The term persons of color means a United States citizen or permanent resident alien who is and can demonstrate membership of one of the following groups: (a) Black persons having origins in any of the Black African racial groups; (b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either Indian or Hispanic origin regardless of race; (c) Native American or Alaskan native persons having origins in any of the original peoples of North American; or (d) Asian or Pacific Islander persons having origins in any of the Far East countries, South East Asia, the Indian sub-continent or the Pacific Islands.

An enterprise owned and controlled by persons of color or women means a business enterprise including a sole proprietorship, limited liability partnership, partnership, limited liability corporation or corporation that is (a.) at least 51% owned by one or more persons of color or women; (b.) an enterprise in which such ownership by persons of color or women is real, substantial and continuing; (c.) an enterprise in which such ownership interest by persons of color or women has and exercises the authority to control and operate, independently, the day-to-day business decisions of the enterprise; and (d.) an enterprise authorized to do business in this state which is independently owned and operated.

In addition, a business enterprise owned and controlled by persons of color or women shall be deemed to include any business enterprise certified as an MBE or WBE pursuant to Article 15-a of the New York State Executive Law and implementing regulations, 9 NYCRR subtitle N Part 540 et seq., or as a small disadvantaged business concern pursuant to the Small Business Act, 15 U.S.C. 631 et seq., and the relevant provisions of the Code of Federal Regulations as amended.

1. Are you a business enterprise which is owned and controlled by persons of color or women in accordance with the standards listed above?
 No
 Yes (as a business owned and controlled by persons of color)
 Yes (as a business owned and controlled by women)
2. If you are a business owned and controlled by persons of color, please specify, the minority classifications which apply: _____
3. Are you certified with the State of New York as a minority business enterprise ("MBE") or a women business enterprise ("WBE")?
 No Yes (as a MBE) Yes (as a WBE)
4. If you are certified with the State of New York as an MBE, please specify the minority classifications which apply: _____
5. Are you certified with the Federal Government as a small disadvantaged business concern?
 No Yes

Name of Firm/Business Enterprise: _____

Address: _____

Name/Title of Person completing MBE/WBE Questionnaire: _____

Signature: _____

SCHEDULE "B"
REQUIRED DISCLOSURE OF RELATIONSHIPS TO SCLBC

(Prior to execution of a contract by the SCLBC, the selected firm(s) must complete, sign and return this form to the SCLBC)

Name of Firm: _____

A. Related Employees:

1. Are any of the employees that you will use to carry out this contract with the SCLBC also an officer or employee of the SCLBC, or the spouse, or the child or dependent of such SCLBC officer or employee?

Yes No

If yes, please provide details:

B. Related Owners:

1. If you are the owner of the firm, are you or your spouse, an officer or employee of the SCLBC?

Yes No

If yes, please provide details:

To answer the following question, the following definition of the word "interest" shall be used:

Interest means a direct or indirect pecuniary or material benefit accruing to a SCLBC officer or employee, his or her spouse, child or dependent, whether as the result of a contract with the SCLBC or otherwise. For the purpose of this chapter, a SCLBC officer or employee shall be deemed to have an "interest" in the contract of:

- i. His/her spouse, children and dependents, except a contract of employment with the SCLBC;
- ii. A firm, partnership or association of which such officer or employee is a member or employee;
- iii. A corporation of which such officer or employee is an officer, director or employee; and
- iv. A corporation of which more than five (5) percent of the outstanding capital stock is owned by any of the aforesaid parties.

2. Do any officers or employees of the SCLB have an interest in the firm or in any proposer that will be used for this contract?

Yes No

If yes, please provide details:

Authorized Company Official shall sign below and type or print information below the signature line:

Name: _____

Title: _____

Date: _____

SCHEDULE "C"
DEBARMENT CERTIFICATION FORM

This statement must be reproduced on company letterhead and signed by an authorized representative of the firm.

I, _____ an authorized representative of _____ (company) certify that
_____ (company) is not debarred from receiving Federal funds.

_____ (signature)

_____ (print name)

_____ (title)

_____ (date)

ATTACHMENT A – Non-Construction Contract

THIS AGREEMENT by and between the Sullivan County Land Bank, a not-for-profit corporation of the State of New York, having its principal office at 100 North Street, Monticello, New York 12701 (the "Land Bank") and Restoration Management Services and Development, LLC, a local liability company of the State of New York, with a place for doing business at _____ (the "Contractor").

WHEREAS, the Land Bank has awarded the contract to the Contractor in accordance with the General Municipal Law.

NOW, THEREFORE, in consideration for the mutual covenants herein contained the Land Bank and the Contractor hereby agree upon the following terms and conditions:

I. THE CONTRACT

It is understood that the Contractor's Proposal ("Proposal") attached constitutes a part of this agreement and that the award of the contract on the basis of the Proposal constitutes a contract.

II. RESPONSIBILITY FOR WORK

The Contractor covenants and agrees that, at its own cost, charge and expense, to furnish all machinery, appliances, tools, labor and material necessary and proper to perform all of the work as set forth in the Contractor's Proposal.

III. PAYMENT

The Land Bank, in consideration of the Contractor faithfully complying with all the terms and conditions herein set forth, agrees to pay the Contractor at the price as set forth in its Proposal as accepted by the Land Bank. Payment requests shall be on properly completed voucher forms provided by the Land Bank.

IV. INTEREST IN CONTRACT

The Contractor agrees that the only person or persons interested as principal or principals in the Proposal submitted by the Contractor for this contract are named therein and that no person other than those mentioned therein, except regular agents of Contractor, has any interest in the said Proposal or in the securing of the award, and that this contract has been secured without any connection with any person or persons other than those named, and that the Proposal is in all respects fair, and was prepared, and the contract was secured, without collusion or fraud, and that no officer or employee of the Land Bank has or shall have a financial interest in the performance of the contract or in the work or business to which it relates, or in any portion of the proceeds thereof.

V. COMPLIANCE WITH LAW

The Contractor agrees to comply with all applicable laws, rules and regulations; the cost of such compliance and the fees for any licenses, certifications and/or permits required by law will be at the expense of the Contractor.

VI. LABOR LAW

The Contractor agrees to comply with all applicable provisions of the Labor Law. Particular attention is drawn to the anti-discrimination provisions. Applicable wage determinations, as may be revised from time to time, shall be deemed inserted as if set forth at length at this point. The Contractor will provide a payment bond, if applicable for the work.

VII. REQUIRED PROVISIONS

All provisions required by law to be inserted into this contract are hereby deemed inserted as if expressly set forth at this point.

VIII. ASSIGNMENT

This contract shall bind the parties hereto, and their heirs, executors, administrators, successors and assigns respectively, and may not be assigned by the Contractor without written consent of the Land Bank.

IX. SUBCONTRACTORS

The Land Bank reserves the right to approve all subcontractors. The Contractor will notify the Land Bank of the name and address of such subcontractor he intends employing, the portion of the work which the subcontractor is to do or the material which he is to furnish, his place of business and such other information as the Land Bank may require in order to know whether such subcontractor is reputable and reliable and able to perform the work as called for in the specifications. The Contractor shall not be released from any of his liabilities or obligations under this contract should any subcontractor fail to perform in a satisfactory manner the work undertaken by him.

X. PROPERTY DAMAGE OR LOSS

The Contractor shall promptly remedy damage or loss to the extent such damage or loss arises, in whole or in part, directly or indirectly, from the act or omission of the Contractor, a subcontractor or anyone directly or indirectly employed by any of them or by anyone for whose acts they may be liable. The Contractor shall promptly notify the Land Bank of any such damage or loss.

XI. RELEASE AND WAIVER

The Contractor does hereby release and forever discharge and hold harmless the Land Bank and its officers and employees, and their successors and assigns, from any and all liability, claims and demands of whatever kind or nature, either in law or in equity, which arise or may hereafter arise from the Contractor's entry on, in, or upon the Property; the performance of the Work by the Contractor, all subcontractors and their employees, contractors and agents, the removal, disposal, sale, donation, transportation, recycling, repurposing, or re-use of any materials removed from the Property; or any future use by a third party of any materials removed from the Property (collectively, the "Activities"). The Contractor understands and acknowledges that this release and waiver discharges the Land Bank and its officers and employees (collectively the "Releasees") from any liability of and claim against any and all Releasees with respect to any bodily injury, personal injury, illness, death, or property damage that may result from the Activities, whether caused by the negligence of the Releasee(s) or otherwise.

