



**THE U.S. DEPARTMENT OF STATE  
STANDARD TERMS AND CONDITIONS  
FOR  
DOMESTIC FEDERAL ASSISTANCE AWARDS**

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## **1. Introduction**

The Recipient and any sub-recipient must, in addition to the assurances and certifications made as part of the award, comply with all applicable terms and conditions during the project period.

## **2. Order of Precedence**

In the event of any inconsistency between provisions of the award, the inconsistency will be resolved by giving precedence in the following order:

- Applicable laws and statutes of the United States, including any specific legislative provisions mandated in the statutory authority for the award.
- Code of Federal Regulations (CFR)
- OMB Circulars
- Standard Terms and Conditions
- Bureau/Program Specifics (if applicable)
- Other documents and attachments

## **3. Controlling Language**

It is the Department of State's policy that English is the official language of all award documents. If an award or any supporting documents are provided in both English and a foreign language, it must be stated in each version that the English language version is the controlling version.

## **4. Department of State (DOS) Responsibilities**

DOS has overall responsibility for DOS-funded awards, including providing oversight for technical, programmatic, financial and administrative performance.

- Agency Award Administrator - Grants Officer (GO)

The GO is responsible for all action on behalf of the Department of State to enter into, change, or terminate an award. The GO is authorized by a warrant issued by the Procurement Executive in the Office of the Procurement Executive. In addition, the GO is responsible for administrative coordination and liaison with the Recipient.

The GO is the only person authorized to approve changes in any of the requirements in the award. In the event the Recipient effects any change at the direction of any person other than the GO, the change(s) will be considered to have been made without authority and no adjustment will be made in the amount of the award to cover any increase in costs incurred as a result thereof.

- Agency Program Contact - Grants Officer Representative (GOR)

In accordance with DOS policy, the GO may designate technically qualified personnel to assist in the administration of grants. The GOR is responsible for the programmatic, technical, and/or scientific aspects of the award. Recipients should direct any correspondence related to programmatic and budgetary issues to the GOR.

## **5. Recipient Responsibilities and Compliance with Federal Requirements**

The Recipient is responsible for notifying DOS of any significant problems relating to the administrative or financial aspects of the award.

The Recipient has full responsibility for the management of the project or activity supported under the award and for adherence to the terms and conditions. Although the Recipient is encouraged to seek the advice and opinion of the GO and/or the GOR on special problems that may arise, such advice does not diminish the Recipient's responsibility for making prudent and sound administrative judgments under the circumstances prevailing at the time the decision was made and should not imply that the responsibility for operating decisions has shifted to DOS.

The Recipient has responsibility for, and agrees to ensure that:

- Within thirty (30) days after the date of execution of the award, the Recipient furnish names, titles, and brief biographical sketches (if these have not been previously furnished), including information on the education and experience of key personnel in charge of the award project and other key professional and supervisory personnel; i.e., the members of the professional staff in a program supervisory position engaged for or assigned to duties under the award. The Recipient also provides similar information concerning such new officer personnel as may subsequently be assigned by the Recipient to duties in connection with the award. Any changes, prolonged absences, or significant adjustments of total time devoted to the award project of any listed personnel should be brought to the attention of the GO for prior approval.
- Terms and conditions flow down to all sub-recipients, and are appropriately addressed in the performing organization's sub-award instrument.
- All Recipients shall comply with these terms and conditions unless otherwise specified in the award.
  - Certain applicable Federal administrative standards are incorporated by reference. The applicable requirements may be obtained at:  
<http://www.whitehouse.gov/omb/circulars/index.html>
- Appropriate officials are made aware that electronic copies containing the complete text of the circulars is available via the OMB website at:  
<http://www.whitehouse.gov/wh/eop/omb> . In addition, all 22 CFR references are available via the Department of State's website at: <http://fa.statebuy.state.gov> .
- All Recipients shall comply with the applicable Federal requirements, terms and conditions, and prudent management of all expenditures and actions affecting the award. Documentation for each expenditure or action affecting the award must reflect appropriate organizational approvals that must be made in advance of the action.

