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PREFACE

A. The Department of Commerce (DOC) was established on February 14, 1903, to promote American businesses and trade. Its broad range of responsibilities include, but are not limited to, expanding U.S. exports, developing innovative technologies, gathering and disseminating statistical data, measuring economic growth, granting patents, promoting minority entrepreneurship, providing effective management and environmental stewardship of the nation's coastal and marine resources, and predicting and monitoring the weather. Although DOC's missions are very diverse, they are unified by one overarching mandate -- to work with the business community to foster economic growth and the creation of new American jobs to ensure sustainable economic opportunities.

B. There is no general Department-wide financial assistance authority. Such authority must be provided by specific statute. The Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. § 6301-6308), in and of itself, does not provide such authority. The operating unit's basic legislation must be analyzed to determine whether an assistance relationship is authorized, and if so, under what circumstances and conditions. The following operating units are authorized to provide financial assistance:

1. **Economic Development Administration (EDA).** The Economic Development Administration (EDA) was established under the Public Works and Economic Development Act of 1965 (42 U.S.C. § 3121 *et seq.*), as amended by the Economic Development Administration Reauthorization Act of 2004 (Pub. L. No. 108-373, 118 Stat. 1756 (2004)) (PWEDA). As set forth in EDA's regulations at 13 C.F.R. Chapter III, EDA's mission is to lead the federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. EDA investment assistance is available to rural and urban areas of the Nation experiencing or threatened with substantial economic distress, including high levels of unemployment, low income levels, significant declines in per-capita income, sudden major lay-offs or plant closures, or natural or other major disasters. In fulfilling its mission pursuant to PWEDA, EDA advances economic growth by assisting regions experiencing chronic high unemployment and low per-capita income to create an environment that fosters innovation, promotes entrepreneurship, and attracts increased private capital investment. Additionally, EDA helps communities experiencing adverse economic changes due to base realignment and closures, defense contractor reductions in force, U.S. Department of Energy defense-related funding reductions, and Federally-declared disasters. EDA works in partnership with eligible applicants, including State and local governments, district organizations, public or private non-profit organizations, Indian tribes, and institutions of higher education. Under the Trade Act of 1974, (19 U.S.C. 2341 *et seq.*), as amended, EDA also provides technical assistance to firms

that have been adversely affected by increased import competition (see 13 C.F.R. Part 315).

2. **International Trade Administration (ITA).** The International Trade Administration is responsible for most non-agricultural U.S. trade issues and works with the Office of the U.S. Trade Representative in coordinating U.S. trade policy. ITA operates through four principal units: Market Access and Compliance, Trade Development, Import Administration, and U.S. and Foreign Commercial Service. ITA provides grants and cooperative agreements through several programs to promote trade, investment, and commercial relations, and maintains comprehensive commercial and economic data on particular countries and regions of the world. ITA grant and cooperative agreement programs are also intended to strengthen domestic export competitiveness, and promote U.S. industry's increased participation in international markets.
3. **Minority Business Development Agency (MBDA).** The Minority Business Development Agency is the only Federal agency created specifically to foster the establishment and growth of minority-owned businesses in the United States. Through grants and cooperative agreements, MBDA provides financial assistance to public and private organizations that provide a wide-range of business development services to minority entrepreneurs through a nation-wide network.
4. **National Oceanic and Atmospheric Administration (NOAA).** NOAA is a federal agency focused on the condition of the oceans and the atmosphere. It plays several distinct roles within DOC:
 - a. **Supplier of Environmental Information Products.** One of the most important resources in our society is information. NOAA supplies information to its customers that pertains to the state of the oceans and the atmosphere. This is clearly manifest in the production of weather warnings and forecasts through the National Weather Service, but NOAA's information products extend to climate, ecosystems and commerce as well;
 - b. **Provider of Environmental Stewardship Services.** NOAA also is the steward of national coastal and marine environments. In coordination with federal, state, local, tribal and international authorities, NOAA manages the use of these environments, regulating fisheries and marine sanctuaries as well as protecting threatened and endangered marine species;
 - c. **Leader in Applied Scientific Research.** NOAA is a trusted source of accurate and objective scientific information in four particular areas of national and global importance:

- (1) Climate. Scientific information is needed to aid decision makers as they develop and evaluate options that mitigate the human causes of climate change and adapt to foreseeable climate impacts.
- (2) Weather. Relevant weather information creates a society that is more adaptive to its environment; experiences fewer disruptions, dislocation, and injuries; and that operates a more efficient economy.
- (3) Oceans. Marine fisheries, habitats, and biodiversity need to be sustained within healthy and productive ecosystems.
- (4) Coasts. The complex interdependence of ecosystems and economies grows with increasing uses of land, marine, and coastal resources, resulting in particularly heavy economic and environmental pressures on the Nation's coastal communities.

d. NOAA's Vision. "Healthy ecosystems, communities, and economies that are resilient in the face of change."

e. NOAA's Mission. "To understand and predict changes in climate, weather, oceans, and coasts, to share that knowledge and information with others, and to conserve and manage coastal and marine ecosystems and resources."

5. **National Telecommunications and Information Administration (NTIA).** The National Telecommunications and Information Administration is the principal executive branch advisor to the President on domestic and international communications and information policies. It ensures effective and efficient Federal use of the electromagnetic spectrum, develops (with other Federal agencies) policies for international communications and standards-setting organizations, serves as the Federal telecommunications research and engineering center, and administers grants and cooperative agreements to public and non-profit organizations for projects that incorporate information and telecommunications technology.
6. **National Institute of Standards and Technology (NIST).** The National Institute of Standards and Technology (NIST) provides grants and cooperative agreements to aid U.S. industry through research and services, contributes to public health and safety, supports U.S. scientific and engineering research communities, and works with state and local organizations to either establish or expand existing services for small to medium sized manufacturers. These services address critical needs in areas such as production techniques, technology applications, and business practices.

C. The DOC administers a diverse array of programs and projects concerned with the entire spectrum of business and economic development concerns as outlined above. Departmental operating units and Grants Offices are responsible for the award, administration, and monitoring

of these programs under a variety of legislative authorities, governing regulations, policies, and procedures utilizing mandatory and discretionary grants and cooperative agreements. Awards are made to a wide variety of recipients, including state and local governments, for-profit or commercial organizations, non-profit organizations, and educational institutions. The administration of DOC grant and cooperative agreement programs requires adherence not only to the program objectives for which funds are awarded, but also to sound business practices, as well as laws, regulations, policies, and procedures governing grants and cooperative agreements.

D. The DOC views its relationship with grant and cooperative agreement recipients as a partnership, with the recipient providing the effort and expertise necessary to carry out approved activities and the Department providing financial assistance and involvement as appropriate. In implementing these respective roles, DOC has established Grants Management Offices and Program Offices. Grants Management Offices serve as the focal point for the business management aspects of grants administration, including maintenance of official files and receipt of most required reports from award recipients. The Grants Officer is the DOC official authorized to award grants and cooperative agreements and make decisions on requests for any changes to or revisions of any aspect of awards, including but not limited to, terms and conditions, budgets, and program plans (i.e., scopes of work). The Program Officers serve as the focal point for the programmatic, scientific/technical aspects of the programs and projects. Questions concerning interpretation of grant and cooperative agreement policy or the applicability of certain policies to particular programs should be directed to the designated DOC Grants Officer.

E. Department-wide responsibility for developing and implementing financial assistance administrative and operational policies rests with the Office of Acquisition Management (OAM) under the Department's Chief Financial Officer and Assistant Secretary for Administration (CFO/ASA).

F. This Grants Manual ("Manual") is intended to provide a common understanding of the framework for the administration of grants and cooperative agreements within which DOC staff and responsible recipient officials must operate.

G. Questions concerning this manual should be directed to the cognizant Grants Officer or the Director, Office of Acquisition Management, U.S. Department of Commerce, Room 6422, Washington, D.C. 20230, telephone number: 202-482-4248.

2. INTRODUCTION

A. Purpose.

This Manual sets forth DOC guidance on grants administration and provides DOC with a uniform set of minimum procedures for federal funding announcements, including Federal Funding Opportunities (FFOs) and request for applications (RFA) reviewing, awarding, managing and closing out of grants. The Manual references policies and procedures for use by DOC offices and operating units for ensuring the consistent implementation of legislation, regulations, Office of Management and Budget (OMB) circulars, executive orders (EOs), and Departmental policies and procedures related to financial assistance. The Manual is for internal use by DOC personnel and does not create any rights or liabilities with respect to the public or any third party.

B. Authority.

This Manual is issued pursuant to the authority of 5 U.S.C. 301, Department Organization Order (DOO) 10-5, “Chief Financial Officer and Assistant Secretary for Administration.”

C. Coverage.

This Manual applies to all DOC operating units in their award, management, and administration of grants and cooperative agreements. This Manual shall have the same force and effect as a Department Administrative Order (DAO). Amendments (substantive changes) or revisions (corrections or updates) to the Manual may be developed and issued by the Director, Office of Acquisition Management (OAM). Proposed amendments to this Manual will be distributed for review and comment.

D. Effect on Other Issuances.

This Manual provides guidance for the administration of grants, and supersedes all previous financial assistance directives, including notices and orders. DOC operating units may issue supplemental operating unit-specific policies and procedures to cover items not covered by this Manual to address programmatic requirements that do not conflict with the provisions of this Manual or to implement unique statutory requirements and regulations. If an operating unit has specific statutory or regulatory requirements which necessitate policies, procedures, or restrictions not covered by the Manual, the operating unit may develop supplemental policies and procedures addressing the specific requirements. The supplements must be consistent with this Manual. The heads of operating units or other appropriate officials of the operating units must submit supplements, and any revisions thereto, and an assurance that the supplement is consistent with the requirements in this Manual to the Office of Inspector General (OIG), the

Office of General Counsel (OGC), and OAM for timely review and comment prior to internal issuance and use.