XII. INDEMNIFICATION BY THE CONTRACTOR

To the fullest extent permitted by applicable law, the Contractor shall indemnify, defend, and hold harmless the Land Bank, and its contractors, officers, directors, servants, agents, representatives, and employees (each, individually, an "Indemnified Party" and, collectively, the "Indemnified Parties"), from and against any and all liabilities, damages, losses, costs, expenses (including, without limitation, any and all reasonable attorneys' fees and disbursements), causes of action, suits, claims, damages, fines, penalties, obligations, demands or judgments of any nature, including, without limitation, for death, personal injury and property damage (collectively, "Damages") arising, directly or indirectly, from (i) any breach of this Contract by the Contractor, its subcontractors, or their officers, directors, members, servants, agents, representatives, or employees; (ii) any act or omission of the Contractor, its subcontractors, or their officers, directors, members, servants, agents, representatives, or employees; or (iii) the violation or alleged violation of any law, regulation, ordinance or rule by the Contractor, its subcontractors, or their officers, directors, members, servants, agents, representatives or employees. This paragraph shall survive the termination or expiration of this Contract.

XIII. INSURANCE

The Contractor shall obtain liability insurance from an insurance company authorized to do business in the State of New York. Said insurance shall include comprehensive general liability insurance and automobile liability insurance covering all vehicles, each in amounts acceptable to the Land Bank, and statutory workers' compensation insurance and employer's liability insurance. The Land Bank, its officers and employees shall be named as an additional insured on the CGL and automobile liability policies on a primary and noncontributory

basis. The Contractor shall provide to the Land Bank an insurance endorsement and certificate of insurance demonstrating that the Land Bank, its officers and employees are named as additional insureds. The policy shall contain a provision that the Land Bank shall receive written notice of any modification, suspension or cancellation of insurance coverage at least thirty (30) days prior thereto and further providing that without such notice, such modification, suspension or cancellation shall be ineffective. The insurance policy shall waive subrogation against the Land Bank. The Land Bank may require the Contractor to produce evidence at the time of the filing of the certificate of insurance that the premium or premiums on said policy have been paid. If a policy is to be canceled for nonpayment of premium, the Land Bank shall have the right, but not the duty or obligation, to pay said premium and deduct the same from the next payment(s) due to the Contractor under the Contract.

XIV. TIME FOR PERFORMANCE

The Contractor shall proceed diligently toward the prompt completion of the work. The Contractor shall have no claim against the Land Bank for damages for delay unless the Land Bank is found to have caused such damage while acting in bad faith and with deliberate intent. The Land Bank agrees that the time for performance may, upon written application, be extended for such period of time the governing board of the Land Bank deems reasonable upon the circumstances.

XV. REMEDIES

In addition to such remedies the Land Bank may have in law or equity upon the Contractor's breach of this agreement, the Land Bank may terminate or suspend the agreement, or perform any part of the work at the expense of the Contractor as is determined to be in the best interest of the Land Bank.

Dated:

SULLIVAN COUNTY LAND BANK

By: _____
_____, _____

CONTRACTOR

By: _____

ATTACHMENT B – USEPA General Terms & Conditions
Effective October 1, 2019

EPA General Terms and Conditions

Effective October 1, 2020

1. Introduction

- (a) The recipient and any sub-recipient must comply with the applicable EPA general terms and conditions outlined below. These terms and conditions are in addition to the assurances and certifications made as part of the award and terms, conditions, and restrictions reflected on the official assistance award document. Recipients **must** review their official award document for additional administrative and programmatic requirements. Failure to comply with the general terms and conditions outlined below and those directly reflected on the official assistance award document may result in enforcement actions as outlined in 2 CFR 200.338 and 200.339.
- (b) If the EPA General Terms and Conditions have been revised, EPA will update the terms and conditions when it provides additional funding (incremental or supplemental) prior to the end of the period of performance of this agreement. The recipient must comply with the revised terms and conditions after the effective date of the EPA action that leads to the revision. Revised terms and conditions do not apply to the recipient's expenditures of EPA funds or activities the recipient carries out prior to the effective date of the EPA action. EPA will inform the recipient of revised terms and conditions in the action adding additional funds.

2. Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards

This award is subject to the requirements of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards; Title 2 CFR, Parts [200](#) and [1500](#). 2 CFR 1500.1, Adoption of 2 CFR 200, states Environmental Protection Agency adopts the Office of Management and Budget (OMB) guidance Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to Non-Federal Entities (subparts A through F of 2 CFR 200), as supplemented by 2 CFR Part 1500, as the Environmental Protection Agency (EPA) policies and procedures for financial assistance administration. 2 CFR Part 1500 satisfies the requirements of 2 CFR 200.110(a) and gives regulatory effect to the OMB guidance as supplemented by 2 CFR Part 1500. This award is also subject to applicable requirements contained in EPA programmatic regulations located in 40 CFR Chapter 1 Subchapter B.

2.1. Effective Date and Incremental or Supplemental Funding. Consistent with the OMB Frequently Asked Questions at <https://cfo.gov/cofar> on Effective Date and Incremental Funding, any new funding through an amendment (supplemental or incremental) on or after December 26, 2014, and any unobligated balances (defined at 200.98) remaining on the award at the time of the amendment, will be subject to the requirements of the Uniform Administrative Requirements, Cost Principles and Audit Requirements (2 CFR 200 and 1500).

3. Termination

Consistent with 2 CFR 200.340, EPA may unilaterally terminate this award in whole or in part:

- a. if a recipient fails to comply with the terms and conditions of the award including statutory or regulatory requirements; or
- b. if the award no longer effectuates the program goals or agency priorities. Situations in which EPA may terminate an award under this provision include when:
 - (i) EPA obtains evidence that was not considered in making the award that reveals that specific award objective(s) are ineffective at achieving program goals and EPA determines that it is in the government's interest to terminate the award;

(ii) EPA obtains evidence that was not considered in making the award that causes EPA to significantly question the feasibility of the intended objective(s) of the award and EPA determines that it is in the government's interest to terminate the award;

(iii) EPA determines that the objectives of the award are no longer consistent with funding priorities for achieving program goals.

Financial Information

4. Reimbursement Limitation

EPA's financial obligations to the recipient are limited by the amount of federal funding awarded to date as reflected on the award document. If the recipient incurs costs in anticipation of receiving additional funds from EPA, it does so at its own risk. See [2 CFR 1500.8](#).

5. Automated Standard Application Payments (ASAP) and Proper Payment Draw Down

Electronic Payments. Recipients must be enrolled or enroll in the Automated Standard Application for Payments (ASAP) system to receive payments under EPA financial assistance agreements unless:

- EPA grants a recipient-specific exception or the assistance program has received a waiver from this requirement;
- The recipient is exempt from this requirement under [31 CFR 208.4](#); or,
- The recipient is a fellowship recipient pursuant to [40 CFR Part 46](#).

EPA will not make payments to recipients until the ASAP enrollment requirement is met unless the recipients fall under one of the above categories. Recipients may request exceptions using the procedures below but only EPA programs may obtain waivers.

To enroll in ASAP, complete the ASAP Initiate Enrollment form located at:

<https://www.epa.gov/financial/forms> and email it to rtpfc-grants@epa.gov or mail it to:

US Environmental Protection Agency
RTP-Finance Center (Mail Code AA216-01)
4930 Page Rd.
Durham, NC 27711

Under this payment mechanism, the recipient initiates an electronic payment request online via ASAP, which is approved or rejected based on the amount of available funds authorized by EPA in the recipient's ASAP account. Approved payments are credited to the account at the financial institution of the recipient organization set up by the recipient during the ASAP enrollment process. Additional information concerning ASAP and enrollment can be obtained by contacting the EPA Research Triangle Park Finance Center (RTPFC), at rtpfc-grants@epa.gov or 919-541-5347, or by visiting: <https://www.fiscal.treasury.gov/asap/>.

EPA will grant exceptions to the ASAP enrollment requirement only in situations in which the recipient demonstrates to EPA that receiving payment via ASAP places an undue administrative or financial management burden on the recipient or EPA determines that granting the waiver is in the public interest. Recipients may request an exception to the requirement by following the procedures specified in [RAIN-2018-G06-R](#).