Organizational approvals are intended to help ensure that expenditures are allowable, necessary, and reasonable for the conduct of the project, and that the proposed action:

- is consistent with the terms and conditions;
  - is consistent with DOS and Recipient's written and established policies;
  - represents effective use of DOS resources; and
  - does not constitute a significant project change (see provision 9).
- The principal investigator(s) or project director(s) receives a copy of the terms and conditions, including the award, bureau-specific requirements, and any subsequent changes in the terms and conditions.
  - The appropriate Recipient officials are made aware of the terms and conditions made available by DOS in electronic form at <http://fa.statebuy.state.gov/> and may be duplicated, copied or otherwise reproduced as appropriate.
  - This provision does not alter the Recipient's full responsibility for conduct of the project

And, compliance with all terms and conditions.

## **6. Confidentiality of Information**

(a) Confidential information, as used in this Provision, means: 1) information or data of a personal nature about an individual or 2) information or data submitted by or pertaining to an institution or organization.

(b) In addition to the types of confidential information described in (a)(1) and (2) above, information which might require special consideration with regard to the timing of its disclosure may derive from studies or research, during which public disclosure of preliminary invalidated findings could create erroneous conclusions which might threaten public health or safety if acted upon.

(c) The Grants Officer and the Recipient may, by mutual consent, identify elsewhere in this award specific information and/or categories of information which the Government will furnish to the Recipient or that the Recipient is expected to generate which is confidential. Similarly, the Grants Officer and the Recipient may, by mutual consent, identify such confidential information from time to time during the performance of the agreement.

(d) If it is established that information to be utilized under this award is subject to the Privacy Act, the Recipient will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, and implementing regulations and policies, with respect to systems of records determined to be subject to the Privacy Act.

(e) Confidential information, as defined in (a)(1) and (2) above, shall not be disclosed without the prior written consent of the individual, institution or organization (DOS).

(f) Written advance notice of at least 45 days will be provided to the Grants Officer of the Recipient's intent to release findings of studies or research, which have the possibility of adverse effects on the public or the Federal agency, as described in (b) above. If the Grants Officer does not pose any objections in writing within the 45-day period, the Recipient may proceed with disclosure.

(g) Whenever the Recipient is uncertain with regard to the proper handling of material under the Cooperative Agreement, or if the material in question is subject to the Privacy Act or is confidential information subject to this Provision, the Recipient shall obtain a written determination from the Grants Officer prior to any release, disclosure, dissemination, or publication.

(h) Paragraph (e) of this Provision shall not apply when the information is subject to conflicting or overlapping provisions in other Federal, State, or local laws.

## **7. Financial Management System (FMS)**

### Purpose of FMS

Standards for Financial Management Systems, prescribes a Recipient's system that:

- controls and accounts for Federal funds and cost sharing under the award; and
- produces financial reports.

### A. Standard Requirements for a State

#### In general

- States must expend and account for funds under the award in accordance with State laws and procedures that apply to the expenditure of and the accounting for the State's own funds.
- Procedures must be sufficient to permit:
  - Preparation of the reports required under the award; and
  - Tracing of expenditures to a level adequate to establish that award funds have not been used in violation of any applicable statutory restrictions or prohibitions.
- Cash management must comply with the cash management standards in 31 CFR Part 205, the Department of the Treasury's implementation of the Cash Management Improvement Act (31 U.S.C. 6503, as amended by Sec. 5 of P.L. 101-453).

### B. Standard Requirements for an Organization Other Than a State

The financial management system must enable Recipients to meet the following OMB requirements:

- Financial Reporting. For financial reports required by the award, Recipients must provide accurate, current, and complete financial information about the federally assisted activities. If sub-awards are executed under the award, Recipients must have reasonable procedures for ensuring the receipt of financial reports from each sub-recipient in sufficient time to allow the Recipient to prepare reports.
- Accounting Records. Recipients must maintain records that adequately identify the sources of funds for federally assisted activities and the purposes for which funds are to be used. The records must contain information about the award and any sub-award, including authorizations,

obligations, un-obligated balances, assets, liabilities, outlays or expenditures, and any program income. The accounting records must be supported by source documentation, such as cancelled checks, paid bills, payrolls, and time and attendance records.