E. Government-Wide Requirements Used in the Administration of DOC Awards.

A list of government-wide requirements (e.g., regulations, circulars, executive orders) appropriate in the administration of grants funded by DOC includes, but is not limited to, the following:

1. Administrative Requirements.

- a. 15 CFR Part 14, “Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations” (DOC codification of OMB Circular A-110, 2 CFR Part 215)
- b. 15 CFR Part 24, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments” (DOC codification of OMB Circular A-102)

2. Cost Principles.

- a. 2 CFR Part 220 (OMB Circular A-21), “Cost Principles for Educational Institutions”
- b. 2 CFR Part 225 (OMB Circular A-87), “Cost Principles for State, Local, and Indian Tribal Governments”
- c. 2 CFR Part 230 (OMB Circular A-122), “Cost Principles for Non-Profit Organizations”
- d. 48 CFR Part 31, “Contract Cost Principles and Procedures”
- e. Appendix E of 45 CFR Part 74, “Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals”

3. Other Requirements.

- a. OMB Circular A-50 Revised, “Audit Follow-Up”
- b. OMB Circular A-89 Revised, “Federal Domestic Assistance Program Information”
- c. OMB Circular A-129 Revised, “Policies for Federal Credit Programs and Non-Tax Receivables”

- d. OMB Circular A-133, “Audits of States, Local Governments and Non-Profit Organizations” and Supplement
- e. 2 CFR Part 1326, “Government-wide Debarment and Suspension (Non-procurement)”
- f. 2 CFR Part 22, “Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)”
- g. 5 CFR Part 1320, “Controlling Paperwork Burdens on the Public”
- h. 15 CFR Part 8, “Nondiscrimination in Federally Assistance Programs of the Department of Commerce - Effectuation of Title VI of the Civil Rights Act of 1964”
- i. 15 CFR Part 8a, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance”
- j. 15 CFR Part 8b, “Prohibition of Discrimination against the Handicapped in Federally Assistance Programs Operated by the Department of Commerce”
- k. 15 CFR Part 11, “Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs”
- l. 15 CFR Part 13, “Intergovernmental Review of Department of Commerce Programs and Activities”
- m. 15 CFR Part 20, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance”
- n. 15 CFR Part 19, “Commerce Debt Collection”
- o. 15 CFR Part 25, “Program” (Fraud Civil Remedies)
- p. 15 CFR Part 27, “Protection of Human Subjects”
- q. 15 CFR Part 28, “New Restrictions on Lobbying”
- r. 15 CFR Part 1170, “Metric Conversion Policy for Federal Agencies”
- s. 31 CFR Part 223, “Surety Companies Doing Business with the United States”
- t. 31 CFR Part 900-904, “Federal Claims Collection Standards”

- u. 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts, and Cooperative Agreements”
 - v. EO’s 12549 and 12689, “Debarment and Suspension”
 - w. OMB Standard Form 424B, “Assurances – Non-Construction Programs” and OMB Standard Form 424D, “Assurances – Construction Programs,” which reference laws and regulations that may apply to particular awards
4. **Statutory Requirements.** Statutory authorities for grant requirements are contained in Chapter 15 of this Manual.

3. GLOSSARY OF TERMS AND ACRONYMS

A. Definitions.

1. **Administrative Offset.** Satisfying a debt by withholding money payable by DOC on behalf of a person (i.e., an individual, business, organization, or other entity but not an agency of the United States Government or any State or local government) to satisfy a debt owed the Federal Government by that person. See also 15 CFR Part 21.
2. **Amendment.** A substantive change made to an award. Examples of an amendment include, but are not limited to, the following: continuation, renewal, supplemental, no-cost extension, and budget revision.
3. **Award.** A grant or a cooperative agreement.
4. **Award Date.** The date that the Grants Officer signs the award document.
5. **Background Check.** A tool designed to assist program and grants management officials in determining the responsibility, financial integrity, and management principles of key individuals in an organization proposed for funding.
6. **Broad Agency Announcement (BAA).** A broad agency announcement is a notice of the potential availability of funds that: (a) is general in nature; (b) identifies areas of programmatic interest; (c) includes criteria for selecting proposals; and, (d) seeks the participation of any interested members of the public.
7. **Budget/Cost Analysis.** The review and evaluation of the reasonableness, allowability, and allocability of an applicant's proposed budget data and of the judgmental factors applied in projecting the estimated costs.
8. **Close-Out.** The process by which DOC determines that all financial assistance award requirements and applicable administrative actions have been completed by the recipient and DOC.
9. **Competitive Award.** An award made with discretionary funds after a solicitation of proposals has been published a Federal Funding Opportunity notice posted at Grants.gov and where DOC chooses a proposal based on merit review and the application of established evaluation and selection criteria. The DOC may also treat as competitive an award that was solicited and reviewed through another federal agency's competitive process or through a competitive solicitation process developed by several federal agencies acting in partnership.

10. **Competitive Award Program.** A financial assistance program under which funds are awarded on the basis of merit or need and to which an applicant is not entitled as a matter of law.
11. **Congressional Direction.** Any statement of legislative intent included in the Reports by the House, Senate, or Conference Appropriations Committees which directs DOC or its operating units to take action (or inaction) regarding its projects
12. **Continuation.** An amendment that provides continued funding within the approved project period. Unlike a renewal, a continuation does not extend the project period; rather, it provides additional funding within an already existing project period. Continuation amendments are used with multi-year awards. See also Chapter 20 of this Manual.
13. **Contract.** The legal instrument reflecting a relationship between a recipient or subrecipient and contractor or between such contractor and subcontractor whenever the principal purpose of the relationship is the acquisition, by purchase, lease, or barter, of property or services.
14. **Cooperative Agreement.** The legal instrument reflecting a relationship between DOC and a recipient whenever: (1) the principal purpose of the relationship is to transfer money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute and (2) substantial involvement (e.g., collaboration, participation, or intervention by DOC in the management of the project) is anticipated between DOC and the recipient during performance of the contemplated activity. Cooperative agreements are subject to the same OMB, Treasury, and other Federal laws and policies as grants. See also 31 U.S.C. § 6305.
15. **Cost sharing or matching.** For Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations, cost sharing or matching is the portion of project or program costs not borne by the Federal Government. For State, Local and Tribal Governments, cost sharing or matching is value of the third party in-kind contributions and the portion of the costs of a federally assisted project or program not borne by the Federal Government. See also 15 C.F.R. §§ 14.2(j) and 24.3, respectively.
16. **Credit Report.** Any written or documented oral communication of information provided by a commercial or consumer credit reporting agency dealing with the creditworthiness or financial reliability of an applicant or debtor. The credit report is a useful tool which can assist program and grants management officials in determining an applicant's financial condition and capacity.

17. **Delinquent Debt.** A debt that has not been paid by the date specified in the agency's initial written demand for payment or applicable agreement or instrument (including a post-delinquency payment agreement) unless other satisfactory payment arrangements have been made. See also 15 C.F.R. § 19.1.
18. **Department or DOC.** United States Department of Commerce (DOC), unless otherwise indicated. As used in this Manual, "Department" or DOC includes the Office of the Secretary and the operating units.
19. **Discretionary Award Program.** A financial assistance program under which DOC can exercise its judgment in selecting to whom the funds are awarded.
20. **Discretionary Funds.** Funds for which DOC can exercise its judgment in selecting to whom the funds are awarded.
21. **Equipment.** Tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. For awards subject to 15 CFR Part 14, equipment also includes exempt property charged directly to the award.
22. **Excluded Parties List System.** The Excluded Parties List System (EPLS) means the list maintained and disseminated by the General Services Administration (GSA) containing the names and other information about persons who are ineligible. The EPLS system includes the printed version entitled, "List of Parties Excluded or Disqualified from Federal Procurement and Nonprocurement Programs," so long as published, as defined in 2 C.F.R. § 180.945. The EPLS is a widely available source of the most current information about persons who are excluded or disqualified from covered transactions, pursuant 2 C.F.R. § 180.500.
23. **Financial Assistance.** A transfer of money, property, services or anything of value to a recipient in order to accomplish a public purpose of support or stimulation which is authorized by Federal statute. As used in this Manual, it includes only grants and cooperative agreements. This term is synonymous with "Federal funding" or "Federal assistance" as used in this Manual.
24. **Fixed Year Funds.** Funds, by the terms of an Appropriations Act, available for obligation only for a specified period of time. Most often this will be a one-year period, but it may be for several years. This term is synonymous with "time limited funds" as used in this Manual.
25. **Funding Period.** The period of time when Federal funding is available for obligation by the recipient. This term is synonymous with "budget period."

26. **Grant.** The legal instrument reflecting a relationship between DOC and a recipient whenever: (a) the principal purpose of the relationship is to transfer money, property, services, or anything of value in order to accomplish a public purpose of support or stimulation authorized by Federal statute and (b) no substantial involvement is anticipated between DOC and the recipient during the performance of the contemplated activity. The term “grant,” as used in this Manual, refers to both a grant(s) and cooperative agreement(s), unless specifically stated otherwise. See 31 U.S.C. § 6304.
27. **Grants.gov.** Grants.gov is the official Federal government website that allows organizations to electronically **FIND** and **APPLY** for Federal grants.
28. **Grants Officer.** The DOC official who is responsible for all business management and administrative aspects of a grant and the DOC official with the delegated authority to award, amend, administer, close out, suspend, and/or terminate grants and cooperative agreements and make related determinations and findings. For those operating units with delegated Grants Officer responsibilities (EDA, NIST, OS and NOAA), the term Grants Officer, as used in this Manual, means the Grants Officers who are identified by the head of the operating unit.
29. **Head of Operating Unit.** The head of an operating unit includes Secretarial Officers and the heads of primary operating units, as defined in Department Organization Order (DOO) 1-1. The heads of some operating units are Program Secretarial Officers; in other cases, they are other officers who report and are responsible to a Program Secretarial Officer or directly to the Secretary or Deputy Secretary, as may be specified. See also Paragraph 39, “Operating Unit,” of this chapter.
30. **Institutional Award.** A grant or cooperative agreement under which funds are awarded based on competition with the intent to maintain a long-term partnership between DOC and the recipient so that new awards may be made on a noncompetitive basis if the recipient performs satisfactorily and submits the appropriate application document, and if the results of the periodic reviews validate the effectiveness and continued desirability of the use of institutional awards for the program.
31. **Insular Area.** The areas defined by Public Law 95-134, Title V, § 501 (1977), as amended (48 U.S.C. § 1469a), including the Virgin Islands, Guam, American Samoa, and the islands formerly referred to as the “Trust Territory of the Pacific Islands”: the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau.
32. **Interested Party.** Any officer, employee or member of the board of directors or other governing board of a grant recipient, including any other parties that advise, approve, recommend, or otherwise participate in the business decisions of the recipient, such as

agents, advisors, consultants, attorneys, accountants or shareholders. This also includes immediate family and other persons directly connected to the Interested Party by law or through a business arrangement.