Proper Payment Drawdown (for recipients other than states)

- a. As required by [2 CFR 200.305\(b\)](#), the recipient must draw funds from ASAP only for the minimum amounts needed for actual and immediate cash requirements to pay employees, contractors, subrecipients or to satisfy other obligations for allowable costs under this assistance agreement. The timing and amounts of the drawdowns must be as close as administratively feasible to actual disbursements of EPA funds. Disbursement within 5 business days of drawdown will comply with this requirement and the recipient agrees to meet this standard when performing this award.
- b. Recipients may not retain more than 5% of the amount drawn down, or \$1,000 whichever is less, 5 business days after drawdown to materially comply with the standard. Any EPA funds subject to this paragraph that remain undisbursed after 5 business days must be fully disbursed within 15 business days of draw down or be returned to EPA.
- c. If the recipient draws down EPA funds in excess of that allowed by paragraph b., the recipient must contact rtpfc-grants@epa.gov for instructions on whether to return the funds to EPA. Recipients must comply with the requirements at [2 CFR 200.305\(b\)\(8\) and \(9\)](#) regarding depositing advances of Federal funds in interest bearing accounts.
- d. Information on how to repay EPA via check is available at <https://www.epa.gov/financial/makepayment>. Instructions on how to return funds to EPA electronically via ASAP are available at <https://www.fiscal.treasury.gov/asap/>
- e. Failure on the part of the recipient to materially comply with this condition may, in addition to EPA recovery of the un-disbursed portions of the drawn down funds, lead to changing the payment method from advance payment to a reimbursable basis. EPA may also take other remedies for noncompliance under [2 CFR 200.207](#) and/or [200.338](#).
- f. If the recipient believes that there are extraordinary circumstances that prevent it from complying with the 5-business day disbursement requirement throughout the performance period of this agreement, recipients may request an exception to the requirement by following the procedures specified in [RAIN-2018-G06-R](#). EPA will grant exceptions to the 5-business day disbursement requirement only if the recipient demonstrates that compliance places an undue administrative or financial management burden or EPA determines that granting the exception is in the public interest.

Selected Items of Cost

6. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

This term and condition implements 2 CFR 200.216 and is effective for obligations and expenditures of EPA financial assistance funding on or after 8/13/2020.

As required by 2 CFR 200.216, EPA recipients and subrecipients, including borrowers under EPA funded revolving loan fund programs, are prohibited from obligating or expending loan or 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. 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). Recipients, subrecipients, and borrowers also may not use EPA funds to purchase:

- a. 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).

- b. Telecommunications or video surveillance services provided by such entities or using such equipment.
- c. 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.

Consistent with 2 CFR 200.471, costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, and cloud servers are allowable except for the following circumstances:

- a. Obligating or expending EPA funds for covered telecommunications and video surveillance services or equipment or services as described in 2 CFR 200.216 to:
 - (1) Procure or obtain, extend or renew a contract to procure or obtain;
 - (2) Enter into a contract (or extend or renew a contract) to procure; or
 - (3) Obtain the equipment, services, or systems.

Certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889, are recorded in the [System for Award Management](#) exclusion list.

7. Consultant Cap

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

Subagreements with firms for services which are awarded using the procurement requirements in Subpart D of 2 CFR 200 are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See [2 CFR 1500.9](#).

8. Establishing and Managing Subawards

If the recipient chooses to pass funds from this assistance agreement to other entities, the recipient must comply with applicable provisions of 2 CFR Part 200 and the EPA Subaward Policy, which may be found at: <https://www.epa.gov/grants/grants-policy-issuance-gpi-16-01-epa-subaward-policy-epa-assistance-agreement-recipients>

As a pass-through entity, the recipient agrees to:

- 8.1** Be responsible for selecting subrecipients and as appropriate conducting subaward competitions using a system for properly differentiating between subrecipients and procurement contractors under the standards at [2 CFR 200.330](#) and EPA's supplemental guidance in [Appendix A](#) of the [EPA Subaward Policy](#).

- a. For-profit organizations and individual consultants, in almost all cases, are not eligible subrecipients under EPA financial assistance programs and the pass-through entity must obtain prior written approval from EPA's Award Official for subawards to these entities unless the EPA-approved budget and work plan for this agreement contain a precise description of such subawards.

b. Stipends and travel assistance for trainees (including interns) and similar individuals who are not employees of the pass-through entity must be classified as participant support costs rather than subawards as required by [2 CFR 200.75](#) and [2 CFR 200.92](#).

8.2 Establish and follow a system that ensures all subaward agreements are in writing and contain all of the elements required by [2 CFR 200.331\(a\)](#). EPA has developed a template for subaward agreements that is available in [Appendix D](#) of the [EPA Subaward Policy](#).

8.3 Prior to making subawards, ensure that each subrecipient has a “unique entity identifier.” This identifier is required for registering in the [System for Award Management](#) (SAM) and by [2 CFR Part 25](#) and [2 CFR 200.331\(a\)\(1\)](#). The unique entity identifier currently is the subrecipient’s Data Universal Numbering System (DUNS) number. Information regarding obtaining a DUNS number and registering in SAM is available in the General Condition of the pass-through entity’s agreement with EPA entitled “**Central Contractor Registration/System for Award Management and Universal Identifier Requirements**” T&C of the pass-through entity’s agreement with the EPA.

8.4 Ensure that subrecipients are aware that they are subject to the same requirements as those that apply to the pass-through entity’s EPA award as required by [2 CFR 200.331\(a\)\(2\)](#). These requirements include, among others:

a. Title VI of the Civil Rights Act and other Federal statutes and regulations prohibiting discrimination in Federal financial assistance programs, as applicable.

b. Reporting Subawards and Executive Compensation under Federal Funding Accountability and Transparency Act (FFATA) set forth in the General Condition pass-through entity’s agreement with EPA entitled “**Reporting Subawards and Executive Compensation.**”

c. Limitations on individual consultant fees as set forth in [2 CFR 1500.9](#) and the General Condition of the pass-through entity’s agreement with EPA entitled “**Consultant Fee Cap.**”

d. EPA’s prohibition on paying management fees as set forth in General Condition of the pass-through entity’s agreement with EPA entitled “**Management Fees.**”

e. The Procurement Standards in [2 CFR Part 200](#) including those requiring competition when the subrecipient acquires goods and services from contractors (including consultants).

EPA provides general information on other statutes, regulations and Executive Orders on the [Grants internet site](#) at www.epa.gov/grants. Many Federal requirements are agreement or program specific and EPA encourages pass-through entities to review the terms of their assistance agreement carefully and consult with their EPA Project Officer for advice if necessary.

8.5 Ensure, for states and other public recipients, that subawards are not conditioned in a manner that would disadvantage applicants for subawards based on their religious character.

8.6 Establish and follow a system for evaluating subrecipient risks of noncompliance with Federal statutes, regulations and the terms and conditions of the subaward as required by [2 CFR 200.331\(b\)](#) and document the evaluation. Risk factors may include:

a. Prior experience with same or similar subawards;

b. Results of previous audits;

c. Whether new or substantially changed personnel or systems, and;

d. Extent and results of Federal awarding agency or the pass-through entity’s monitoring.

- 8.7** Establish and follow a process for deciding whether to impose additional requirements on subrecipients based on risk factors as required by [2 CFR 200.331\(c\)](#). Examples of additional requirements authorized by [2 CFR 200.207](#) include:
- a.** Requiring payments as reimbursements rather than advance payments;
 - b.** Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;
 - c.** Requiring additional, more detailed financial reports;
 - d.** Requiring additional project monitoring;
 - e.** Requiring the non-Federal entity to obtain technical or management assistance, and
 - f.** Establishing additional prior approvals.
- 8.8** Establish and follow a system for monitoring subrecipient performance that includes the elements required by [2 CFR 200.331\(d\)](#) and report the results of the monitoring in performance reports as provided in the reporting terms and conditions of this agreement.
- 8.9** Establish and maintain an accounting system which ensures compliance with the \$25,000 limitation at [2 CFR 200.68](#) on including subaward costs in Modified Total Direct Cost for the purposes of distributing indirect costs.
- 8.10** Work with EPA's Project Officer to obtain the written consent of EPA's Office of International and Tribal Affairs (OITA), prior to awarding a subaward to a foreign or international organization, or a subaward to be performed in a foreign country even if that subaward is described in a proposed scope of work.
- 8.11** Obtain written approval from EPA's Award Official for any subawards that are not described in the approved work plan in accordance with [2 CFR 200.308](#).
- 8.12** Obtain the written approval of EPA's Award Official prior to awarding a subaward to an individual if the EPA-approved scope of work does not include a description of subawards to individuals.
- 8.13** Establish and follow written procedures under [2 CFR 200.302\(b\)\(7\)](#) for determining that subaward costs are allowable in accordance with [2 CFR Part 200, Subpart E](#) and the terms and conditions of this award. These procedures may provide for allowability determinations on a pre-award basis, through ongoing monitoring of costs that subrecipients incur, or a combination of both approaches provided the pass-through entity documents its determinations.
- 8.14** Establish and maintain a system under [2 CFR 200.331\(d\)\(3\)](#) and [2 CFR 200.521\(c\)](#) for issuing management decisions for audits of subrecipients that relate to Federal awards. However, the recipient remains accountable to EPA for ensuring that unallowable subaward costs initially paid by EPA are reimbursed or mitigated through offset with allowable costs whether the recipient recovers those costs from the subrecipient or not.
- 8.15** As provided in [2 CFR 200.332](#), pass-through entities must obtain EPA approval to make fixed amount subawards. EPA is restricting the use of fixed amount subawards to a limited number of situations that are authorized in official EPA pilot projects. Recipients should consult with their EPA Project Officer regarding the status of these pilot projects.