- Internal Control. Recipients must maintain effective control over and accountability for all cash, real and personal property, and other assets under the award. Recipients must adequately safeguard all of these assets and ensure that they are used only for authorized purposes.
- Budget Control. Recipients must be able to compare actual expenditures or outlays with the approved budget.
- Allowable Costs. Recipients must have established procedures for determining the reasonableness, allocability, and allowability of costs in accordance with the applicable Federal cost principles, program regulations, or other OMB requirements.
- Cash Management. Recipients must have procedures for minimizing the time elapsing between the transfer of any advance payments of funds under the award and disbursement of the funds for direct program costs and the proportionate share of any allowable indirect or facilities and administrative costs. Recipients must ensure that the timing and amount of any payments to sub-recipients under the award conform to this standard.
- Requirement for Performance Data. In comparing actual expenditures or outlays with budget amounts, as required, Recipients must relate financial information to performance data. For this purpose, DOS will accept estimates based on available documentation.
- Review of Financial Management System. DOS may review the Recipient's financial management system at any time to determine whether it complies with the requirements of this provision.

## **8. Payments**

### **A. Payment Method and Procedures for Awards Not Subject to a Treasury-State Agreement**

- Payment Method. Recipients are authorized to receive advance payments of DOS funds under the award. As required by law, unless granted an exception from the advance payment requirement, Recipients will be paid by electronic funds transfer.

- Process for Requesting Payments.

For registered Recipients in the U.S. Department of Health and Human Services Payment Management System (PMS-SMARTLINK), instructions for submitting requests for payment may be found at <http://www.dpm.psc.gov> .

Recipients that do not submit requests electronically through PMS-SMARTLINK must request payment by submitting a signed "Request for Advance or Reimbursement" Standard Form 270 (SF-270) to the award administration office identified on the award cover sheet form DS-1909.

- Frequency of Payment Requests. If Recipients submit a payment request electronically, they may submit requests as frequently as required to meet needs to disburse

funds for program purposes.

- Timing and Amount of Payment Requests. Whenever it is administratively feasible to do so; Recipients are to time each request for advance so that payment of DOS funds are received on the same day of the need to disburse the funds for direct program costs (and the proportionate share of any allowable indirect or facilities and administrative costs). When same-day transfers are not feasible, advance payments should not exceed three days' estimated cash needs.

## B. Payment Method and Procedures for Awards Subject to Treasury-State Agreements (TSA)

- Payment Method, Timing, and Amount

The payment method for Federal funds under the award is specified in the applicable TSA under Subpart A of 31 CFR part 205, the Department of Treasury's implementation of the Cash Management Improvement Act of 1990. The TSA also governs the timing and amount of payment requests.

- Process for requesting payments

Payments under the award will be made through the U.S. Department of Health and Human Services Payment Management System (PMS-SMARTLINK). PMS-SMARTLINK can also be accessed at the following address: <http://www.dpm.psc.gov> .

If Recipients need further assistance, they are to contact the GO identified on form DS-1909. Recipients should request funds based on immediate disbursement requirements and disburse funds as soon as possible to minimize the Federal cash on hand in accordance with the policies established by the U.S. Treasury Department and mandated by OMB.

### Payments to Sub-Recipients

- Advance Payments. If Recipients receive advance payments of funds under the award, the Recipients must permit sub-recipients to receive advance payments under any sub-award, as long as sub-recipients maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between their receipt of the DOS funds and their outlays of the funds for program purposes.
- Requests for Advance Payment. Requests for advance payment from DOS should include amounts needed to make advance payments to sub-recipients. However, cash advances to a sub-recipient must be limited to the minimum amounts needed and be timed to be in accordance with the sub-recipient's actual, immediate needs for cash to carry out the purpose of the approved program or project.

The timing and amount of cash advances must be as close as is administratively feasible to the actual disbursements by the sub-recipients for program purposes (i.e., direct program or project costs and any indirect or facilities and administrative costs that are allowable and allocable to those direct costs).

Adjusting Payment Requests for Available Cash

- Unless an applicable Treasury-State Agreement provides otherwise, Recipients must disburse:
  - any funds that are available from program income, rebates, refunds, contract settlements, audit recoveries, and interest earned on any of those funds before requesting additional cash payments from DOS; and

Depository Requirements for All Recipients

Consistent with the national goal of expanding opportunities for women-owned and minority-owned businesses, DOS encourages the use of women-owned and minority-owned banks (i.e., a bank that is at least 50 percent owned by women or minority group members). If a Recipient receives any advance payments of DOS funds under the award before there is a need to make actual cash outlays of the funds for program purposes (direct program costs and any allowable indirect or facilities and administrative costs that are allocable to those direct costs).