33. **Merit Review.** A thorough, consistent, and independent examination of an application based on pre-established criteria by persons knowledgeable in the field of endeavor for which support is requested. A merit review must be conducted by an impartial, objective, unbiased individual with the requisite expertise, knowledge, and experience in a technical field who can evaluate or assess a proposal for its value, quality, and likelihood of success. One who conducts a merit review must not have a conflict of interest, or the appearance of a conflict of interest, regarding any application under his or her review.
34. **Multi-Year Award.** A financial assistance award which has a project period of more than 12 months of activity, which is partially funded as of the award date, and is subsequently funded in increments. This does not include awards with a project period of more than 12 months which are fully funded as of the award date. See also Chapter 20 of this Manual.
35. **New Grant/New Award.** The initial funding for an award not previously funded by the operating unit. A new award is the only type of award that will be issued on Form CD-450, "Financial Assistance Award."
36. **No-Cost Extension.** An amendment that extends the project period and funding period with no additional funding.
37. **Noncompetitive Award.** An award made with discretionary funds but without the benefit of competition.
38. **Nondiscretionary Award Program.** A financial assistance program under which a statute specifically names the intended recipient(s) or limits eligibility to all members of a particular class or classes of recipients.
39. **Nondiscretionary Funds.** Funds for which a statute specifically names the intended recipient or limits the eligibility to all members of a particular class or classes of recipients.
40. **Operating Unit.** Organizational entities outside the Office of the Secretary charged with carrying out specified substantive functions (i.e., programs) of the DOC, as defined in DOO 1-1. The operating units are the components of the DOC through which most of its substantive functions are carried out. Operating units are delegated authority by the Secretary of Commerce to award financial assistance. This term is synonymous with "funding agency" as used in this Manual.

41. **Pre-Award Period.** The approved period of time allotted to the award prior to the beginning of the award period as listed on the Form CD-450, “Financial Assistance Award.” Generally, the pre-award period will not exceed 90 days prior to the beginning of the award period.
42. **Procurement Contract.** A legal instrument reflecting a relationship between DOC and a business, organization or individual whenever: (a) the principal purpose of the relationship is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government, or (b) it is determined in a specific instance that it is appropriate to use a type of procurement contract. Such an instrument is governed by the Federal Acquisition Regulation. See also 31 U.S.C. § 6303.
43. **Program Officer.** The DOC official responsible for the technical, scientific, or other programmatic aspects of an award/program.
44. **Project Period.** The period established in the award document during which Federal sponsorship begins and ends, as defined in 15 CFR § 14.2(cc). Note: *The term “project period” replaces the term “award period,” used in previous versions of this manual.*
45. **Real Property.** Any land, improved land, structures, long-term leases, easements, appurtenances thereto, or other improvements, excluding movable machinery and equipment. Improved land also includes land which is improved by the construction of such project facilities as roads, sewers, and water lines which are not situated directly on the land but which contribute to the value of such land as a specific part of a project purpose.
46. **Recipient.** Any individual or entity which receives DOC financial assistance as defined in Paragraph 21 of this chapter, “Financial Assistance.” This term is synonymous with the term “grantee” as used in this Manual.
47. **Renewal.** An amendment that extends the project period and funding period and adds additional funds to the award.
48. **Revolving Loan Fund.** Established in 1975 to create and retain jobs in distressed communities, the Economic Development Administration’s (EDA) Revolving Loan Fund (RLF) provides competitive grants to government and non-profit organizations to start or recapitalize local RLF’s. Those RLF’s in turn provide gap financing at competitive rates to businesses otherwise unable to access affordable capital. Eligible uses include real estate, equipment, fixed assets, and working capital.

49. **Selecting Official.** A senior program official of the operating unit who is authorized to make final selection recommendations to the Grants Officer for final approval of award applications.
50. **Sub-award.** An award of financial assistance made under an award by a recipient to an eligible sub-recipient or by a sub-recipient to a lower sub-recipient (sometimes referred to as a sub-grant). This term does not include the procurement of goods and services by a recipient.
51. **Subcontract.** A contract under an award by a recipient's or a sub-recipient's contractor.
52. **Sub-recipient.** Any individual or entity that receives an award from a recipient of a DOC award.
53. **Supplemental.** An amendment that provides funding over and above the approved budget during the current funding period.
54. **Suspension of Award.** An action which temporarily suspends Federal sponsorship (as opposed to suspension of payments) under the award pending corrective action by the recipient or a decision to terminate the award. All activities under the award must cease and no costs may be incurred by the recipient during the suspension of award. See also section B.4 of Chapter 11 of this Manual.
55. **Suspension of Payment.** An action to temporarily withhold payment of funds under the award pending correction of identified deficiencies by the recipient. Activities under the award may continue and the recipient may continue to incur costs during the suspension of payment. See also section B.2 of Chapter 11 of this Manual.
56. **Termination.** Cancellation of Federal sponsorship, in whole or in part, under a grant at any time prior to the date of completion of an award. See also section B.5-6 of Chapter 11 of this Manual.
57. **Write-Off.** Termination of debt collection activity under the Federal Claims Collection Standards.

B. Acronyms.

AGC/L&R - Assistant General Counsel for Legislation and Regulation, DOC

ASAP - Automated Standardized Application for Payment

BAA – Broad Agency Announcement

CAIVERS - Credit Alert Interactive Voice Response System

CFDA - Catalog of Federal Domestic Assistance
CFO/ASA - Chief Financial Officer and Assistant Secretary for Administration
CFR - Code of Federal Regulations
CRADA - Cooperative Research and Development Agreement
DAO - Department Administrative Order, DOC
DOC - Department of Commerce
DOO - Department Organization Order, DOC
EDA - Economic Development Administration, Operating Unit of DOC
EO - Executive Order, White House
EPLS – Excluded Parties List System
FALD - Federal Assistance Law Division, DOC
FBO - FedBizOpps (Federal Business Opportunities)
FFO – Federal Funding Opportunity
FOIA - Freedom of Information Act
GAO – Government Accountability Office
GSA - General Services Administration
ITA - International Trade Administration, Operating Unit of DOC
MBDA - Minority Business Development Agency, Operating Unit of DOC
MOU - Memorandum of Understanding
NIST - National Institute of Standards and Technology, Operating Unit of DOC
NOAA - National Oceanic and Atmospheric Administration, Operating Unit of DOC
NTIA - National Telecommunications and Information Administration, Operating Unit of DOC
OCA - Office of Congressional Affairs, DOC
OAM - Office of Acquisition Management, DOC
OGC - Office of General Counsel, DOC
OIG - Office of Inspector General, DOC
OLIA - Office of Legislative and Intergovernmental Affairs, DOC
OMB - Office of Management and Budget, White House
PA - Privacy Act

PRA - Paperwork Reduction Act

RFA - Request for Applications

RIN - Regulation Identification Number

SPOC - Single Point of Contact

ST&Cs - DOC Financial Assistance Standard Terms and Conditions

TOP - Treasury Offset Program

U.S.C. - United States Code

4. RESPONSIBILITIES IN GRANTS ADMINISTRATION

A. Chief Financial Officer and Assistant Secretary for Administration.

1. Pursuant to DOO 10-5, “Chief Financial Officer and Assistant Secretary for Administration,” the DOC CFO/ASA has been designated by the Secretary of Commerce to act as the Grants Officer for the Department and is responsible for developing and implementing policies, standards, and procedures for the administration of all financial assistance programs of the DOC.

[**Note:** Under DOO 10-4, “Assistant Secretary for Economic Development,” EDA has been delegated authority by the Secretary of Commerce to administer the Public Works and Economic Development Act and pertinent provisions of the Trade Act, among other matters. This includes grants administration for such programs. In addition, NIST and NOAA are delegated through DOOs 30-2A, “National Institute of Standards and Technology,” and 10-15, “Under Secretary of Commerce for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration,” respectively, the authority to perform functions in the Federal Grant and Cooperative Agreement Act of 1977 (Public Law 95-224) with regard to making grants and cooperative agreements.]

2. The CFO/ASA hereby delegates the following authorities with respect to awards subject to the provisions of 15 CFR Part 14:

- a. The Grants Officer may apply less restrictive requirements when awarding small awards, except for those requirements that are statutory. As defined by 15 CFR Parts 14 and 24, a small award is a grant or cooperative agreement that does not exceed the small purchase threshold, which is currently \$150,000.

- b. The Grants Officer may approve exceptions on a case-by-case basis, regardless of the amount of Federal funding. The regulation stipulates that an exception made on a case-by-case basis will only apply to a single award.

[**Note:** This delegation of authority may not be redelegated by the Grants Officer. 15 CFR § 14.4, Deviations, states, “However, in the interest of maximum uniformity, exceptions from the requirements of this part shall be permitted only in unusual circumstances. See Chapter 10, Section A.10, of this Manual for minimum documentary information which must be included in the official award file.]

