

EXHIBIT 5

Additional Information, Terms and Conditions

FY 2021 U.S. DEPARTMENT OF COMMERCE  
ECONOMIC DEVELOPMENT ADMINISTRATION (EDA)  
STATEWIDE PLANNING, RESEARCH, AND NETWORKS PROGRAM  
STATEWIDE BROADBAND MAPPING PROJECT

I. FEDERAL SUBAWARD IDENTIFYING INFORMATION (2 C.F.R. § 200.332)

Subrecipient name (which must match the name associated with its unique entity identifier):	Massachusetts Technology Park Corporation / Massachusetts Broadband Institute (“MBI”)
Subrecipient's unique entity identifier:	GJW3N2QVAUX8
Federal Award Identification Number (FAIN):	ED21PHI3070028
Federal Award Date of award to the recipient by the Federal agency:	09/27/2021
Subaward Period of Performance Start and End Date:	Start Date: (contract execution date) End Date: 01/31/2023
Subaward Budget Period Start and End Date:	Start Date: (contract execution date) End Date: 01/31/2023
Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient:	\$1,000,000
Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current financial obligation:	\$1,000,000
Total Amount of the Federal Award committed to the subrecipient by the pass-through entity:	\$1,000,000
Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA):	Commonwealth of Massachusetts' Proposal to Invest in Enablers of Economic and Workforce Development Through Statewide Broadband Mapping and Innovations in Childcare Study
Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity:	United States Department of Commerce/U.S. Economic Development Administration (EDA), Commonwealth of Massachusetts, Executive Office of Housing & Economic Development, Samantha Asker, (617) 413-1957, samantha.asker@mass.gov
Assistance Listings number and Title, and the dollar amount made available under each Federal award and the Assistance Listings Number at time of disbursement:	11.307 Economic Adjustment Assistance; total federal grant award: \$1,000,000
Identification of whether the award is R & D:	N/A
Indirect cost rate for the Federal award (including if the de minimis rate is charged) per § 200.414:	43.89%

## II. CONTRACT

The Contractor is responsible for accessing and reviewing the contents of the documents referenced below, as compliance with each is a binding component of this Contract:

1. Attachments A – E identified below are attached to and made a part of the COMMONWEALTH OF MASSACHUSETTS STANDARD CONTRACT FORM:
  - This Attachment A: Additional Terms and Conditions
  - Attachment B: Commonwealth of Massachusetts Application for Economic Development Administration Statewide Planning Grant
  - Attachment C: Form CD-450 Financial Assistance Award
  - Attachment D: U.S. Department of Commerce Financial Assistance Standard Terms and Conditions
  - Attachment E: Specific Award Conditions, U.S. Department of Commerce, Economic Development Administration, Project title: American Rescue Plan Act Statewide Planning Awards, ED21PHI3070028
2. *Attachments B and C are revised as follows: The childcare study described therein has been eliminated from the project scope, and the entire grant amount of \$1,000,000 reallocated to the broadband project, per verbal authorization of EDA on 12/29/21; the change in project scope and budget will be memorialized in the Grant Administration Plan to be incorporated into Attachment E: Specific Award Conditions, per Condition #16.*
3. The COMMONWEALTH TERMS AND CONDITIONS is incorporated by reference.
4. Attachments A - E, and all documents incorporated by reference herein, are referred to, collectively, as the Contract.
5. This Contract represents the entire agreement between the Contractor and EOHEd, and any prior or contemporaneous representations, promises, or statements by the parties, that are not incorporated herein, shall not serve to vary or contradict the terms set forth in this Contract.
6. If any term or condition of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if this Contract did not contain the particular provision held to be invalid.

## III. GENERAL REQUIREMENTS

### 1. SCOPE OF SERVICES AND COMPLIANCE WITH LAWS

(A) This Contract governs the Contractor's performance of the Statewide Broadband Coverage and Service Quality Gaps Project (“the Broadband Project”) as a Subawardee, as funded under a grant from the United States Department of Commerce (“DOC”)/Economic Development Administration (“EDA”) for the program entitled Commonwealth of Massachusetts' Proposal to Invest in Enablers of Economic and Workforce Development Through Statewide Broadband Mapping and Innovations in Childcare Study.

(B) The Contractor/Subawardee/Subrecipient, as well as all lower tier subrecipients, shall comply with all of the terms and conditions of this financial assistance award, including but not limited to the DOC Financial Assistance Standard Terms and Conditions (Attachment D), Specific Award Conditions, U.S. Department of Commerce, EDA, Project title: American Rescue Plan Act Statewide Planning Awards, ED21PHI3070028 (Attachment E), the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. part 200).