Depository Requirements for All Recipients Other Than States

- If a Recipient receives any amounts of Federal funds under the award before the need to make actual cash outlays of the funds for direct program costs and any allowable indirect or facilities and administrative costs that are allocable to those direct costs, they must deposit and maintain those advances of funds in an:
  - For interest-bearing account reference appropriate administrative circular amount as it relates to state and local guidance.

Interest Requirements for Awards Subject To Treasury-State Agreements

Recipient accountability and liability for interest earned on advances of DOS funds under the award is specified in the applicable Treasury-State Agreement under Subpart A of 31 CFR part 205, the Department of Treasury's implementation of the Cash Management Improvement Act of 1990.

- Non-Exempt Interest. Recipients may keep up to \$250.00 per year in non-exempt interest earned on advances under the award and other Federal awards.

Interest Requirements for Awards Not Subject To Treasury-State Agreements.Interest Earned on Advances of Federal Funds.

Recipients shall maintain advances of Federal funds in interest bearing accounts, unless (1), (2) or (3) apply.

- (1) The Recipient receives less than \$120,000 in Federal awards per year.
- (2) The best reasonably available interest bearing account would not be expected to earn interest in excess of \$250 per year on Federal cash balances.



(3) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

The Recipient must remit interest at least annually to the Division of Payment Management, Department of Health and Human Service (DHHS), at Post Office Box 6021, Rockville, MD, 20852. Recipients with electronic funds transfer capability should use that method to remit interest.

- Withholding of Payments

DOS will not withhold payments at any time during the project period for amounts that are properly charged to the award unless the Recipients:

- are delinquent in a debt owed the United States; or
- fail to comply with project objectives, reporting requirements, or other terms and conditions of the award.

The amount of payments withheld for any of these reasons will be released when the Recipients subsequently comply, unless DOS suspended the award in addition to withholding payments.

- Immediate Cash Flow Needs

Cash advances to a Recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the Recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the Recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs.

Whenever possible, advances shall be consolidated to cover anticipated cash needs for all awards made by the Federal awarding agency to the Recipient.

- (1) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer.
- (2) Advance payment mechanisms are subject to 31 CFR Part 205.
- (3) Recipients shall be authorized to submit requests for advances and reimbursements at least monthly when electronic fund transfers are not used.

Requests for Treasury check advance payment shall be submitted on SF-270, "Request for Advance or Reimbursement," or other forms as may be authorized by OMB. This form is not to be used when Treasury check advance payments are made to the Recipient automatically through the use of a predetermined payment schedule or if precluded by special Federal awarding agency instructions for electronic funds transfer.

- Interest-Bearing Accounts

In accordance with OMB requirements, where appropriate, Recipients are required to maintain

advances of Federal funds in interest-bearing accounts.

### **9. Period of Availability of Funds**

The project period under the award is indicated on the award cover sheet. The recipient may charge to the award only allowable costs resulting from obligations incurred during the funding period.

Expenditures only for staff costs that are obligated during the award project period, may be charged to the award up to 90 days following the expiration date. These funds shall be available for closeout activities limited to the preparation of final reports. No other staff costs should be obligated and expended.

### **10. Pre-Award Costs**

GO is authorized, at their option, to waive pre-award prior written approvals required by OMB. This waiver may include authorizing Recipients to:

- Incur pre-award costs 90 calendar days prior to award. GO approval is required for pre-award costs that exceed the 90 calendar days. All pre-award costs are incurred at the risk of the Recipient (i.e., the Department is under no obligation to reimburse such costs if for any reason the Recipient does not receive an award or if the award is less than anticipated and inadequate to cover such costs).
- Pre-award costs must be necessary for the effective and economical conduct of the project and the costs must be otherwise allowable.

### **11. Prior Approval Requirements**

The Recipient must submit all requests, in writing to the GOR, before the project period end date indicated on form DS-1909. Final approval is subject to review and acceptance by the GO.

Unless otherwise specified in the award, provisions of the applicable Federal cost principles and other Federal administrative requirements for prior approval apply only to the activities and expenditures specified in the award.