B. Office of Acquisition Management (OAM).

The Office of Acquisition Management (OAM) is delegated the authority to develop, issue and oversee implementation of policies and procedures for the administration of DOC financial assistance programs (including grants, cooperative agreements, loans, and loan guarantees) and to oversee implementation of DOC's audit follow-up program with respect to financial assistance programs. The OAM Director also serves as the Debarring and Suspending Official for DOC nonprocurement actions, and as the Chair of the DOC Grants Council, which is the governing body for enterprise wide policy development and implementation in the DOC for Federal assistance programs. DOD 10-5 §1.02.f (revised 1-5-11) states that the CFO/ASA “*assigns responsibility for financial assistance administrative and operational policies to the Director for Acquisition Management*.” The Grants Management Division (GMD), located within OAM, is responsible for the administrative and operational policies for financial assistance for DOC.

The following functions will be performed by GMD:

1. Provide guidance, interpretations, and technical assistance on regulations, policies, and procedures for the administration of financial assistance to Grants Officers, Program Offices, and others as needed;
2. Develop, prepare, coordinate, and submit notices of Department-wide proposed rulemaking, interim final rules, final rules, and other *Federal Register* notices on financial assistance matters to the Office of Assistant General Counsel for Legislation and Regulation (AGC/L&R), with copies of comments and/or clearances received during coordination;
3. Provide to OMB and other Federal agencies, after review and comment by appropriate operating unit and other Departmental staff, consolidated DOC comments about proposed new government-wide policies and procedures and proposed revisions to policies and procedures related to financial assistance issues;
4. Notify appropriate operating unit and DOC staff of changes and revisions to government-wide financial assistance policies and procedures or other matters related to financial assistance;
5. Conduct or participate in reviews, task force groups, or other assessments to assure compliance with policies and procedures established for the administration of DOC grant programs;
6. Evaluate, in consultation with other offices as appropriate, status updates provided on implementation of financial assistance audit findings;

7. Develop reports on implementation activities of procurement and financial assistance audit recommendations as necessary for the Secretary's Report to Congress;
8. Serve as the DOC liaison and single point of contact for DOC with OMB, the Government Accountability Office, the Department of the Treasury, Health and Human Services (including Grants.gov), and other agencies on financial assistance matters;
9. Coordinate the collection and submission of the information for DOC financial assistance transactions to the government-wide database, USASpending.gov;
10. Prepare, issue, and maintain this Manual, and interpret its policies, standards, and procedures;
11. Consider requests for waivers to the provisions of this Manual, as permitted by governing statutes and regulations, and notify the Head of the Operating Unit of the decision to approve or deny the request. If a waiver is denied, a written explanation will be provided to the requester;
12. Convene Department-wide Grants Council meetings;
13. Review in a timely manner all materials prepared pursuant to the requirements of this Manual for conformance to financial assistance regulations, policies, standards and procedures. These reviews will cover all financial assistance programs of the Department and will include, but not be limited to, the following documents:
 - a. Proposed *Federal Register*, when required, and FFO notices related to administration of financial assistance programs, including announcements of funding availability, information collection activities, and program regulations;
 - b. Application kits/packages that contain any program-specific forms or requirements beyond those listed in section A of Chapter 9 of this Manual;
 - c. Proposed publications that include financial assistance award management or administration procedures or instructions with respect to individual programs or groups of programs; and
 - d. Other documents as appropriate.
14. Provide technical assistance to operating units with respect to the posting of FFO announcements, synopses, and application packages to Grants.gov, and when necessary, the downloading of electronic applications from Grants.gov for transmittal to operating units for processing.

15. Coordinate with the appropriate program officers and the Federal Assistance Law Division (FALD) within the Office of the Assistant General Counsel for Finance and Litigation (AGC/F&L) on the establishment of program numbers and updating of text and financial assistance information in the Catalog of Federal Domestic Assistance (CFDA) in accordance with the requirements of OMB Circular A-89 Revised, "Federal Domestic Assistance Program Information."
16. OAM directs the indirect cost rate coordination. The Director, GMD or the Director's designee serves as Indirect Cost Rate Coordinator for DOC. The indirect cost rate coordination involves a review and preparation of indirect cost rate percentage recommendations to the DOC Contract Officer Representative in GMD.

C. Office of General Counsel.

Pursuant to DOO 10-6, "Office of the General Counsel," the functions of the OGC include the preparation or examination for legal form and effect of all instruments entered into by the DOC, including grants and cooperative agreements. These agreements create legal rights and obligations between the government and the recipient. Grant and cooperative agreement instruments must be authorized under specific statutory authority, may require the issuance by publication in the *Federal Register* of rules and notices, and are bound by administrative regulations, DOC policies, executive orders (EOs), and OMB Circulars. The award, administration, and audit of these agreements may present legal issues, rights, liabilities, and the possibility of disputes benefits from timely legal advice and guidance.

1. The OGC provides legal support in the following financial assistance related areas:
 - a. AGC/L&R coordinates and manages compliance with regulatory requirements. This includes coordination, clearance, and submission of items proposed for publication in the *Federal Register* in accordance with the requirements of DOO 10-6, Section 4.01, Subsections a. and g.
 - b. FALD provides financial assistance related legal representation, advice, and support to Grants Officers and Specialists, Program Officers, OAM, the Nonprocurement Debarring Official, the CFO/ASA, and others. The following functions are performed by FALD:
 - (1) Legal representation before the Government Accountability Office and administrative tribunals. FALD also provides direct support to the Grants Officer in Federal court litigation regarding the award, administration, and cost disallowance under grants and cooperative agreements;

(2) Legal analysis to Program Officials and Grants Officers of proposed legislation, authorizing statutes and appropriations acts, including implementation by regulation, for assistance programs;

(3) Participation, as appropriate, in compliance reviews, task force groups, or other assessments to ensure compliance with all laws, executive orders, regulations, and policies governing DOC financial assistance.

(4) Legal advice and services to the Debt Workout Groups in accordance with the DOC [*Credit and Debt Management Operating Standards and Procedures Manual*](#), including assistance with final terminations, settlements, compromises of claims, and referrals of claims to the Department of Justice for collection. The General Litigation Division (GLD), within AGCF&L, also provides legal advice and services relative to debt workout, debt collection, bankruptcy, and, where litigation is a possibility, compliance with environmental laws (e.g., the National Environmental Policy Act of 1969 and state analogs, and the Comprehensive Environmental Response, Compensation and Liability Act of 1980). Coordination with GLD is generally obtained by FALD.

[**Note:** The EDA Chief Counsel's Office and EDA Regional Counsel provide direct supporting legal services with respect to grants and cooperative agreements to EDA program and grants officials. Therefore, references to FALD throughout this Manual generally include EDA counsel with respect to EDA programs. FALD assists, reviews, and provides oversight of EDA counsel's legal advice and guidance on DOC and government-wide requirements.]

2. The following decisions or actions raise significant legal issues, therefore, require FALD clearance:
 - a. Proposed rules, interim rules, final rules, *Federal Register* notices of availability of funds, when required, Federal Funding Opportunity announcements, RFAs, and all other federal funding announcements relating to financial assistance;
 - b. Notices of nonprocurement debarment or suspension, determinations, and settlements under 2 CFR Part 1326; and
 - c. Audit appeal determinations under DAO 213-5, "Audit Resolution and Follow-Up" are submitted to FALD for review and recommendation before clearance by the AGC/F&L.
3. The following actions, determinations, and/or documents, for which decision-making authority rests with the responsible Program Official, Grants Officer, or the Director, OAM, require FALD review and opportunity to comment:

- a. Application kits/packages, technical evaluation forms, and conflict of interest forms for reviewers. This includes other documents which establish procedures for awards under a financial assistance program;
- b. Packages summarizing the competitive review of discretionary funds in accordance with section C of Chapter 8 of this Manual. These packages should be reviewed by FALD as early as possible prior to approval of awards;
- c. Proposed financial assistance competitive awards where the Federal funding is more than the small award amount, defined in 15 C.F.R. § 14.2(hh), \$150,000 and all noncompetitive awards, *see also* 41 U.S.C. 403(11)(the simplified acquisition threshold). This includes all amendments that accumulate to more than \$150,000 in total award funding or add or change the scope of work. OGC will consider requests to raise the \$150,000 threshold for legal review of competitive awards on a program-by-program basis, with the concurrence of the program office, for on-going programs that have not had significant legal issues or audit problems in the past three years. OGC will also consider requests to change the requirement for legal review of all continuation amendments under multi-year awards, as appropriate. Grants Officers may submit a written request setting forth a justification for raising the threshold to the Chief of FALD, who may provide written approval of such a request when warranted. Contact FALD for further information (202) 482-8035. [Chapter 20 of this Manual provides Guidance on multi-year funding procedures.]
- d. Interagency or other special agreements (IAAs) executing the transfer of funds in or out for the award of a grant or cooperative agreement. IAAs can include memoranda of agreement, memoranda of understanding, joint project agreements, interagency purchase orders that document acceptance by all parties, or any other document that details the terms of an agreement and the parties' acceptance. Agreements can transfer funds from one party to the other, bind one or both parties to commit funds or resources to a grant or cooperative agreement, or not involve any resources but describe specific responsibilities under the grant or cooperative agreement. All IAAs require review and approval by the Office of the Assistant General Counsel for Administration, General Law Division (GenLaw). Coordination with GenLaw is generally obtained in coordination with FALD.
- e. Nonresponsibility and high risk determinations regarding proposed applicants selected for funding;
- f. Notices of suspension or termination of awards;
- g. Replacement grantees, assignments, and novations, recipient name changes; and

- h. Questions regarding selecting officials' involvement as an independent reviewer.
4. It is in the best interest of the Department that Program Officials and Grants Officers consider all legal ramifications of key decisions related to the award and administration of financial assistance. The decision-making authority rests with the responsible Program Officer, Grants Officer, or OAM. The following are examples of actions/decisions/documents regarding which FALD may, upon request, provide coordinated legal review and comment:
- a. Budget certification as to the availability of funds, which shall include representations on the following matters, when appropriate:
 - (1) time limitation of funds (annual funds vs. no-year funds);
 - (2) appropriations act; and
 - (3) any other legislative restrictions on appropriations;
 - b. Proposed requests for OMB clearance of information collection activities under financial assistance programs;
 - c. Disputes relating to the terms of the award, particularly on occasions when other parties associated with the award are represented by their own attorneys in discussions or written communications on aspects of the grant;
 - d. Audit resolution determinations establishing a debt, claim, or other adverse action against a recipient. FALD can also provide services as a mediator, facilitator, or third party negotiator for reaching audit resolution determinations when agreement between Grants Officer, Program Official, and OIG Auditor cannot be reached;
 - e. Comments prepared by DOC officials on proposed rules, interim rules, and revisions to OMB Circulars applicable to Federal assistance including, but not limited to, the award, administration, and audit of grants and cooperative agreements;
 - f. Congressional, Freedom of Information Act (FOIA), and executive correspondence relating to financial assistance;
 - g. Amendments to awards involving significant or unique issues; and
 - h. When the other parties under the grant are represented by their own attorneys in discussions or written communications on aspects of the grant and in other circumstances

when there is a need for legal interpretation or other legal advice and any other issues with legal ramifications.