(C) The Contractor shall continually assess its performance of the Contract supported activities to ensure that the performance objectives outlined in the Contract are achieved. This includes but is not limited to the Contractor’s verifying that applicable time schedules are met and performance objectives are achieved in accordance with the activities delineated in the Contract. The Contractor shall inform EOHEd in writing of the following conditions which may affect its deliverable Contract objectives and performance as soon as they become known:

a. Problems, delays, or adverse conditions which will materially affect the Contractor's ability to attain deliverable Contract objectives. This disclosure shall be accompanied by a statement of any actions taken or contemplated by the Contractor, and any assistance needed from EOHEd to resolve the situation.

b. Favorable developments or events which will enable the Contractor to meet the deliverable Contract objectives sooner than anticipated or at less cost than originally projected.

## **2. COMPENSATION**

(A) The Contractor shall perform the Broadband Project in accordance with the Grant Administration Plan to be incorporated into Attachment E: Specific Award Conditions, per Condition #16, as well as all other provisions of this Contract.

(B) EOHEd shall compensate the Contractor for services in accordance with the Authorized Budget (which shall be incorporated into Attachment E: Specific Award Conditions, per Condition #16) and the payment schedule set forth in the Grant Administration Plan, which shall be incorporated into and become an enforceable part of Attachment E: Specific Award Conditions, in accordance with Specific Award Condition #16. All payments hereunder are subject to Sections 1-4 of the Commonwealth Terms and Conditions and the applicable provisions of 2 C.F.R. Part 200, as they may be amended or superseded, and the availability of funds to EOHEd from the Federal government, the Executive Office of Administration and Finance, and the Massachusetts Office of the Comptroller, and budget periods are subject to 2 C.F.R. § 200.211(c)(iv).

(C) Total reimbursable funding shall be subject to the limits outlined in the Authorized Budget and any subsequent Authorized Budget amendments.

(D) EOHEd and the Contractor understand and agree that payment for services shall include payment for holidays, sick days, or similar days in accordance with the Contractor's Authorized Budget and personnel policy.

a. Severance pay and Fringe benefits, are allowable to the extent provided for in the Authorized Budget and personnel policy and in 2 C.F.R. § 200.431.

b. Costs for contractual/professional and consultant services rendered by a person who possesses a special skill and who is not an officer or employee of the Contractor are allowable pursuant to 2 C.F.R. § 200.459.

## **3. PAYMENTS, BUDGETS, CHANGES, AND ALLOWABLE EXPENDITURES**

(A) The Contractor shall not incur obligations or expend funds in excess of the amounts set forth in the Authorized Budget. During the term of this Contract, EOHEd shall monitor the Contractor's expenditures in each Authorized Budget category and compare these with the Contractor's Authorized Budget and any requests for additional funds. EOHEd may reduce the Contractor's FY 2022 allocation if the Contractor's final report indicates substantial under-expenditures.

### **(B) MANDATED BUDGET REDUCTIONS**

(1) In the event EOHEd determines that based upon the Contractor's rate of completions and/or expenditure of funds, the Contractor cannot reasonably expend the amounts set forth in the Authorized Budget, EOHEd may reduce the Contractor's Authorized Budget as appropriate, provided that EOHEd shall send a written notification to the Contractor of the proposed reductions, affording the Contractor a reasonable time, not to exceed 10 calendar days following receipt thereof, for the Contractor to accept or dispute the proposed reductions. Notices of proposed reductions under this section shall be sent certified mail, return receipt requested, or hand carried to the Contractor's Executive Director and receipted. Any dispute of an Authorized Budget reduction shall be presented in writing by the Contractor's Executive Director and delivered by E-Mail to the Contract Manager.

EOHEd shall reply in writing to any disputed Authorized Budget reduction, stating specific responses to issues raised by the Contractor and reasons for maintaining, modifying, or retracting the proposed budget reduction, within

10 calendar days of receipt thereof. This dispute procedure shall not apply to reductions under part (2) of this section.

(2) Mandated Budget reductions shall be incorporated in a written amendment to this Contract executed by EOHED and the Contractor.

*(C) ADDITIONAL FUNDS*

In the event that EOHED determines that there are additional funds available, EOHED may provide the Contractor with notice of the opportunity for the Contractor to receive additional funds. The provision of additional funds by EOHED to the Contractor shall require the Contractor to submit to EOHED for its approval a budget amendment request, signed by the Contractor's Executive Director or other authorized person, reflecting the allocation of additional funds and the execution of a properly executed Contract Amendment.