By accepting this award, the recipient is certifying that it either has systems in place to comply with the requirements described in Items 8.1 through 8.15 above or will refrain from making subawards until the systems are designed and implemented.

9. Management Fees

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

10. Federal Employee Costs

The recipient understands that none of the funds for this project (including funds contributed by the recipient as cost sharing) may be used to pay for the travel of Federal employees or for other costs associated with Federal participation in this project unless a Federal agency will be providing services to the recipient as authorized by a Federal statute.

11. Foreign Travel

EPA policy requires that all foreign travel must be approved by its Office of International and Tribal Affairs. The recipient agrees to obtain prior EPA approval before using funds available under this agreement for international travel unless the trip(s) are already described in the EPA approved budget for this agreement. Foreign travel includes trips to Mexico and Canada but does not include trips to Puerto Rico, the U.S. Territories or possessions. Recipients that request post-award approval to travel frequently to Mexico and Canada by motor vehicle (e.g. for sampling or meetings) may describe their proposed travel in general terms in their request for EPA approval. Requests for prior approval must be submitted to the Project Officer for this agreement.

12. The Fly America Act and Foreign Travel

The recipient understands that all foreign travel **funded under this assistance agreement** must comply with the Fly America Act. All travel must be on U.S. air carriers certified under 49 U.S.C. Section 40118, to the extent that service by such carriers is available even if foreign air carrier costs are less than the American air carrier.

Reporting and Additional Post-Award Requirements

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

13.1. Requirement for System for Award Management (SAM) Unless exempted from this requirement under 2 CFR 25.110, the recipient must maintain the currency of the organization's information in SAM until the submittal of the final financial report required under this award or receipt of the final payment, whichever is later. This requires that the recipient reviews and updates the information at least annually after the initial registration, and more frequently if required by changes in the information or another award term.

13.2. Requirement for Data Universal Numbering System (DUNS) numbers. If the recipient is authorized to make subawards under this award, the recipient:

- a. Must notify potential subrecipients that no entity (definition paragraph 12.3 of this award term) may receive a subaward unless the entity has provided its DUNS number.
- b. May not make a subaward to an entity unless the entity has provided its DUNS number.

13.3. Definitions. For the purposes of this award term:

- a. **System for Award Management (SAM)** means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional

information about registration procedures may be found at the System for Award Management (SAM) Internet site: <https://www.sam.gov/SAM/>

- b. **Data Universal Numbering System (DUNS) number** means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform/>).
- c. **Entity**, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
 - 13.3.c.1. A Governmental organization, which is a State, local government, or Indian tribe;
 - 13.3.c.2. A foreign public entity;
 - 13.3.c.3. A domestic or foreign nonprofit organization;
 - 13.3.c.4. A domestic or foreign for-profit organization; and
 - 13.3.c.5. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
- d. **Subaward:**
 - 13.3.d.1. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which the recipient received this award and that the recipient awards to an eligible subrecipient.
 - 13.3.d.2. The term does not include procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200 Subpart D).
 - 13.3.d.3. A subaward may be provided through any legal agreement, including an agreement that the recipient considers a contract.
- e. **Subrecipient** means an entity that:
 - 13.3.e.1. Receives a subaward from the recipient under this award; and
 - 13.3.e.2. Is accountable to the recipient for the use of the Federal funds provided by the subaward.

14. Reporting Subawards and Executive Compensation

14.1. Reporting of first-tier subawards.

- a. **Applicability.** Unless the recipient is exempt as provided in paragraph 14.4. of this award term, the recipient must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph 12.5 of this award term).
- b. **Where and when to report.** (1) The recipient must report each obligating action described in paragraph 14.1.a of this award term to www.fsr.gov. (2) For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on any date during the month of November of a given year, the obligation must be reported by no later than December 31 of that year.)
- c. **What to report.** The recipient must report the information about each obligating action as described in the submission instructions available at: <http://www.fsr.gov>.

14.2. Reporting Total Compensation of Recipient Executives.

- a. **Applicability and what to report.** The recipient must report total compensation for each of their five most highly compensated executives for the preceding completed fiscal year, if:
 - 14.2.a.1. the total Federal funding authorized to date under this award is \$25,000 or more;
 - 14.2.a.2. in the preceding fiscal year, the recipient received:(i.) 80 percent or more of their annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); (ii.) and \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the

Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

14.2.a.3. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at: <https://www.sec.gov/fast-answers/answers-execomphm.html>.)

b. Where and when to report. The recipient must report executive total compensation described in paragraph 14.2.a of this award term: (i.) As part of the registration Central System for Award Management profile available at <https://www.sam.gov/SAM/> (ii.) By the end of the month following the month in which this award is made, and annually thereafter.

14.3. Reporting of Total Compensation of Subrecipient Executives.

a. Applicability and what to report. Unless exempt as provided in paragraph 14.4. of this award term, for each first-tier subrecipient under this award, the recipient shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if:

14.3.a.1. in the subrecipient's preceding fiscal year, the subrecipient received: (i.) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and (ii.) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

14.3.a.2. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at: <https://www.sec.gov/fast-answers/answers-execomphm.html>.)

b. Where and when to report. The recipient must report subrecipient executive total compensation described in paragraph 14.3.a. of this award term:

14.3.b.1. To the recipient.

14.3.b.2. By the end of the month following the month during which the recipient makes the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), the recipient must report any required compensation information of the subrecipient by November 30 of that year.

14.4. Exemptions

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

14.4.a.1. subawards, and the total compensation of the five most highly compensated executives of any subrecipient.

14.5. Definitions. For purposes of this award term:

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

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

c. Subaward:

14.5.c.1. This term means a legal instrument to provide support for the performance of any portion

of the substantive project or program for which you received this award and that the recipient award to an eligible subrecipient.

14.5.c.2. The term does not include procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200 Subpart D).

14.5.c.3. A subaward may be provided through any legal agreement, including an agreement that the recipient or a subrecipient considers a contract.

d. Subrecipient means an entity that:

14.5.d.1. Receives a subaward from the recipient under this award; and

14.5.d.2. Is accountable to the recipient for the use of the Federal funds provided by the subaward.

e. 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)):

14.5.e.1. Salary and bonus.

14.5.e.2. Awards of stock, stock options and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

14.5.e.3. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

14.5.e.4. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

14.5.e.5. Above-market earnings on deferred compensation which is not tax-qualified.

14.5.e.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

15. Recipient Integrity and Performance Matters - Reporting of Matters Related to Recipient Integrity and Performance

15.1. General Reporting Requirement

If the total value of your 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 you as the recipient during that period of time must maintain the currency 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 (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 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.

15.2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;

b. Reached its final disposition during the most recent five-year period; and

c. Is one of the following:

15.2.c.1. A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;

15.2.c.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;

15.2.c.3. An administrative proceeding, as defined in paragraph 5. 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

15.2.c.4. Any other criminal, civil, or administrative proceeding if:

15.2.c.4.1. It could have led to an outcome described in paragraph 13.2.c.1, 13.2.c.2, or 13.2.c.3 of this award term and condition;

15.2.c.4.2. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and

15.2.c.4.3. The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

15.3. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

15.4. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 15.1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no 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.

15.5. Definitions

For purposes of this award term and condition:

a. 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.

b. 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.

c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—

15.5.c.1. Only the Federal share of the funding under any Federal award with a recipient cost share or match; and

15.5.c.2. The value of all expected funding increments under a Federal award and options, even if not yet exercised.

16. Federal Financial Reporting (FFR)

Pursuant to 2 CFR 200.327 and 200.343, EPA recipients must submit the Federal Financial Report (SF-425) at least annually and no more frequently than quarterly. EPA's standard reporting frequency is annual unless an EPA Region has included an additional term and condition specifying greater reporting frequency within this award document. EPA recipients must submit the SF-425 no later than 30 days after the end of each specified reporting period for quarterly and semi-annual reports, and 90 calendar days for annual and final reports. Extension of reporting due dates may be approved by EPA upon request of the recipient. The FFR form is available on the internet at: <https://www.epa.gov/financial/forms>. All FFRs must be submitted to the Research Triangle Park Finance Center (RTPFC) via email at rtpfc-grants@epa.gov or mail it to:

US Environmental Protection Agency
RTP-Finance Center (Mail Code AA216-01)
4930 Page Rd.
Durham, NC 27703

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

17. Indirect Cost Rate Agreements

This term and condition implements EPA's [Indirect Cost Policy for Recipients of EPA Assistance Agreements](#) (IDC Policy) and applies to all EPA assistance agreements unless there are [statutory or regulatory limits on IDCs](#).