D. Office of Inspector General.

Pursuant to DOO 23-1, the OIG is assigned the function of carrying out internal, external, financial statement, information and financial system, and special audits affecting the programs and activities of the DOC. The following functions will be performed by OIG:

1. Conduct, supervise, or coordinate Inspector General (IG) audits, inspections, or investigations relating to DOC financial assistance programs and operations;
2. Coordinate notice to the appropriate Grants Officers of negative findings reported on audits conducted in accordance with the provisions of the Single Audit Act of 1996 and OMB Circular A-133.
3. Prepare reports on audit resolution activities as necessary for the IG's Semiannual Report to Congress.
4. Evaluate, in consultation with other offices as appropriate, responses and proposed actions on OIG recommendations.
5. Participate with the Grants Officer in the resolution of audits conducted on financial assistance awards funded by DOC.
6. Review and advise on the adequacy of the financial management systems maintained by applicants and recipients, the projected or claimed costs, and the projected or reported performance.
7. Assist in performing individual background screenings, upon the request of the Grants Officer, when there are questions about the responsibility, financial integrity, or management principles of applicants or their key individuals. [Chapter 21 of this Manual provides guidance on individual background screening.]
8. Provide guidance about audit related matters to Grants Officers, Program Officers, their staffs, OAM, and others as needed.
9. Participate as appropriate in reviews, task force groups, or other assessments to assure compliance with policies and procedures established for the administration of DOC grant programs.

10. Recommend policies and procedures to promote economy and efficiency, and to prevent and detect fraud, waste, and abuse in DOC financial assistance programs and operations.

E. Financial, Budgeting, and Accounting Responsibilities.

The following financial and accounting duties **must be assigned and fulfilled** in connection with financial assistance programs and individual awards:

1. Certify funding availability (this includes assurance that the budgetary line item from which the funds originate is compatible with the financial assistance program under which the funds will be obligated). However, if the funds were transferred from another Federal agency, a copy of the interagency agreement reflecting the statutory authority for the transfer of funds to DOC and the transferring agency's statutory authority to provide financial assistance for this purpose must also be provided.
2. Provide documentation regarding time limitation of funds (e.g., annual funds).
3. Provide citation and, when known, identification of intended recipient for statutory or Congressional direction to fund financial assistance projects identified in the appropriation act or provided in the House, Senate, or Conference Appropriations Committees reports accompanying the appropriation act. If the project is contained in the report language and not in the appropriation act, consult FALD to identify the independent statutory authority to make a grant for this purpose.
4. Notify the Grants or Program Officer, as appropriate, of any other restrictions on appropriations.
5. For updates to the CFDA, bureaus will work closely with their respective budget offices to validate data accuracy and integrity prior to sending the package to OAM's GMD. GMD will review the request and, if found satisfactory, will forward the submission to the Departmental Budget Office for final validation and approval. The Departmental Budget Office will then submit the request in accordance with procedures set forth in the annual guidance provided by the General Services Administration.
6. Provide full accounting support and financial advice to Grants Officers, Program Officers, the operating unit, and others as needed.
7. Provide financial data and reports on grants as requested by other Federal agencies, the operating unit, or the Grants Officer.
8. Record the financial transactions associated with each financial assistance award from inception to close-out of the final financial report, including obligation and deobligation

of funds, payments, establishment of accounts receivable, and regularly scheduled billings.

9. As recommended by appropriate grants officials, process requests and documentation for disbursement of funds to be issued by electronic funds transfer or by Treasury check when necessary in accordance with the provisions of the Debt Collection Improvement Act of 1996.
10. Notify the Grants Officer and the Program Officer when accounts receivable become delinquent.
11. Provide a monthly listing of delinquent debtors to the Grants Officer for each DOC operating unit and to OAM.
12. Perform the functions normally assigned to the Finance/Accounting Officer, including those stipulated in the DOC *Credit and Debt Management Operating Standards and Procedures Handbook*.

F. Grants Officer Responsibilities.

The Grants Officer oversees the business management and administrative aspects of grants and cooperative agreements. The Grants Officer shall have sufficient experience, training, and expert knowledge in the area of management of Federal grants and cooperative agreements; analysis and resolution of audits of Federal financial assistance awards; and be fully aware of and capable of requiring compliance with applicable laws, regulations, EOs, and policies to effectively carry out these duties. The Grants Officer or designee will coordinate as appropriate with the Program Officers and other appropriate Departmental offices. Grants Officers shall carry out the responsibilities identified in Paragraphs 1, 2, 3, and 4 of this section without any redelegation to other parties. The duties outlined in Paragraphs 5 through 27 may be further delegated by the Grants Officer to appropriate members of the Grants Officer's staff. Although these actions may be delegated to appropriate members of the Grants Officer's staff, these duties ultimately remain the responsibilities of the Grants Officer.

[NOTE: The Grants Officer should know what functions are inherently governmental and critical. Contractors and grantees cannot perform inherently governmental and critical functions. Contractors and grantees are prohibited from making determinations, approving and directing functions that should be done by Federal officials (e.g. acquisition planning, determining minimum needs of the Federal government, deriving costs estimates, voting on evaluation panels or selecting awardees are also inherently federal functions). Additionally, a contractor cannot make final decisions, including determining award fees, terminations for convenience or cause, or order any changes under a contract. Contractors may provide support to Federal government decision makers in each of these areas but cannot make the actual determinations. For a list of

inherently governmental functions, read the OMB Office of Federal Procurement Policy Publication of the Office of Federal Procurement Policy (OFPP) Policy Letter 11-01, “Performance of Inherently Governmental and Critical Functions,” available at <http://www.gpo.gov/fdsys/pkg/FR-2011-09-12/pdf/2011-23165.pdf>.]

Grants administration responsibilities are as follows:

1. Approve awards and amendments that obligate or deobligate funds.
2. Suspend or terminate individual awards, excluding debarment or suspension of a recipient as provided under 2 CFR Part 1326.
3. Make determinations of non-responsibility and designations of high-risk recipients.
4. Approve, as appropriate, less restrictive requirements and exceptions pursuant to the delegation of authority from the CFO/ASA in accordance with Section A.2 of this chapter.
5. Provide grants administration guidance and support to Program Officers, recipients, and others as needed.
6. Maintain the official award files (electronic and/or hard copy) in accordance with section A of Chapter 10 of this Manual.
7. Ensure that each financial assistance award is prepared and administered in accordance with applicable statutes, regulations, OMB guidance, EOs, and DOC policies.
8. Perform cost analysis of a proposed budget to assure that costs in the award budget are reasonable, allowable, and allocable in accordance with the applicable cost principles.
9. Ensure that pre-award administrative procedures are carried out, including but not limited to the following:
 - a. Provide assurance that the recipient was competitively selected by the appropriate independent or technical review process or that appropriate noncompetitive selection procedures were followed in accordance with Chapter 8 of this Manual and that the official award file contains the required documentation with respect to selection procedures;
 - b. Review of any justification for noncompetitive award of discretionary funds and make determination of adequacy of that justification and the basis for the justification; review of credit reports when negative findings are reported;

- c. Provide written verification concerning an outstanding delinquent receivable or debt;
 - d. If applicable, consider results of background check review; review of any available A-133 or other audit report;
 - e. Review of the General Services Administration's (GSA's) "Excluded Parties List System" to determine whether the applicant (key personnel as well as the institution) has been debarred, suspended, or otherwise excluded from receiving financial assistance;
 - f. Provide assurance that the applicant has submitted a completed form CD-511, "Certification Regarding Lobbying;"
 - g. Select the appropriate funding instrument to be used in a particular transaction, i.e., grant, cooperative agreement, or contract and development of appropriate special award conditions defining the role of the Federal Government when the level of involvement is determined to be substantial and award of a cooperative agreement is warranted;
 - h. Include "Department of Commerce Financial Assistance Standard Terms and Conditions" (DOC ST&Cs) in awards, as applicable, as well as any operating unit-specific standard and/or special award conditions required to protect the Federal Government's interest.
 - i. Examine proposed pre-award costs to determine necessity and applicability to project objectives and approval or disapproval of the pre-award costs, as appropriate;
 - j. Perform individual background screenings in accordance with the requirements stipulated in Chapter 21 of this Manual, including requesting the assistance of the OIG prior to a final determination, when the results of the screening reveal significant adverse information; and
 - k. Collect all necessary internal clearances (such as OIG, OGC, etc.) for inclusion in the official file.
10. Ensure recipient's compliance with award conditions and take appropriate action in accordance with Chapter 11 of this Manual when there is non-compliance.
11. Review, as necessary, subcontracts and subgrants by the recipient to determine compliance with applicable administrative requirements, requests for foreign travel, and requests for extension of reporting periods.