- Written prior approval, by way of amendment, from the Department of State's GO is required for:
  - Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).
  - Change in a key personnel specified in the application or award document.
  - The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.
  - The need for additional Federal funding.
  - The transfer of amounts budgeted for indirect costs to absorb increases in direct costs.
  - Extension of the period of performance.

- The transfer of funds among direct cost categories or programs, functions and activities for awards in which the Federal share of the project exceeds \$100,000 and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget.
  - Unless described in the application and funded in the approved award, the sub-award, transfer or contracting out of any work under an award.
  - The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.

## **12. Procurement Standards under Awards**

Whether or not approval of a procurement is required where appropriate, the Recipients (including commercial organizations) are responsible for compliance with the procurement standards identified by OMB.

The Recipient is also responsible for ensuring that the appropriate terms and conditions from the award are made a part of any contract or other arrangement whose award amount exceeds the simplified acquisition threshold (currently \$100,000).

## **13. Allowable Costs**

Government-wide cost principles.

The allowability of costs incurred by the Recipients, any sub-recipients, and any cost type contractors will be determined in accordance with the Federal cost principles applicable to the organization.

General rule on allowability of costs.

The Recipient may use funds under the award, including DOS funds and any required cost sharing or matching contributions, only for:

- allowable costs incurred by the Recipients, any sub-recipients, or cost-type contractors; and
- reasonable fees or profit to cost-type contractors but not any fee or profit

(or other increment above allowable costs) to the Recipient or any sub-recipients.

Refer to the OMB Circulars to obtain listing of allowable costs, or visit the website address at:

<http://www.whitehouse.gov/omb/circulars/index.html>

## **14. Indirect Costs**

Indirect costs will not be allowable charges against this Grant unless specifically included as a line item in the approved budget for this award.

Indirect cost recovery for any actual indirect costs incurred by the Recipient which are greater than the indirect cost line item in the approved award budget is limited up to the award amount.

## **15. Publication for Professional Audiences**

Any publications or articles resulting from the award must acknowledge the support of the Department of State and will include a disclaimer of official endorsement as follows: “This [article] was funded [in part] by a grant from the United States Department of State. The opinions, findings and conclusions stated herein are those of the author[s] and do not necessarily reflect those of the United States Department of State”. The Recipient must ensure that this disclaimer be included on all brochures, flyers, posters, billboards, or other graphic artwork that are produced under the terms of the award.

### Seal/Logo

The Department of State’s seal may not be used by Recipients without the express written permission of the United States Department of State.

## **16. Travel**

All Federal Government-financed international air transportation must be accomplished by U.S. Flag air carriers or U.S. code sharing to the extent that service by those carriers is available.

Refer to the electronic Code of Federal Regulations as codified published in Title 41 CFR 301.10, “Public Contracts and Property Management, Transportation Expenses” to obtain entire Fly America Act regulatory guidance on following website address: [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html)

## **17. Post-award Requirements for Closeout**

The Bureau/Program Specific Requirements will provide Recipients with the due dates and where to send final reports. DOS will notify the Recipient in writing of any changes to the reporting requirements before the project period end date. Copies of any required forms and instructions for their completion are included with the award and Bureau/Program Specific Requirements.

DOS actions that must precede closeout are:

- receipt of all required reports,
- disposition of all property in which the USG retains interest including government furnished property and property acquired under the award. Recipients shall request disposition instructions, in writing, within 30 calendar days of the end of the period of performance. DOS shall issue disposition instructions to the Recipient within 120 calendar days of the receipt of the disposition request.
- reconciling expenses, award requirements and Federal cash paid to the Recipient.
- Final approved Negotiated Indirect Cost Rate Agreement (NICRA)

### Annual Reconciliation of Continuing Assistance Awards.

DOS and Recipients must reconcile continuing awards at least annually and evaluate program performance and financial reports. Items to be reviewed include a comparison of the Recipient's work performance to its progress reports and project expenditures.

Final Reports.

Recipients must submit, within 90 calendar days after the project period end date of the award, all financial, performance, and other reports as required by the terms and conditions of the award. DOS may approve written Recipient requests for extensions.

Unless DOS authorizes an extension, a Recipient must liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the project period end date as specified on form DS-1909.