In order for the assistance agreement recipient to use EPA funding for indirect costs, the IDC category of the recipient's assistance agreement award budget must include an amount for IDCs and at least one of the following must apply:

- With the exception of “exempt” agencies and Institutions of Higher Education as noted below, all recipients must have one of the following current (not expired) IDC rates, including IDC rates that have been extended by the cognizant agency:
 - Provisional;
 - Final;
 - Fixed rate with carry-forward;
 - Predetermined;
 - 10% *de minimis* rate authorized by 2 CFR 200.414(f)
 - EPA-approved use of one of the following on an exception basis for EPA agreements:
 - 10% *de minimis* as detailed in section 6.3 of the IDC Policy; or
 - Expired fixed rate with carry-forward as detailed in section 6.4.a. of the IDC Policy.
- “Exempt” state or local governmental departments or agencies are agencies that receive up to and including \$35,000,000 in Federal funding per the department or agency's fiscal year, and must have an IDC rate proposal developed in accordance with [2 CFR 200 Appendix VII](#), with documentation maintained and available for audit.
- Institutions of Higher Education must use the IDC rate in place at the time of award for the life of the assistance agreement (unless the rate was provisional at time of award, in which case the rate will change once it becomes final). As provided by [2 CFR Part 200, Appendix III\(C\)\(7\)](#), the term “life of the assistance agreement”, means each competitive segment of the project. Additional information is available in the regulation.

IDCs incurred during any period of the assistance agreement that are not covered by the provisions above are not allowable costs and must not be drawn down by the recipient. Recipients may budget for IDCs pending approval of their IDC rate by the cognizant Federal agency or an exception granted by EPA under section 6.3 or 6.4 of the IDC Policy. However, recipients may not draw down IDCs until their rate is approved, if applicable, or EPA grants an exception. IDC drawdowns must comply with the indirect rate corresponding to the period during which the costs were incurred.

This term and condition does not govern indirect rates for subrecipients or recipient procurement contractors under EPA assistance agreements. Pass-through entities are required to comply with [2 CFR 200.331\(a\)\(4\)](#) when establishing indirect cost rates for subawards.

See the [Indirect Cost Guidance for Recipients of EPA Assistance Agreements](#) for additional information.

18. Audit Requirements

In accordance with [2 CFR 200.501\(a\)](#), the recipient hereby agrees to obtain a single audit from an independent auditor, if their organization expends \$750,000 or more in total Federal funds in their fiscal year beginning on or after December 26, 2014.

The recipient must submit the form SF-SAC and a Single Audit Report Package within 9 months of the end of the recipient's fiscal year or 30 days after receiving the report from an independent auditor. The SF-SAC and a Single Audit Report Package MUST be submitted using the Federal Audit Clearinghouse's Internet Data Entry System available at: <https://facides.census.gov/>

For complete information on how to accomplish the single audit submissions, you will need to visit the Federal Audit Clearinghouse Web site: <https://facweb.census.gov/>

19. Closeout Requirements

Reports required for closeout of the assistance agreement must be submitted in accordance with this agreement. Submission requirements and frequently asked questions can also be found at:

<https://www.epa.gov/grants/frequent-questions-about-closeouts>

20. Suspension and Debarment

Recipient shall fully comply with Subpart C of 2 C.F.R. Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business With Other Persons," as implemented and supplemented by 2 C.F.R. Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 C.F.R. Part 180, entitled "Covered Transactions," and 2 C.F.R. § 1532.220, includes a term or condition requiring compliance with 2 C.F.R. Part 180, Subpart C. Recipient is responsible for further requiring the inclusion of a similar term and condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information required under 2 C.F.R. § 180.335 to the EPA office that is entering into the transaction with the recipient may result in the delay or negation of this assistance agreement, or pursuance of administrative remedies, including suspension and debarment. Recipients may access the System for Award Management (SAM) exclusion list at <https://sam.gov/SAM/> to determine whether an entity or individual is presently excluded or disqualified.

21. Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.

This award is subject to the provisions contained in an appropriations act(s) which prohibits the Federal Government from entering into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to any corporation having a delinquent Federal tax liability or a felony conviction under any Federal law, unless the agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government. A "corporation" is a legal entity that is separate and distinct from the entities that own, manage, or control it. It is organized and incorporated under the jurisdictional authority of a governmental body, such as a State or the District of Columbia. A corporation may be a for-profit or non-profit organization.

As required by the appropriations act(s) prohibitions, the Government will not enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee with any corporation that — (1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or (2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

By accepting this award, the recipient represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and it is not a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

Alternatively, by accepting this award, the recipient represents that it disclosed unpaid Federal tax liability information and/or Federal felony conviction information to the EPA. The Recipient may accept this award if the EPA Suspension and Debarment Official has considered suspension or debarment of the corporation based on a tax liabilities and/or Federal felony convictions and determined that suspension or debarment is not necessary to protect the Government's interests.

If the recipient fails to comply with this term and condition, EPA will annul this agreement and may recover any funds the recipient has expended in violation of the appropriations act(s) prohibition(s). The EPA may also pursue other administrative remedies as outlined in [2 CFR 200.338](#), and may also pursue suspension and debarment.

22. Disclosing Conflict of Interests

22.1. For awards to Non-federal entities and individuals (other than states and fellowship recipients under 40 CFR Part 46).

As required by 2 CFR 200.112, EPA has established a policy (COI Policy) for disclosure of conflicts of interest (COI) that may affect EPA financial assistance awards. EPA's COI Policy is posted at <https://www.epa.gov/grants/epas-financial-assistance-conflict-interest-policy>. The posted version of EPA's COI Policy is applicable to new funding (initial awards, supplemental and incremental funding) awarded on or after October 1, 2015. This COI term and condition supersedes prior COI terms and conditions for this award based on either EPA's May 22, 2015 Revised Interim COI Policy or December 26, 2014 Interim COI Policy.

For competitive awards, recipients must disclose any competition related COI described in section 4.0(a) of the COI Policy that are discovered after award to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of discovery of the COI. The Grants Specialist will respond to any such disclosure within 30 calendar days.

EPA's COI Policy requires that recipients have systems in place to address, resolve and disclose to EPA COIs described in sections 4.0(b), (c) and/or (d) of the COI Policy that affect any contract or subaward regardless of amount funded under this award. The recipient's COI Point of Contact for the award must disclose any COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of the discovery of the potential COI and their approach for resolving the COI.

EPA's COI Policy requires that subrecipients have systems in place to address, resolve and disclose COI's described in section 4.0(b)(c) and (d) of the COI Policy regardless of the amount of the transaction. Recipients who are pass-through entities as defined at 2 CFR 200.74 must require that subrecipients being considered for or receiving subawards disclose COI to the pass-through entities in a manner that, at a minimum, is in accordance with sections 5.0(d) and 7.0(c) of EPA's COI Policy. Pass-through entities must disclose the subrecipient COI along with the approach for resolving the COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of receiving notification of the COI by the subrecipient.

EPA only requires that recipients and subrecipients disclose COI's that are discovered under their systems for addressing and resolving COI. If recipients or subrecipients do not discover a COI, they do not need to advise EPA or the pass-through entity of the absence of a COI.

Upon notice from the recipient of a potential COI and the approach for resolving it, the Agency will then make a determination regarding the effectiveness of these measures within 30 days of receipt of the recipient's notice unless a longer period is necessary due to the complexity of the matter. Recipients may not request payment from EPA for costs for transactions subject to the COI pending notification of EPA's determination. Failure to disclose a COI may result in cost disallowances.

Disclosure of a potential COI will not necessarily result in EPA disallowing costs, with the exception of procurement contracts that the Agency determines violate 2 CFR 200.318(c)(1) or (2), provided the recipient notifies EPA of measures the recipient or subrecipient has taken to eliminate, neutralize or mitigate the conflict of interest when making the disclosure.

22.2. For awards to states including state universities that are state agencies or instrumentalities

As required by 2 CFR 200.112, EPA has established a policy (COI Policy) for disclosure of conflicts of interest (COI) that may affect EPA financial assistance awards. EPA's COI Policy is posted at: <https://www.epa.gov/grants/epas-financial-assistance-conflict-interest-policy>. The posted version of EPA's COI Policy is applicable to new funding (initial awards, supplemental, incremental funding) awarded on or after October 1, 2015. This COI term and condition supersedes prior COI terms and conditions for this award based on either EPA's May 22, 2015 Revised Interim COI Policy or December 26, 2014 Interim COI Policy.

For competitive awards, recipients must disclose any competition related COI described in section 4.0(a) of the COI Policy that are discovered after award to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of discovery of the COI. The Grants Specialist will respond to any such disclosure within 30 calendar days.