12. Receive and review financial reports submitted by the recipient to ensure that:
 - a. Recipients are expending funds at an appropriate rate and that matching requirements are being met;
 - b. Federal disbursements are comparable with the period covered by requests for payment;
 - c. Recipients are not maintaining excess cash on hand.
 - d. Reports submitted by the recipient agree with DOC accounting records of disbursements;
 - e. Reports contain information on indirect costs and program income if these items are included in the approved budget; and
 - f. Reports are completed correctly.
13. Review and approve requests for advance or reimbursement or contact recipient if payment cannot be made as requested.
14. Provide proper notice to any recipient in advance of suspending payments, including information on how to remedy the suspending of payments and the assurance that payments will be resumed once the recipient has met requirements.
15. Review recommendations for no-cost amendments (which include, but are not limited to, budget revisions, time extensions to the award period, or changes in the work schedule or key personnel) and approve or notify the Program Office and/or recipient of reason for disapproval.
16. Manage disposition of Federally-owned property by ensuring that the appropriate Property Management Officer is notified of the existence, nature, value, and location of grants property available for disposition, as appropriate.
17. Ensure that the award is administratively closed-out, and, as applicable, that the official award file is held in the appropriate records holding facility for the appropriate time period before the file is destroyed.
18. Review the audit report, the recipient's response, and the Program Officer's comments and prepare the audit resolution proposal in accordance with DAO 213-5.

19. Notify recipient of any account receivable which is being established and provide required information about how to make payment as well as consequences of nonpayment.
20. Review and process appeals of financial assistance audit resolution determinations in accordance with the provisions of DAO 213-5.
21. Monitor open financial assistance audit recommendations; ensure that open recommendations are properly implemented or, where appropriate, that a delinquent debt is referred to the Debt Workout Group; and ensure that updated status reports for the Secretary's Semiannual Report to Congress on Inspector General audits are properly submitted in a timely manner to OAM.
22. Review in a timely manner the following documents for conformance to government-wide and DOC financial assistance administrative requirements:
 - a. Proposed *Federal Register* notices, as required, and Federal Funding Opportunity announcements;
 - b. Application kits/packages;
 - c. Publications (including information on the DOC, operating unit, or program Internet website) that include information on financial assistance award management or administration;
 - d. Proposed requests for OMB clearance of information collection activities under financial assistance programs; and
 - e. Other documents as appropriate.
23. Ensure that the quarterly financial assistance transactions are reported accurately and in a timely manner to USASpending.gov and all other government reporting systems, as appropriate.
24. Refer proposed nonprocurement suspension and debarment actions to the Department's Debarring and Suspending Official in accordance with provisions contained in 2 CFR Part 1326.
25. Assure that any FOIA requests for documents in an official award file are reviewed and released or withheld in accordance with the provisions of the FOIA. If the Grants Officer is not authorized by agency regulations to withhold documents under the FOIA, the

Grants Officer must provide responsive documents to the appropriate initial denial authority.

26. Notify the recipient when the award is close to completion and provide guidance for close-out of the award.

G. Liaison Responsibilities.

Each operating unit that provides funding for financial assistance awards shall establish a central liaison to interact with OAM. Each liaison is responsible for performing the following primary duties with respect to financial assistance.

1. Policy Implementation.
 - a. Establish procedures which support the requirements of this Manual and ensure conformance with the provisions of this Manual;
 - b. Review relevant draft regulations;
 - c. Ensure each program's compliance with Federal, Departmental, and operating unit grants administration requirements;
 - d. Implement the policy requirements as set forth in this Manual.
2. Monitoring.
 - a. Review the operating unit's grants administration system for compliance with this Manual; and
 - b. Review grant forms and other grant documents for compliance with applicable requirements.
3. Liaison and Coordination.
 - a. Answer questions and inquiries on grant-related matters.
 - b. Coordinate, as appropriate, the operating unit's consolidated funding and other grant-related activities.
 - c. Assure appropriate coordination of proposed publications for the *Federal Register*, as required, through OAM, OGC, and other required DOC offices.

- d. Disseminate information from OAM to appropriate operating unit personnel and offices.
4. Information Collection, Analysis, and Dissemination. Coordinate preparation and submission of reports on grant-related matters for DOC.

H. Programmatic Responsibilities.

The Program Officer, or assigned operating unit component, is responsible for monitoring and oversight of the work being conducted under an award, such as tracking the recipient's progress and comparing the actual accomplishments with the goals and objectives established in the award. The Program Officer shall have sufficient experience, training, and expert knowledge in the specific program area and in program management in general, including knowledge of applicable laws, regulations, and Departmental policies as well as program-specific goals, priorities and policies, to effectively manage the program area and to advise the Grants Officer on all programmatic aspects of the awards. The following are programmatic functions to be performed by the operating unit:

1. Provide programmatic guidance and technical assistance to recipients, Grants Officers, and other officials, as necessary.
2. Establish programmatic policy within the scope of authorizing legislation and Departmental goals and objectives.
3. Develop evaluation criteria and weights or relative values used for competitively selecting applications.
4. Prepare *Federal Register* notices, as required, in accordance with Chapter 19 of this Manual, announcing the availability of funds, and other grant-related documents (e.g., information collection, etc.) for publication in the *Federal Register*.
5. Prepare FFO announcements for posting on Grants.gov in accordance with Chapter 19 of this Manual. OAM will provide technical assistance to operating units with respect to the posting of announcements, synopses, and application packages to Grants.gov.
6. Prepare, in consultation with the Grants Officer, the application package for the program, including any requests for OMB clearance of information collection activities that may be required by the program or by individual financial assistance awards under the program.
7. Develop and coordinate the competitive review process in accordance with Chapter 8 of this Manual, select qualified reviewers who have no conflicts of interest, ensure that each

application receives the appropriate (independent or technical) and objective review, and verify that the ranking or selection of applications is based on the published selection criteria.

8. Develop and provide to the Grants Officer written justification for proposed noncompetitive awards of discretionary funds and provide basis for justification.
9. Receive and review applications and proposals. Also review justifications for compliance with existing program guidelines, regulations, and legislation, as well as proposed budgets to determine the reasonableness, necessity, and adequacy of proposed costs for accomplishing the objectives of the proposed award.
10. Establish criteria for evaluating project performance.
11. Provide to Grants Officer, for the official award file, a complete and accurate funding recommendation package in accordance with instructions contained in section B of Chapter 9 of this Manual. This includes the packages summarizing the results of the competitive review process described in section C of Chapter 8 of this Manual.
12. Provide or make available to the Grants Officer for the official award files: internal memoranda and all correspondence (scanned or original signatures required when available) regarding specific award files, recipient performance reports, written evaluations of performance reports and of any on-site visits, and commercial credit reports, if applicable.
13. Notify unsuccessful applicants of decision not to fund an application in accordance with Chapter 8 of this Manual.
14. Monitor project activities to ensure that goals are being achieved and the project is being carried out properly.
15. Provide written background and recommendations to the Grants Officer on programmatic issues, such as amendments to the project description or budget.
16. Review financial and performance or technical reports for consistency with approved project. Notify the Grants Officer if the recipient is not in compliance with the terms of the award.
17. Evaluate all performance, property, and patent reports submitted by the recipient and provide a copy, as applicable, within 30 days to the Grants Officer.
18. Report to Grants Officer, within 30 days, on potential or existing problems, financial inconsistencies, or situations of noncompliance and provide recommendation for remedy.

19. Monitor the recipient's purchase and use of property purchased with award funds or furnished by the Federal Government under the grant, and assist the Grants Officer to ensure compliance with the relevant provisions of 15 CFR Part 24.31, 15 CFR Part 14.32, the *DOC Personal Property Management Manual*, the *DOC Real Property Management Manual*, and any other applicable legal requirements.
 20. Review, analyze, and comment on audit reports provided by the Grants Officer for review and comment, the recipient's response to audit reports, and audit determination appeals.
 21. Assure that any FOIA requests for documents in the Program Office files are reviewed and released or withheld in accordance with the provisions of the FOIA.
 22. Ensure compliance with all relevant programmatic statutes, regulations, EOs, and policies (e.g. civil rights and environmental issues). These factors should be considered at an early stage in the application or proposal review process. This includes encouraging applicants to build environmental considerations into their own planning processes in a way that facilitates National Environmental Policy Act and other environmental compliance requirements. The funding agency is ultimately responsible for environmental compliance and has a duty to enforce recipient compliance as a condition of funding.
 23. Recommend to the Grants Officer suspension or termination of the award, when appropriate.
 24. Provide one copy each to the Grants Officer and to the Budget Officer of any agreement effecting a transfer of funds from other Federal agencies or from another DOC operating unit for award(s) and identify to the Grants Officer any restrictions placed on funds that are transferred from other Federal agencies for inclusion in a DOC grant or cooperative agreement.
- [**Note:** A transfer of funds cannot be used for financial assistance unless there is statutory authority allowing the transfer. In addition, both the DOC operating unit and the other agency must possess the requisite grant-making and mission-related authorities to carry out the work under the award. See also section X of Chapter 16 of this Manual.]
25. Arrange for an independent review to be conducted of institutional grant program and/or awards in accordance with section K.2 of Chapter 16 of this Manual.
 26. Assure that the program is in compliance with provisions of EO 12372, "Intergovernmental Review of Federal Programs," and coordinate, as appropriate, with the Office of Legislative and Intergovernmental Affairs (OLIA) to determine if the program is covered by EO 12372.

[NOTE: The Program Officer should know what functions are inherently governmental and critical. Contractors and grantees cannot perform inherently governmental and critical functions. Contractors and grantees are prohibited from making determinations, approving and directing functions that should be done by Federal officials (e.g. acquisition planning, determining minimum needs of the Federal government, deriving costs estimates, voting on evaluation panels or selecting awardees are also inherently federal functions). Additionally, a contractor cannot make final decisions, including determining award fees, terminations for convenience or cause, or order any changes under a contract. Contractors may provide support to Federal government decision makers in each of these areas but cannot make the actual determinations. For a list of inherently governmental functions, read the OMB Office of Federal Procurement Policy Publication of the Office of Federal Procurement Policy (OFPP) Policy Letter 11-01, "Performance of Inherently Governmental and Critical Functions," available at <http://www.gpo.gov/fdsys/pkg/FR-2011-09-12/pdf/2011-23165.pdf>.]