DOS must make prompt payments to Recipients for allowable reimbursable costs under the award being closed out. The Recipient must promptly refund any balances of un-obligated cash that DOS has advanced or paid and that is not authorized to be retained by the Recipient for use in other projects. OMB Circular A-129 governs unreturned amounts that become delinquent debts.

When authorized by the award, DOS must make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received, not to exceed the amount of the award.

The Recipient must account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with applicable rules, regulations, and laws.

In the event a final audit has not been performed before the closeout of the award, DOS will retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

**18. Monitoring and Reporting Requirements**

Recipients are responsible for managing and monitoring each project, program, sub-award, function or activity supported by the award. Recipients must monitor sub-awards to ensure that sub-recipients have met the audit requirements as delineated in the award.

DOS reserves the right to make site visits to review and evaluate Recipient records, accomplishments, organizational procedures, and financial control systems; to conduct interviews; and to provide technical assistance as necessary. Site visits will be made in the least disruptive manner possible.

**Reporting Requirements**

**Performance Reporting**

A performance progress report compares actual to planned performance and indicates the progress made in accomplishing each assistance award task. This report should include relevant details for assessing the status of the progress made. The progress report should indicate any specific tasks which are not progressing according to plan; the reasons for the difficulty; specific recommendations for remedial action; and the resources which will be required.

A Performance Progress Report (PPR) coversheet is required for all recipient performance narrative reports submitted to the Department.

The Award Specifics identifies the Recipient reporting requirements.

## Financial Reporting

SF-425 or SF-425A, Federal Financial Report. (FFR)

- o The Recipient must use the Financial status section of the FFR to report the status of funds under the award. DOS has the option of not requiring the FFR if the SF-270, Request for Advance or Reimbursement, or the Federal Cash sections of the FFR and the FFR attachment for grant-by-grant disbursement detail is determined to provide adequate information to meet its needs, except that a final FFR (Federal Cash and Financial Status Section) and FFR attachment if applicable will be required after the project period end date when the SF-270 is used only for advances.
- o The FFR prescribes whether the report is on a cash or accrual basis. If the Recipient's accounting records are not normally kept on the accrual basis, the Recipient will not be required to convert its accounting system, but must develop such accrual information through best estimates based on an analysis of the documentation on hand.
- o The FFR (an original and no more than two copies) must be submitted thirty (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. **Extensions** of reporting due dates may be approved by the Grants Officer when requested by the Recipient in writing.
- Federal Cash sections of the FFR and the FFR attachment for grant-by-grant disbursement detail.
  - o When funds are advanced, Recipients must be required to submit the FFR Federal Cash sections and, when necessary, its continuation sheet, FFR SF-425A. The FFR Federal Cash section must be used to monitor cash advanced to Recipients and to obtain disbursement information for each award.
  - o DOS may require Recipients to provide forecasts of Federal cash requirements in the "Remarks" section of the report.
  - o When practical and deemed necessary, Recipients may be required to report in the "Remarks" section the amount of cash advances received in excess of three days. Recipients must provide short narrative explanations of actions taken to reduce the excess balances.
  - o The Recipient will be required to submit not more than the original and two copies of the FFR Federal cash section within thirty (30) calendar days following the end of each calendar year quarter. Those Recipients receiving advances totaling \$1 million or more per year may be required to submit a monthly report.
  - o The requirement for submission of the FFR Federal Cash sections may be waived for any one of the following reasons: when monthly advances do not exceed \$25,000 per Recipient, provided that such advances are monitored through other forms contained in this section; if, in the DOS' opinion, the Recipient's accounting controls are adequate to minimize excessive Federal advances; or, when the electronic payment mechanisms provide adequate data.

### **Additional information or More Frequent Reports**

When additional information or more frequent reports are needed, the following will be observed:

- When additional information is needed to comply with legislative requirements, instructions will be issued to require submission of such information under the "Remarks" section of the reports,
- When a Recipient's accounting system does not meet the standards, additional pertinent information to further monitor awards may be obtained upon written notice until such time as the system is brought up to standard. In obtaining this information, DOS must comply with report clearance requirements of 5 CFR Part 1320.
- Identical information may be accepted from the Recipient in machine readable format or computer printouts or electronic outputs in lieu of prescribed formats.
- The Recipients may provide computer or electronic outputs when they expedite or contribute to the accuracy of reporting.