States including state universities that are state agencies and instrumentalities receiving funding from EPA are only required to disclose subrecipient COI as a pass-through entity as defined by 2 CFR 200.74. Any other COI are subject to state laws, regulations and policies. EPA's COI Policy requires that subrecipients have systems in place to address, resolve and disclose COIs described in section 4.0(b)(c) and (d) of the COI Policy that arise after EPA made the award regardless of the amount of the transaction. States who are pass-through entities as defined at 2 CFR 200.74 must require that subrecipients being considered for or receiving subawards disclose COI to the state in a manner that, as a minimum, in accordance with sections 5.0(d) and 7.0(c) of EPA's COI Policy. States must disclose the subrecipient COI along with the approach for resolving the COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of receiving notification of the COI by the subrecipient.

EPA only requires that subrecipients disclose COI's to state pass-through entities that are discovered under their systems for addressing, resolving, and disclosing COI. If subrecipients do not discover a COI, they do not need to advise state pass-through entities of the absence of a COI.

Upon receiving notice of a potential COI and the approach for resolving it, the Agency will make a determination regarding the effectiveness of these measures within 30 days of receipt of the state's notice of a subrecipient COI unless a longer period is necessary due to the complexity of the matter. States may not request payment from EPA for costs for transactions subject to the COI pending notification of EPA's determination. A subrecipient's failure to disclose a COI to the state and EPA may result in cost disallowances.

Disclosure of a potential subrecipient COI will not necessarily result in EPA disallowing costs, with the exception of procurement contracts that the Agency determines violate 2 CFR 200.318(c)(1) or (2), provided the subrecipient has taken measures that EPA and the state agree eliminate, neutralize or mitigate the conflict of interest.

23. Transfer of Funds

Applicable to all assistance agreements other than Continuing Environmental Program Grants subject to 40 CFR 35.114 and 40 CFR 35.514 when EPA's share of the total project costs exceeds the 2 CFR 200.88 Simplified Acquisition Threshold. The Simplified Acquisition Threshold is currently set at \$250,000 but the amount is subject to adjustment.

(1) As provided at 2 CFR 200.308(e), recipient must obtain prior approval from EPA's Grants Management Officer if the cumulative amount of funding transfers among direct budget categories or programs, functions and activities exceeds 10% of the total budget. Recipients must submit requests for prior approval to the Grant Specialist and Grants Management Officer with a copy to the Project Officer for this agreement.

(2) Recipients must notify EPA's Grant Specialist and Project Officer of cumulative funding transfers among direct budget categories or programs, functions and activities that do not exceed 10% of the total budget for the agreement. Recipients must also notify the EPA Grant Specialist and Project Officer when transferring funds from direct budget categories to the indirect cost category or from the indirect cost category to the direct cost category. Prior approval by EPA's Grant Management Officer is required if the transfer involves any of the items listed in 2 CFR 200.407 that EPA did not previously approve at time of award or in response to a previous post-award request by the recipient.

Applicable to Continuing Environmental Program Grants subject to 40 CFR 35.114 and 40 CFR 35.514 when EPA's share of the total project costs exceeds the 2 CFR 200.88 Simplified Acquisition Threshold. The Simplified Acquisition Threshold is currently set at \$250,000 but the amount is subject to adjustment.

Recipients of continuing environmental program grants subject to 40 CFR 35.114 and 40 CFR 35.514 must notify the EPA Grant Specialist and Project Officer of funding transfers among direct budget categories, programs, functions and activities or transfers that change amounts budgeted for indirect costs, but prior EPA approval is not required unless the transfer results in significant changes to work plan commitments. Recipients must obtain prior written approval if the transfer involves any of the items listed in 2 CFR 200.407 that EPA did not previously approve at time of award, in response to a previous post-award request by the recipient, or is subject to an EPA waiver of prior approval under 40 CFR 35.114(d) or 40 CFR 35.514(d).

24. Electronic/Digital Signatures on Financial Assistance Agreement Form(s)/Document(s)

Throughout the life of this assistance agreement, the recipient agrees to ensure that any form(s)/document(s) required to be signed by the recipient and submitted to EPA through any means including but not limited to hard copy via U.S. mail or express mail, hand delivery or through electronic means such as e-mail are: (1) signed by the individual identified on the form/document, and (2) the signer has the authority to sign the form/document for the recipient. Submission of any signed form(s)/document(s) is subject to any provisions of law on making false statements (e.g. 18 U.S.C. 1001).

25. Extension of Project/Budget Period Expiration Date

EPA has not exercised the waiver option to allow automatic one-time extensions for non-research grants under [2 CFR 200.308\(d\)\(2\)](#). Therefore, if a no-cost time extension is necessary to extend the period of availability of funds, the recipient must submit a written request to the EPA prior to the budget/project period expiration dates. **The written request must include:** a justification describing the need for additional time, an estimated date of completion, and a revised schedule for project completion including updated milestone target dates for the approved workplan activities. In

addition, if there are overdue reports required by the general, administrative, and/or programmatic terms and conditions of this assistance agreement, the recipient must ensure that they are submitted along with or prior to submitting the no-cost time extension request.

Programmatic General Terms and Conditions

26. Sufficient Progress

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

27. Copyrighted Material and Data

In accordance with [2 CFR 200.315](#), EPA has the right to reproduce, publish, use and authorize others to reproduce, publish and use copyrighted works or other data developed under this assistance agreement for Federal purposes.

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

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

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

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

28. Patents and Inventions

Rights to inventions made under this assistance agreement are subject to federal patent and licensing regulations, which are codified at Title 37 CFR Part 401 and Title 35 USC Sections 200-212.

Pursuant to the Bayh-Dole Act (set forth in 35 USC 200-212), EPA retains the right to a worldwide, nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention owned by the assistance agreement holder, as defined in the Act. To streamline the invention reporting process and to facilitate compliance with the Bayh-Dole Act, the recipient must utilize the Interagency Edison extramural invention reporting system at [iEdison.gov](#). Annual utilization reports must be submitted through the system. The recipient is required to notify the Project Officer identified on the award document when an invention report, patent report, or utilization report is filed at [iEdison.gov](#). EPA elects not to require the recipient to provide a report prior to the close-out of a funding agreement listing all subject inventions or stating that there were none.

In accordance with Executive Order 12591, as amended, government owned and operated laboratories can enter into cooperative research and development agreements with other federal laboratories, state and local governments, universities, and the private sector, and license, assign, or waive rights to intellectual property “developed by the laboratory either under such cooperative research or development agreements and from within individual laboratories.”

29. Acknowledgement Requirements for Non-ORD Assistance Agreements

The recipient agrees that any reports, documents, publications or other materials developed for public distribution supported by this assistance agreement shall contain the following statement:

"This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient). The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the EPA endorse trade names or recommend the use of commercial products mentioned in this document."

Recipients of EPA Office of Research Development (ORD) research awards must follow the acknowledgement requirements outlined in the research T&Cs available at: <https://www.nsf.gov/awards/managing/rtc.jsp> A Federal-wide workgroup is currently updating the Federal-Wide Research Terms and Conditions Overlay to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards and when completed recipients of EPA ORD research must abide by the research T&Cs.

30. Electronic and Information Technology Accessibility

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

Recipients may wish to consult the latest Section 508 guidelines issued by the U.S. Access Board or W3C’s Web Content Accessibility Guidelines (WCAG) 2.0 (see <https://www.access-board.gov/guidelines-and-standards/communications-and-it/about-the-section-508-standards/guide-to-the-section-508-standards>).

31. Human Subjects

Human subjects research is any activity that meets the regulatory definitions of both research AND human subject. *Research* is a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge. *Human subject* means a living individual about whom an investigator (whether professional or student) conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information. [40 CFR 26.102 (d)(f)]

No research involving human subjects will be conducted under this agreement without prior written approval of the EPA to proceed with that research. If engaged in human subjects research as part of this agreement, the recipient agrees to comply with all applicable provisions of EPA Regulation 40 CFR 26 (Protection of Human Subjects). This includes, at Subpart A, the Basic Federal Policy for the Protection of Human Research Subjects, also known as the Common Rule. It also includes, at Subparts B, C, and D, prohibitions and additional protections for children, nursing women, pregnant women, and fetuses in research conducted or supported by EPA.

The recipient further agrees to comply with EPA's procedures for oversight of the recipient's compliance with 40 CFR 26, as given in EPA Order 1000.17 Change A1 (Policy and Procedures on Protection of Human Research Subjects in EPA Conducted or Supported Research). As per this order, no human subject may be involved in any research conducted under this assistance agreement, including recruitment, until the research has been approved or determined to be exempt by the EPA Human Subjects Research Review Official (HSRRO) after review of the approval or exemption determination of the Institutional Review Board(s) (IRB(s)) with jurisdiction over the research under 40 CFR 26.