I. Property Management Responsibilities.

1. Ensure uniform implementation of operating unit policies and procedures pertaining to the administration of property purchased by the recipient with funds under the award or furnished by the Federal Government under an award;
2. If requested by the Grants Officer, provide guidance to recipients in establishing and maintaining property accountability systems, and in the use and control of property acquired under the provisions of an award;
3. If requested by the Grants Officer, establish and maintain property accountability records, provide property disposition instructions to recipients, and provide a copy of the instructions to the Grants Officer; and
4. Provide support and assistance to the Grants and Program Officers, as needed, regarding any and all property matters, including real property funded or partially funded with Federal funds through a financial assistance award.

5. RELATIONSHIPS WITH OUTSIDE ENTITIES

A. Overview.

1. The DOC has a diverse mission which is accomplished via both in-house activities and non-Federal organizations, using instruments reflecting either a financial assistance, procurement, or other agreement. These instruments are different in purpose and create different relationships between the Department and outside parties.

2. The Federal Grant and Cooperative Agreement Act of 1977, as amended, 31 U.S.C. §§ 6301-6308, ("the Act") requires executive agencies to distinguish procurement relationships from assistance relationships with non-Federal parties and provides some general guidance on helping make these distinctions. The Act requires the use of procurement contracts for all agency acquisition activity, and the use of assistance instruments (grants and cooperative agreements) for specified types of assistance relationships.

3. This chapter summarizes and augments the guidance in the Act on distinguishing between those situations in which a procurement contract, an assistance instrument (grant or cooperative agreements), or other type of agreement is the appropriate instrument.

B. Grants.

A grant is the legal instrument reflecting a relationship between DOC and a recipient whenever: (a) the principal purpose of the relationship is to transfer money, property, services, or anything of value in order to accomplish a public purpose of support or stimulation authorized by Federal statute, and (b) no substantial involvement is anticipated between DOC and the recipient during the performance of the contemplated activity. The term "grant," as used in this manual, refers to both a grant(s) and cooperative agreement(s), unless specifically stated otherwise. See 31 U.S.C. § 6304.

C. Cooperative Agreements.

A cooperative agreement is the legal instrument reflecting a relationship between DOC and a recipient whenever: (1) the principal purpose of the relationship is to transfer money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute, and (2) substantial involvement (e.g., collaboration, participation, or intervention by DOC in the management of the project) is anticipated between DOC and the recipient during performance of the contemplated activity. See 31 U.S.C. § 6305. Cooperative agreements are subject to the same laws, OMB, Treasury, and other Federal directives as grants. The following information may be helpful in deciding whether there is substantial involvement in the scope of work of a proposed award.

1. Sections C. and G. of the OMB Guidelines, *Implementation of Federal Grant and Cooperative Agreement Act of 1977* (43 FR 36860 issued August 18, 1978), describe the characteristics of the factors each Grants Officer should consider in deciding whether there will be substantial involvement of the organization unit in the performance of activities under the assistance instrument.

2. Listed below are examples of involvement which may be substantial, depending upon the circumstances, and examples of situations which would not be considered substantial. The examples are not meant to be a checklist nor does the presence of a single factor necessarily constitute substantial involvement. Rather, they illustrate concepts that, in varying degrees or combinations, could suggest the use of either a grant or a cooperative agreement. For more detailed examples, see the OMB guidelines.

a. The following are examples of requirements that would demonstrate substantial involvement if they were included in the terms and conditions of a financial assistance award:

(1) Authority to halt immediately an activity if detailed performance specifications (e.g., construction specifications) are not met.

(2) Stipulation that the recipient must meet or adhere to specific procedural requirements before subsequent stages of a project may continue.

(3) Approval by an appropriate DOC official of substantive provisions of proposed subawards.

(4) Involvement in the selection of key recipient personnel.

(5) Requirement that the appropriate DOC official (1) collaborate with the recipient by working jointly with a recipient scientist or technician, in carrying out the scope of work, (2) train recipient personnel, or (3) detail Federal personnel to work on the project effort.

(6) Specify direction or redirection of the scope of work due to inter-relationships with other projects, such as requiring recipients to achieve a specific level of cooperation with other projects.

(7) DOC operational involvement during the project to ensure compliance with such statutory requirements as civil rights and environmental protection.

(8) Limitation on recipient discretion with respect to scope of work, organizational structure, staffing, mode of operations and other management processes, coupled with close monitoring of operational involvement during performance.

b. The following are examples of circumstances that would demonstrate non-substantial involvement:

(1) Award follows normal procedures as set forth in 15 CFR Part 14 or 15 CFR Part 24 concerning Federal review of recipient's procurement standards and sole source procurements.

(2) The DOC program and grants administration offices become involved in the project solely to correct deficiencies in project or financial performance.

(3) DOC performs a pre-award survey and requires corrective action to enable the recipient to account for Federal funds.

D. Procurement Contracts.

A legal instrument reflecting a relationship between DOC and a business, organization or individual whenever: (a) the principal purpose of the relationship is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal Government, or (b) it is determined in a specific instance that it is appropriate to use a type of procurement contract. Such a contract is governed by the Federal Acquisition Regulation. See 31 U.S.C. § 6303.

E. Other Types of Agreements.

There are transactions and agreements other than grants, cooperative agreements, and procurement contracts under which DOC can enter into a relationship with outside entities. The Grants Officer, OGC (FALD, Contract Law, and GenLaw), Program Counsel, and OAM can offer advice and assistance with respect to the appropriate instrument to be used in a specific set of circumstances. Some of these agreements are referred to as Memoranda of Understanding (MOUs). Programs should not engage in MOU discussions or enter into MOUs if financial assistance is anticipated for an activity or program; instead, a competition should be planned. The MOU format is not appropriate as a substitute for procurement contracts or financial assistance awards and is not to be used as a sole source justification for award of procurement contracts or financial assistance. The cognizant Grants Officer and OGC (FALD and GenLaw), and OAM should be contacted in situations involving an agreement pursuant to the Economy Act (31 U.S.C. § 1535) or other funds transfer authority that results in the award of financial assistance. In addition, questions about specific types of agreements may be referred to the contact offices listed. Additional guidance on other types of agreements may be found in the

“Department of Commerce Interim Interagency and other Special Agreements Handbook (April 2004). Examples of other types of agreements include, but are not limited to, the following:

1. Cooperative Research and Development Agreement (CRADA). The Technology Transfer Act of 1986 (15 U.S.C. § 3710a) authorizes legal instruments that provide for cooperative research, licensing of patents obtained under a CRADA, and the transfer of technology from DOC to another party or from another party to DOC. However, CRADA does not authorize the contribution of financial assistance funding to a non-Federal party. The Office of the Chief Counsel for Technology should be consulted to determine if a CRADA is the appropriate instrument in a given situation.

2. Economy Act Agreement. The Economy Act, 31 U.S.C. § 1535, authorizes agencies to place orders with other Federal agencies for goods or services and to pay the actual or estimated costs of the goods or services, when certain conditions are met. The OGC General Law Division provides legal advice on agreements pursuant to the Economy Act. For Economy Act transactions which may involve the transfer of funds for the subsequent award of financial assistance funds, the cognizant Grants Officer and OGC (FALD and GenLaw) should be contacted prior to approval of the agreement.

[**Note:** There are instances when DOC operating units receive and/or transfer funds under an Economy Act transaction from or to other Federal agencies to make awards of financial assistance. Agencies may also have specific statutory authority to receive or transfer funds for particular programs. In those circumstances, both the DOC operating unit and the other agency must possess the requisite grant-making and mission-related authorities to carry out the work under the award. In addition, established financial assistance procedures must be followed in making any award. An MOU may also be used to memorialize a relationship where there is no direct exchange of funds between the parties. Activities under the MOU, however, may be carried out through the award of financial assistance when established procedures (including competition) for financial assistance awards are followed.]

3. Joint Project Agreement. DOC’s Joint Project Authority is set forth in 15 U.S.C. § 1525 in the second paragraph. This authority permits DOC to engage on an equitable basis in joint projects on matters of mutual interest with non-profit, research, or public organizations such as state and local governments under certain conditions. The OGC General Law Division must be consulted for advice and clearance concerning joint project agreements.

4. Fellowship. Fellowships in the federal assistance context are made to pursue studies, research, and/or professional development (often of an academic nature) authorized by statute. Fellowship programs are most often conducted under DOC grants or cooperative agreements made to institutions of higher education or non-profit organizations. Fellowships made directly to students are not always made under grants or cooperative agreements in DOC. The cognizant

Grants Officer should be contacted with respect to fellowship programs that are funded with grants and cooperative agreements.

6. TYPES OF FINANCIAL ASSISTANCE FUNDS AND AWARDS

Federal funding for grants and cooperative agreements may be classified on the basis of the amount of discretion that DOC has in making funding decisions. The two broad classifications for types of funds are "discretionary funds" and "nondiscretionary funds."

A. Discretionary Funds.

Discretionary funds are those funds for which DOC can exercise its judgment in selecting to whom the funds are awarded. It is the policy of DOC that discretionary funds are provided only after maximum practicable competition among eligible entities. However, there are instances where awards are recommended for funding without full and open competition. The three types of awards made with discretionary funds are discussed below.

1. Competitive Awards. These awards are made after a Federal Funding Opportunity (FFO) has been posted at Grants.gov, and DOC has chosen a proposal based on merit review and the application of established evaluation and selection criteria. The DOC may also treat as competitive an award that was solicited and reviewed through another federal agency's competitive process or through a competitive solicitation process developed by several federal agencies acting in partnership. See Chapter 19 of this Manual for instructions in preparing *Federal Register* notices, as required, and FFOs announcing the availability of financial assistance funds. Program officials are encouraged to further publicize notices through Internet announcements, mailing lists, presentations at conferences, professional journals, trade association newsletters, and other media that are available and accessible to potential applicants.