### **Closeout**

The bureau/program specifics will identify the due dates and where to submit reports, and it will contain copies of any required forms and instructions for their completion.

### **19. Retention and Access Requirements for Records**

The Recipients must maintain financial records, supporting documents, statistical records, and all other records pertinent to an award for a period of three years from the date of submission of the final expenditure report. For awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report as authorized by the DOS. The only exceptions are the following:

- If any litigation, claim, or audit is started before the expiration of the three-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken;
- Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition;
- When records are transferred to or maintained by DOS, the three-year retention requirement is not applicable to the Recipient;
- Indirect cost rate proposals and/or cost allocations plans

### **Copies of Original Records**

May be substituted for the original records if authorized by the DOS.

### **Transfer of Certain Records**

DOS must request transfer of certain records to its custody from Recipients when it determines that the records possess long-term retention value. However, in order to avoid duplicate recordkeeping, DOS may make arrangements for Recipients to retain any records that are continuously needed for joint use.

### **Timely and Unrestricted Access**

DOS, the Inspector General, Comptroller General, or any of their duly authorized representatives have the right of timely and unrestricted access to any books, documents, papers, or other records of Recipients that are pertinent to the award, in order to make audits, examinations, excerpts, transcripts, and copies of such documents. This right also includes timely and reasonable access to a Recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but must last as long as records are retained.

### **Restriction**

Unless required by statute, no restrictions shall be placed on Recipients that limit public access to the records of Recipients that are pertinent to an award, except when the DOS can demonstrate that such records must be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to the DOS.

### **Indirect Cost Rate Proposals**

The following section applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

- If submitted for negotiation. If the Recipient submits to DOS or the sub-recipient submits to the Recipient the proposal, plan, or other computation to form the basis for negotiation of the rate, then the three-year retention period for its supporting records starts on the date of such submission.
- If not submitted for negotiation. If the Recipient is not required to submit to the Department or the sub-recipient is not required to submit to the Recipient's proposal, plan, or other computation for negotiation purposes, then the three-year retention period for the proposal, plan, or other computation and its supporting records starts at the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

## **20. Audits**

The Recipient must comply with the OMB audit requirements.

For all DOS awards, regardless of business type, the Recipients are subject to the audit requirements found in OMB audit requirements. In addition, the Recipients are subject to the audit requirements found in the Single Audit Act of 1984, 31 U.S.C. 7501-7507.

Non-Federal entities that expend \$500,000 or more in a year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the revised circular.

Non-Federal entities that expend less than \$500,000 a year in Federal awards are exempt from Federal audit requirement for that year, except as noted in OMB Requirements, but records must be available



for review or audit by appropriate DOS officials, pass through entity, and Government Accountability Office. The cost of auditing a non-Federal entity which has Federal awards expended of less than \$500,000 for fiscal years ending after December 31, 2003) per year and is thereby exempted under OMB Audit requirements.

The audit must be completed and submitted within 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a longer period is agreed to in advance by the Office of the Inspector General. (However, for fiscal years beginning on or before June 30, 1998, the audit must be completed and submitted within 30 days after receipt of the auditor's report(s), or 13 months after the end of the audit period, unless a longer period is agreed to in advance by the Office of the Inspector General.)

The Inspector General or any of his or her duly authorized representatives have access to any pertinent books, documents, papers and records of the Recipient. Information accessible to the Inspector General includes written, printed, recorded, produced, or reproduced by any mechanical, magnetic, or other process or medium. DOS reserves the right to make audits, inspections, excerpts, transcriptions or other examinations as authorized by law of the Recipients' documents and facilities.

The data collection form and the reporting package shall be submitted to the following address:

Federal Clearinghouse  
Bureau of the Census  
1201 E. 10<sup>th</sup> Street  
Jeffersonville, IN 47132

DOS and its authorized representatives have the legally enforceable right to examine, audit, and copy, at any reasonable time, all records in DOS possession pertaining to the award.

## **21. Suspension or Termination**

### **By Mutual Agreement**

22 CFR 135 (state and local governments) as well as 22 CFR 145 (educational institutions and nonprofits) sets forth termination procedures.

The Recipients may terminate their performance of a project in whole or in part. When both parties agree that continuation of the project would not produce results commensurate with further expenditure of funds or for any other reason, the award may be terminated by mutual consent.