For HSRRO approval, the recipient must forward to the Project Officer: (1) copies of all documents upon which the IRB(s) with jurisdiction based their approval(s) or exemption determination(s), (2) copies of the IRB approval or exemption determination letter(s), (3) copy of the IRB-approved consent forms and subject recruitment materials, if applicable, and (4) copies of all supplementary IRB correspondence.

Following the initial approvals indicated above, the recipient must, as part of the annual report(s), provide evidence of continuing review and approval of the research by the IRB(s) with jurisdiction, as required by 40 CFR 26.109(e). Materials submitted to the IRB(s) for their continuing review and approval are to be provided to the Project Officer upon IRB approval. During the course of the research, investigators must promptly report any unanticipated problems involving risk to subjects or others according to requirements set forth by the IRB. In addition, any event that is significant enough to result in the removal of the subject from the study should also be reported to the Project Officer, even if the event is not reportable to the IRB of record.

32. Animal Subjects

The recipient agrees to comply with the Animal Welfare Act of 1966 (P.L. 89-544), as amended, 7 USC 2131-2156. Recipient also agrees to abide by the "U.S. Government Principles for the Utilization and Care of Vertebrate Animals used in Testing, Research, and Training." (Federal Register 50(97): 20864-20865. May 20, 1985). The nine principles can be viewed at <https://olaw.nih.gov/policies-laws/phs-policy.htm>. For additional information about the Principles, the recipient should consult the *Guide for Care and Use of Laboratory Animals*, prepared by the Institute of Laboratory Animal Resources, National Research Council and can be accessed at: <http://www.nap.edu/readingroom/books/labrats/>.

33. Light Refreshments and/or Meals

APPLICABLE TO ALL AGREEMENTS EXCEPT STATE CONTINUING ENVIRONMENTAL PROGRAMS (AS DESCRIBED BELOW):

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

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

Costs for light refreshments and meals for recipient staff meetings and similar day-to-day activities are not allowable under EPA assistance agreements.

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

provided a justification that has been expressly approved by EPA's Award Official or Grants Management Officer.

EPA funding for meals, light refreshments, and space rental may not be used for any portion of an event where alcohol is served, purchased, or otherwise available as part of the event or meeting, even if EPA funds are not used to purchase the alcohol.

Note: U.S. General Services Administration regulations define light refreshments for morning, afternoon or evening breaks to include, but not be limited to, coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips, or muffins. (41 CFR 301-74.7)

FOR STATE CONTINUING ENVIRONMENTAL PROGRAM GRANT RECIPIENTS EXCLUDING STATE UNIVERSITIES:

If the state maintains systems capable of complying with federal grant regulations at 2 CFR 200.432 and 200.438, EPA has waived the prior approval requirements for the use of EPA funds for light refreshments and/or meals served at meetings, conferences, and training, as described above. The state may follow its own procedures without requesting prior approval from EPA. However, notwithstanding state policies, EPA funds may not be used for (1) evening receptions, or (2) other evening events (with the exception of working meetings). Examples of working meetings include those evening events in which small groups discuss technical subjects on the basis of a structured agenda or there are presentations being conducted by experts. EPA funds for meals, light refreshments, and space rental may not be used for any portion of an event (including evening working meetings) where alcohol is served, purchased, or otherwise available as part of the event or meeting, even if EPA funds are not used to purchase the alcohol.

By accepting this award, the state is certifying that it has systems in place (including internal controls) to comply with the requirements described above.

34. Tangible Personal Property

34.1 Reporting Pursuant to 2 CFR 200.312 and 200.314, property reports, if applicable, are required for Federally-owned property in the custody of a non-Federal entity upon completion of the Federal award or when the property is no longer needed. Additionally, upon termination or completion of the project, residual unused supplies with a total aggregate fair market value exceeding \$5,000 not needed for any other Federally-sponsored programs or projects must be reported. For Superfund awards under Subpart O, refer to 40 CFR 35.6340 and 35.6660 for property reporting requirements. Recipients should utilize the Tangible Personal Property Report form series (SF-428) to report tangible personal property.

34.2 Disposition

34.2.1 Most Recipients. Consistent with 2 CFR 200.313, unless instructed otherwise on the official award document, this award term, or at closeout, the recipient may keep the equipment and continue to use it on the project originally funded through this assistance agreement or on other federally funded projects whether or not the project or program continues to be supported by Federal funds.

34.2.2 State Agencies. Per 2 CFR 200.313(b), state agencies may manage and dispose of equipment acquired under this assistance agreement in accordance with state laws and procedures.

34.2.3 Superfund Recipients. Equipment purchased under Superfund projects is subject to specific disposal options in accordance with 40 CFR Part 35.6345.

35. Dual Use Research of Concern (DURC)

The recipient agrees to conduct all life science research* in compliance with [EPA's Order on the Policy and Procedures for Managing Dual Use Research of Concern](#) (EPA DURC Order) and [United States Government Policy for Institutional Oversight of Life Sciences Dual Use Research of Concern](#) (iDURC Policy). If the recipient is an institution within the United States that receives funding through this agreement, or from any other source, the recipient agrees to comply with the iDURC Policy if they conduct or sponsor research

involving any of the agents or toxins identified in Section 6.2.1 of the iDURC Policy. If the institution is outside the United States and receives funding through this agreement to conduct or sponsor research involving any of those same agents or toxins, the recipient agrees to comply with the iDURC Policy. The recipient agrees to provide any additional information that may be requested by EPA regarding DURC and iDURC. The recipient agrees to immediately notify the EPA Project Officer should the project use or introduce use of any of the agents or toxins identified in the iDURC Policy. The recipient's Institution/Organization must also comply with USG iDURC policy and EPA DURC Order and will inform the appropriate government agency if funded by such agency of research with the agents or toxins identified in Section 6.2.1 of the iDURC Policy. If privately funded the recipient agrees to notify the National Institutes of Health at DURC@od.nih.gov.

*“*Life Sciences Research*,” for purposes of the EPA DURC Order, and based on the definition of research in 40 CFR §26.102(d), is a systematic investigation designed to develop or contribute to generalizable knowledge involving living organisms (e.g., microbes, human beings, animals, and plants) and their products. EPA does not consider the following activities to be research: routine product testing, quality control, mapping, collection of general-purpose statistics, routine monitoring and evaluation of an operational program, observational studies, and the training of scientific and technical personnel. [Note: This is consistent with Office of Management and Budget Circular A-11.]

36. Research Misconduct

In accordance with 2 CFR 200.328, the recipient agrees to notify the EPA Project Officer in writing about research misconduct involving research activities that are supported in whole or in part with EPA funds under this project. EPA defines research misconduct as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results [65 FR 76262. I], or ordering, advising or suggesting that subordinates engage in research misconduct. The recipient agrees to:

- (1) Immediately notify the EPA Project Officer who will then inform the EPA Office of Inspector General (OIG) if, at any time, an allegation of research misconduct falls into one of the categories listed below:
 - A. Public health or safety is at risk.
 - B. Agency resources or interests are threatened.
 - C. Circumstances where research activities should be suspended.
 - D. There is a reasonable indication of possible violations of civil or criminal law.
 - E. Federal action is required to protect the interests of those involved in the investigation.
 - F. The research entity believes that the inquiry or investigation may be made public prematurely so that appropriate steps can be taken to safeguard evidence and protect the rights of those involved.
 - G. Circumstances where the research community or public should be informed. [65 FR 76263.III]
- (2) Report other allegations to the OIG when they have conducted an inquiry and determined that there is sufficient evidence to proceed with an investigation. [65 FR 76263. III]

37. Scientific Integrity Terms and Conditions

The recipient agrees to comply with [EPA's Scientific Integrity Policy](#) when conducting, supervising, and communicating science and when using or applying the results of science. For purposes of this award condition scientific activities include, but are not limited to, computer modelling, economic analysis, field sampling, laboratory experimentation, demonstrating new technology, statistical analysis, and writing a review article on a scientific issue. The recipient agrees to:

37.1 Scientific Products

37.1.1 Produce scientific products of the highest quality, rigor, and objectivity, by adhering to applicable EPA [information quality guidelines](#), [quality policy](#), and peer review policy.