2. Institutional Awards

a. These awards are made with the intent to maintain a long-term partnership between DOC and the recipient for those projects established under long term planning goals and objectives common to the research and programmatic needs of both parties.

(1) Renewals may be made on a noncompetitive basis if the recipient performs satisfactorily. While this type of award is intended to accommodate a long-term relationship between DOC and recipients, the individual awards should not exceed a five-year period.

(2) The initial request for applications shall be the same as that for competitive awards.

(3) If a recipient of an institutional award is performing in an unsatisfactory manner, that recipient should generally be replaced by an applicant that is selected through full and open competition.

(4) Programs that make institutional awards must conduct periodic reviews in accordance with the provisions of section K.2 of Chapter 16 of this Manual.

b. The Grants Officer is responsible for determining whether a program is designated as an institutional award program and may determine that only one or more awards under a program are institutional awards. Institutional awards should only be established between an operating unit and a recipient for long-term projects that are common to the programmatic goals and objectives of DOC and the recipient.

c. Institutional awards are not the same as multiyear awards. Other projects of long-term duration may be funded using DOC Multi-Year Funding procedures prescribed in Chapter 20 of this Manual.

3. Noncompetitive Awards

a. These awards are made without the benefit of competition. In those instances when noncompetitive awards are recommended for funding, complete and detailed justifications must be submitted by the Program Officer to the Grants Officer for review and approval. Noncompetitive awards using discretionary funds for a new award are allowed in only the following situations:

(1) Future awards under institutional grant programs where the recipient should have been initially selected based on competition. The Program Office must provide to the Grants Officer summary information about the original competition, or waiver of competition, and the date and results of the latest periodic review.

(2) In instances where an applicant submits an application on its own initiative (not as a result of a request by the funding agency), the application does not fall within the scope of a published competitive notice, and the agency determines in accordance with Chapter 8, Section F., of this Manual, that the application has merit and falls within one of the six listed categories.

b. Unless otherwise covered by a Broad Agency Announcement (BAA), if more than five percent (5%) of the total number of awards made under a program within one fiscal year are made on the basis of recipient initiative, the Program Officer and the Grants Officer should examine the current *Federal Register* notice and FFO, if they exist, and make any corrections deemed necessary to future notices so that the solicitation better reflects the goals or needs of the program.

B. Nondiscretionary Funds.

Nondiscretionary funds are those funds for which DOC cannot exercise its judgment in selecting to whom the funds are awarded. Nondiscretionary funds are also referred to as “Congressionally-Mandated” or “hard earmarks”. The statutory authority is the basis for making awards with nondiscretionary funds. The two types of awards made with nondiscretionary funds are listed below.

1. Awards Mandated by Statute. These mandatory awards are made to organizations which are specifically named (not just generally described as to type of organization) in a statute and for which funds may be set aside in an appropriations act. The recipient is entitled to the award and has an enforceable right to receive financial assistance. These awards are also referred to as “hard earmarks”. This category does not include projects that are only contained in legislative history, which are referred to as “Congressional direction” or “soft earmarks”.

2. Awards Limited by Statute. These awards are made to organizations for which eligibility has been limited by law to a particular class of applicants, every one of which has been notified of the availability of funding, and every applicant that applies and that meets statutory requirements is assured an award (e.g., there may be special language in an appropriations act directing an agency to make awards to every state that applies for funding and meets certain criteria). Included in this category are NOAA programs which are listed in the *Federal Register* notice, “Guidelines for Nondiscretionary Financial Assistance,” (59 FR 21959 published April 28, 1994). Depending upon the program and its legislation, there may be competition among the eligible applicants for additional funding as an incentive for receiving proposals for innovative or pilot/demonstration projects.

[**Note:** Some programs in DOC are authorized to make awards with both discretionary and nondiscretionary funds under different sections of their authorizing statutes.]

7. TYPES OF APPLICATIONS

Applications for DOC grants and cooperative agreements may be classified into four major categories, which are discussed below. Review, selection, approval, and notification procedures for all applications shall be as prescribed in Chapter 8 of this Manual.

A. Pre-applications.

Program Offices may request pre-applications for one or more of the following reasons: to establish productive communications between the Program Office and applicants; to determine an applicant's eligibility; and/or to determine how well a proposed project is likely to compete with other similar projects. One of the advantages of pre-applications is to assist potential applicants by giving them realistic feedback on whether their project ideas/proposals have potential for Federal funding and to discourage applications that have little or no chance of funding. Such pre-application review is intended to allow applicants to avoid incurring significant expenditures in preparing applications that are not consistent with the operating unit's program goals and objectives. This pre-application is sometimes referred to as a letter of intent.

1. **Pre-application Assessment.** Under this type of pre-application process, regardless of any feedback that a potential applicant may receive in response to a pre-application, the applicant still has a right to submit a complete new application under the program. Pre-applications are usually reviewed by program staff who may obtain assistance from other reviewers as deemed necessary. The review is intended to form the basis for providing feedback or allowable technical assistance to applicants. This is not a process to provide assistance in the development of an application.
2. **Pre-application Competition.** A second type of pre-application process is one where projects are eliminated. It can be used if, and only if, the criteria used in the determination to reject projects and prevent an applicant from submitting a full application is expressly set forth in the federal funding announcement.

B. Competitive Applications.

Competitive applications are those that have been received as a result of the appropriate solicitation of proposals and that will be reviewed based on published evaluation and selection criteria. These applications may be for new awards or for amendments.

1. New Competitive Awards

- a. Competitive applications are submitted pursuant to a competitive federal funding announcement published by a DOC operating unit. These federal funding announcements must be accomplished through FFOs posted at Grants.gov, as required in section A of Chapter 19 of

this Manual. Widespread publicizing is strongly encouraged and is recommended (e.g., Internet, mailing lists, conferences, professional journals, and trade association newsletters).

b. All applications must be treated fairly and equitably under the review process.

2. Amendments for Renewals. For all practical purposes, competitive renewals are treated the same as a new competitive award. This type of application may be accepted unless prohibited by the program's legislation, regulations, or other published policy. Applications for competitive renewal funding must compete with new applications and must be submitted in accordance with any established deadline dates and will be subjected to the same review requirements as competitive applications for new awards. If the application is approved for funding, the Grants Officer shall fund the extended period of support as a new funding period and an extension of the original award period.

C. Noncompetitive Applications.

Noncompetitive applications are those that have been received without benefit of full and open competition. Unsolicited noncompetitive applications for new awards of discretionary funds that fall within the scope of a competitive announcement will not be funded outside the competitive process and should be held for the next competition or promptly returned to the applicant with appropriate explanation. Noncompetitive applications may be used for new awards or for amendments.

1. New Noncompetitive Awards. Noncompetitive applications for discretionary funds are to be approved only in unusual and extraordinary circumstances and only after the Program Officer and the Grants Officer determine that (a) a noncompetitive award of discretionary funds is warranted by the facts; (b) that the application is consistent with DOC missions and plans; (c) and that the official grant file contains appropriate justification documentation as required in Chapter 8 of this Manual.

2. New Awards Mandated or Limited by Statute. These applications may be submitted and approved for funding when they are for statutorily authorized awards or for statutorily limited awards. These awards are required by Congress in a public law and are made with nondiscretionary funds.

3. Amendments for Renewals. If the application is approved for funding, the Grants Officer shall fund the extended period of support as a new funding period and an extension of the original award period. Appropriate uses of this type of amendment include renewals of nondiscretionary awards; and renewals of awards which are funded annually based on an FFO posted at Grants.gov that stated awards would be selected for a period of more than one year but funded and extended annually, contingent upon availability of funds, satisfactory performance, and at the discretion of DOC. Noncompetitive awards of discretionary funds should not normally be given a renewal without competition. A renewal lengthens the award period and funding period while adding additional funds to the award.

4. Amendments for Continuations. A continuation amendment is made without competition and provides continued funding within an approved award period. A continuation extends the funding period and provides additional funding for an award period that has been previously approved, such as when multi-year funding was approved at the time of award approval. Chapter 20 of this Manual provides procedures for funding multi-year awards when full funding of the award period is not available.

5. Extension Amendments at No Additional Cost to the Government (No-cost Extensions). Unless restricted by statute, regulations, or the terms and conditions of an award, a recipient may apply for a noncompetitive extension of the final funding period for up to 12 months beyond the ending date of the funding period as shown on the Financial Assistance Award notice. If recommended by the Program Office and approved by the Grants Officer, such an extension is made without additional funds.

D. Supplemental Applications.

Supplemental applications are for funding over and above the approved budget during the current funding period with no change to the project period or the funding period. These applications should be submitted and approved prior to the expiration date of the award. Funding for these types of amendments is at the sole discretion of the operating unit with final approval of the Grants Officer. In addition, supplemental funding is subject to funding constraints or limitations of the operating unit. Supplemental applications should fully explain why it is necessary to provide additional Federal funding to supplement the last approved budget. Appropriate handling of the competitive nature of supplemental funding should be considered on a case-by-case basis. These applications may only be for amendments that clearly are within the approved scope of work. Supplemental applications shall not be funded merely to avoid competition.

1. Amendments for Administrative Increases to Meet Institution-wide Increased Costs. Applications for supplemental funding may be submitted to an operating unit to cover organization-wide increased costs, such as those costs associated with salary or fringe benefit increases that were not foreseen at the time of the original application. The anticipated cost increases must take effect during the current funding period to be eligible for supplemental funding. These applications are generally not competed when the increased costs are within 25 percent of the last approved budget. If the increased costs are more than 25 percent, the application should be treated in the same manner as an application for new competitive awards, as described in Paragraph B.1 of this chapter.

2. Amendments for Expansion of a Project or Cost Overrun. Applications for supplemental expansion of a current project's previously approved scope of work or to absorb a cost overrun are generally treated in the same manner as an application for new competitive awards as described in Paragraph B.1 of this chapter. If this type of amendment is recommended by the Program Officer and approved by the Grants Officer without competition, the official award file must contain appropriate justification documentation to explain and justify the decision not to require competition.