The Recipients may terminate the project after the authorized representative advises the GO in writing; and concurrently sends a copy to the GOR.

When DOS wishes to terminate a project, the GO will issue, in writing, a termination notice to the Recipient's authorized representative with a copy to the project manager and the GOR.

Within 30 days after receipt of a request by either party for termination by mutual agreement, the other party will provide an appropriate written response.

The two parties must agree upon the termination conditions, including the effective date,

and, in the case of partial termination, the portion to be terminated. The Recipient must not incur new obligations for the terminated portion after the effective date and must cancel as many outstanding obligations as possible. DOS will allow full credit to the Recipients for the Federal Share of the obligations that cannot be cancelled properly incurred by the Recipients prior to termination.

#### For Cause

DOS reserves the right to terminate the award in whole or in part at any time before the project period end date, whenever it is determined that the Recipients have failed to comply with the conditions of the award.

DOS must promptly notify the Recipients in writing of the determination and reasons for the termination, together with the effective date. Payments made to Recipients or recoveries by DOS awards terminated for cause must be in accordance with the legal rights and liabilities of the parties.

### **22. Minority Business Participation, Executive Order 12432**

In accordance with Executive Order 12432, Minority Business Enterprise Development, DOS encourages the Recipients to utilize minority business enterprises in the performance of the award. When contracting for any supplies, services, research, or construction under the award, the Recipients must make their best efforts to solicit bids, proposals, or quotations from minority business enterprises.

A minority business enterprise is defined as a business that is at least 51 percent owned by one or more minority individuals, or in the case of any publicly owned business, at least 51 percent of the voting stock is owned by one or more minority individuals. The daily business operations are likewise managed by a minority owner. A minority individual is defined as a U.S. citizen who has been subjected to racial or ethnic prejudice or cultural bias because of his or her identity as a member of this group without regard to his or her individual qualities. Such groups include, but are not limited to: Black [African] Americans, Hispanic Americans, Native Americans, and Asian-Pacific Americans.

### **23. Blocking Property and Prohibiting Transactions Who Commit, Threaten To Commit, or Support Terrorism, Executive Order 13224**

Executive Order 13224 designated 27 individuals and entities that commit or pose a significant risk of committing terrorist acts and authorized the Secretary of State to designate additional individuals and entities.

The Order also authorized the Secretary of the Treasury to designate additional individuals and entities that provide support or services to, are owned or controlled by, act for or on behalf of, or are “otherwise associated with,” an individual or entity who has been designated in or under the order. All property and interests in property of the individual or entity in the United States or in the possession or control of United States persons are blocked. The order prohibits all transactions and dealings in blocked property or interests in the United States or by United States persons, and also prohibits transactions with, and provision of support for, individuals or entities listed in or subject to the Order.

The Recipients should be aware of Executive Order 13224 and the names of the individuals and entities designated thereunder. A list of these names can be found at the web site of the Excluded

Parties List System (EPLS). The web site is: <http://www.epls.gov>

The Recipients are reminded that U.S. Executive Order and U.S. laws prohibit transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the Recipient/contractor to ensure compliance with these Executive Orders and laws.

#### **24. Trafficking in Victims Protection Act of 2000**

In accordance with the implementation of Section 106(g) of the Trafficking Victims Protection Reauthorization Act of 2003, DOS is authorized to terminate the award or contract, or cooperative agreement, without penalty, if the Recipients or any sub-recipient; or the contractor or any subcontractor:

1. You as the recipient, your employees, sub-recipients under this award, and sub-recipients' employees may not--
  - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
  - ii. Procure a commercial sex act during the period of time that the award is in effect; or
  - iii. Use forced labor in the performance of the award or sub-awards under the award.
  
2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a sub-recipient that is a private entity –
  - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
  - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either--
    - A. Associated with performance under this award; or
    - B. Imputed to you or the sub-recipient 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 Government-wide Debarment and Suspension (Non-procurement)," as implemented by our agency at 22 CFR part 601.

The recipient agrees to inform the Federal awarding agency immediately of any information it receives from any source alleging a violation of a prohibition of this paragraph. A provision to this effect will be included in any applicable sub-grants and subcontracts awarded using US Government funds.