- 37.1.1 Prohibit all recipient employees, contractors, and program participants, including scientists, managers, and other recipient leadership, from suppressing, altering, or otherwise impeding the timely release of scientific findings or conclusions.
 - 37.1.2 Adhere to [EPA's Peer Review Handbook, 4th Edition](#), for the peer review of scientific and technical work products generated through EPA grants or cooperative agreements which, by definition, are not primarily for EPA's direct use or benefit.
- 37.2 Scientific Findings**
- 37.2.1 Require that reviews regarding the content of a scientific product that are conducted by the project manager and other recipient managers and the broader management chain be based only on scientific quality considerations, e.g., the methods used are clear and appropriate, the presentation of results and conclusions is impartial.
 - 37.2.2 Ensure scientific findings are generated and disseminated in a timely and transparent manner, including scientific research performed by employees, contractors, and program participants, who assist with developing or applying the results of scientific activities.
 - 37.2.3 Include, when communicating scientific findings, an explication of underlying assumptions, accurate contextualization of uncertainties, and a description of the probabilities associated with both optimistic and pessimistic projections, if applicable.
 - 37.2.4 Document the use of independent validation of scientific methods.
 - 37.2.5 Document any independent review of the recipient's scientific facilities and testing activities, as occurs with accreditation by a nationally or internationally recognized sanctioning body.
 - 37.2.6 Make scientific information available online in open formats in a timely manner, including access to data and non-proprietary models.
- 37.3 Scientific Misconduct**
- 37.3.1 Prohibit intimidation or coercion of scientists to alter scientific data, findings, or professional opinions or non-scientific influence of scientific advisory boards. In addition, recipient employees, contractors, and program participants, including scientists, managers, and other leadership, shall not knowingly misrepresent, exaggerate, or downplay areas of scientific uncertainty.
 - 37.3.2 Prohibit retaliation or other punitive actions toward recipient employees who uncover or report allegations of scientific and research misconduct, or who express a differing scientific opinion. Employees who have allegedly engaged in scientific or research misconduct shall be afforded the due process protections provided by law, regulation, and applicable collective bargaining agreements, prior to any action. Recipients shall ensure that all employees and contractors of the recipient shall be familiar with these protections and avoid the appearance of retaliatory actions.
 - 37.3.3 Require all recipient employees, contractors, and program participants to act honestly and refrain from acts of research misconduct, including publication or reporting, as described in [EPA's Policy and Procedures for Addressing Research Misconduct](#), Section 9.C. Research misconduct does not include honest error or differences of opinion. While EPA retains the ultimate oversight authority for EPA-supported research, grant recipients conducting research bear primary responsibility for prevention and detection of research misconduct and for the inquiry, investigation, and adjudication of research misconduct alleged to have occurred in association with their own institution.
 - 37.3.4 Take the actions required on the part of the recipient described in EPA's Policy and Procedures for Addressing Research Misconduct, Sections 6 through 9, when research misconduct is suspected or found.

37.4 Additional Resources

For more information about the Scientific Integrity Policy, an introductory video can be accessed at:

<https://youtu.be/FQJCy8BXXq8>. A training video is available at: <https://youtu.be/Zc0T7fooot8>.

Public Policy Requirements

38. Civil Rights Obligations

This term and condition incorporates by reference the signed assurance provided by the recipient's authorized representative on: 1) EPA Form 4700-4, "Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance"; and 2) Certifications and Representations in Sam.gov or Standard Form 424D, as applicable.

These assurances and this term and condition obligate the recipient to comply fully with applicable civil rights statutes and implementing federal and EPA regulations.

a. Statutory Requirements

- i. In carrying out this agreement, the recipient must comply with:
 1. Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, including limited English proficiency (LEP), by entities receiving Federal financial assistance.
 2. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities by entities receiving Federal financial assistance; and
 3. The Age Discrimination Act of 1975, which prohibits age discrimination by entities receiving Federal financial assistance.
- ii. If the recipient is an education program or activity (e.g., school, college or university) or if the recipient is conducting an education program or activity under this agreement, it must also comply with:
 1. Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities operated by entities receiving Federal financial assistance. For further information about your compliance obligations regarding Title IX, see 40 CFR Part 5 and <https://www.justice.gov/crt/title-ix>
- iii. If this agreement is funded with financial assistance under the Clean Water Act (CWA), the recipient must also comply with:
 1. Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex in CWA-funded programs or activities.

b. Regulatory Requirements

- i. The recipient agrees to comply with all applicable EPA civil rights regulations, including:
 1. For Title IX obligations, 40 C.F.R. Part 5; and
 2. For Title VI, Section 504, Age Discrimination Act, and Section 13 obligations, 40 CFR Part 7.
 3. For statutory and national policy requirements, including those prohibiting discrimination and those described in Executive Order 13798 promoting free speech and religious freedom, 2 CFR 200.300.
 4. As noted on the EPA Form 4700-4 signed by the recipient's authorized representative, these regulations establish specific requirements including maintaining compliance information, establishing grievance procedures, designating a Civil Rights Coordinator and providing notices of non-discrimination.

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

- i. As a recipient of EPA financial assistance, you are required by Title VI of the Civil Rights Act to provide meaningful access to LEP individuals. In implementing that requirement, the recipient agrees to use as a guide the Office of Civil Rights (OCR) document entitled

"Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons." The guidance can be found at:

<https://www.federalregister.gov/documents/2004/06/25/04-14464/guidance-to-environmental-protection-agency-financial-assistance-recipients-regarding-title-vi>

- ii. If the recipient is administering permitting programs under this agreement, the recipient agrees to use as a guide OCR's Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs. The Guidance can be found at: <https://www.govinfo.gov/content/pkg/FR-2006-03-21/pdf/06-2691.pdf>
- iii. In accepting this assistance agreement, the recipient acknowledges it has an affirmative obligation to implement effective Title VI compliance programs and ensure that its actions do not involve discriminatory treatment and do not have discriminatory effects even when facially neutral. The recipient must be prepared to demonstrate to EPA that such compliance programs exist and are being implemented or to otherwise demonstrate how it is meeting its Title VI obligations.

39. Drug-Free Workplace

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

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

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

40. Hotel-Motel Fire Safety

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

41. Lobbying Restrictions

a) This assistance agreement is subject to lobbying restrictions as described below. Applicable to all assistance agreements:

- i) The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the U.S. unless authorized under existing law. The recipient shall abide by the Cost Principles available at 2 CFR 200 which generally prohibits the use of federal grant funds for litigation against the U.S. or for lobbying or other political activities.
- ii) The recipient agrees to comply with Title 40 CFR Part 34, New Restrictions on Lobbying. The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000 and require that subrecipients submit certification and disclosure forms

accordingly.

- iii) In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
- iv) Contracts awarded by a recipient shall contain, when applicable, the anti-lobbying provision as stipulated in the Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.
- v) By accepting this award, the recipient affirms that it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986 as required by Section 18 of the Lobbying Disclosure Act; or that it is a nonprofit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act. Nonprofit organizations exempt from taxation under section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are ineligible for EPA subawards.

b) Applicable to assistance agreements when the amount of the award is over \$100,000:

- i) By accepting this award, the recipient certifies, to the best of its knowledge and belief, that:
 - (1) No Federal appropriated funds have been or will be paid, by or on behalf of the recipient, 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 Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, or any employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the recipient shall complete and submit the linked [Standard Form -- LLL, "Disclosure Form to Report Lobbying,"](#) in accordance with its instructions.
 - (3) The recipient shall require that the language of this certification be included in the award documents for all subawards exceeding \$100,000 at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- ii) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

42. Recycled Paper

When directed to provide paper documents, the recipient agrees to use recycled paper and double-sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement

does not apply to reports prepared on forms supplied by EPA.

43. Resource Conservation and Recovery Act

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

Consistent with section 6002 of RCRA (42 U.S.C. 6962) and 2 CFR 200.322, State agencies or agencies of a political subdivision of a State and its contractors are required to purchase certain items made from recycled materials, as identified in 40 CFR Part 247, when the purchase price exceeds \$10,000 during the course of a fiscal year or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. Pursuant to 40 CFR 247.2 (d), the recipient may decide not to procure such items if they are not reasonably available in a reasonable period of time; fail to meet reasonable performance standards; or are only available at an unreasonable price.

44. Trafficking in Persons

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

- i. The recipient, the recipient's employees, subrecipients under this award, and subrecipients' employees may not—
 1. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 2. Procure a commercial sex act during the period of time that the award is in effect; or
 3. Use forced labor in the performance of the award or subawards under the award.
- ii. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if the recipient or a subrecipient that is a private entity—
 1. Is determined to have violated a prohibition in paragraph a of this award term; or
 2. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a of this award term through conduct that is either—
 - a. Associated with performance under this award; or
 - b. Imputed to the recipient or subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our Agency at 2 CFR 1532.

b. Provision applicable to a recipient other than a private entity. EPA may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

- i. Is determined to have violated an applicable prohibition in paragraph a. of this award term; or
- ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a of this award term through conduct that is either—
 1. Associated with performance under this award; or
 2. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by EPA at 2 CFR 1532.

c. Provisions applicable to any recipient.

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

d. Definitions. For purposes of this award term:

- i. “Employee” means either:
 1. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 2. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
- 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”:
 1. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
 2. 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 CFR 175.25(b).
 - b. A for-profit organization.
- iv. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).