*(D) BUDGET AMENDMENTS*

*(1) Contractor Changes*

The Contractor may request that EOHED approve changes in or among specific line items in the Authorized Budget. The Contractor shall request approval for such changes from EOHED and shall then submit all such budget amendment requests electronically and in writing, signed by the Contractor's Executive Director or other authorized person. EOHED shall act on all such requests within 10 business days of receipt, in writing to the Contractor's Executive Director. An amended Budget shall be appended to the Authorized Budget, but does not require further amendment to this Contract.

*(2) Flexibility*

If a proposed Contractor Budget change, within a Budget category, does not exceed 10 percent of the Budget category in which the change is made, the Contractor may make that change without seeking prior permission of EOHED, unless approval is otherwise required under section III.3(D).1. of this Contract. The Contractor must submit a copy of the change to EOHED, for informational purposes, within 30 calendar days of the change. The Contractor may not add a line not included in the Authorized Budget or add or delete personnel positions without prior EOHED review and approval.

*(3) Changes Directed by EOHED*

In the event EOHED instructs the Contractor in writing to make specific changes in the Authorized Budget, a Contract Amendment shall not be necessary. EOHED will initiate such action only in the instance of a finding by EOHED through monitoring of Contractor operations that specific Contractor deficiencies require such changes. The Contractor may dispute EOHED's action through the procedures enumerated above.

*(E) PRIOR APPROVAL REQUIREMENTS:*

(1) Pursuant to 2 C.F.R. § 200.308, the Contractor must request prior approval from EOHED of the following items. The Contractor may submit all such requests in an E-Mail to the EOHED Project Manager setting out the details of the request. If Contract funds are involved, the Contractor must submit a budget amendment request, signed by the Contractor's Executive Director or other authorized person. Such requests shall be submitted electronically. EOHED shall act on all such requests within 10 business days of receipt, in writing to the Contractor's Executive Director or other authorized person. An amended Budget may be appended to the Authorized Budget, but does not require further amendment to this Contract.

- i. A change in the scope or the objective of the project or program (even if there is no associated Authorized Budget revision requiring prior approval).
- ii. A change in a key person specified in the application or the Federal award.
- iii. The disengagement from the project for more than 3 months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.
- iv. The transfer of funds budgeted for participant support costs to other categories of expense.

v. Unless described in the application and funded in the approved Federal awards, the subawarding, transferring or contracting out of any work under a Federal award, including fixed amount subawards as described in 2 C.F.R. § 200.332. This provision does not apply to the acquisition of supplies, material, equipment or general support services.

(2) No Contract funds provided or to be provided hereunder shall be used by the Contractor as collateral in any financing nor shall an accounts receivable, monies received, or the right to receive monies hereunder, be subjected to any adverse lien, security interest, or encumbrance, or materially impaired in any way by the Contractor except with prior written approval from EOHEd.

#### 4. PAYMENT MECHANISM

(A) For each month of operation, the Contractor shall submit to the EOHEd Contract Manager properly completed report/invoices in order to request reimbursement for allowable costs, as specified by EOHEd and pursuant to instructions issued by EOHEd covering program costs incurred. The monthly report/invoices are due by the 15th of the following month and must be submitted even when the Contractor is requesting no reimbursement for the month of operation. EOHEd shall first review the program report submitted by the Contractor, pursuant to section III.4.(C).(5). After EOHEd has approved the program report, the Contractor may submit the monthly report/invoices. Such report/invoices shall serve as invoices for such costs and no separate invoice shall be required.

The Contractor should minimize the amount of a draw to cover invoices. The Contractor shall continue to submit monthly report/invoices requesting reimbursement until such time as the amount claimed on the monthly report/invoices is equal to the maximum allowable compensation set forth in its Authorized Budget. Thereafter, the Contractor shall continue to submit monthly report/invoices documenting program costs incurred by the Contractor for the specific program activities until expiration or termination of this Contract. ***The final report/invoice must be delivered to EOHEd by no later than January 31, 2023. Further, the Contractor must deliver a Final Fiscal Close Out Report to EOHEd by no later than January 31, 2023 in order to enable EOHEd to take appropriate steps under 2 C.F.R. §§ 200.328, 200.332, and 200.344.*** Said report must be electronically submitted to the EOHEd Contract Manager.

(B) The Contractor must electronically submit all monthly report/invoices with service dates through January 31, 2023 to the EOHEd Contract Manager by no later than the first week of January 2023, as specified by EOHEd and pursuant to instructions issued by EOHEd, in order to receive payment. For the remainder of the Contract term, the procedures outlined herein shall apply.

#### (C) PROMPT PAYMENT

(1) EOHEd shall utilize the standard Commonwealth Payment Voucher Form. In accordance with Section 3 of the Commonwealth Terms and Conditions, no later than 45 calendar days after the receipt of properly completed reports, EOHEd shall cause payment to be made to the Contractor.

#### (2) Delayed Reimbursement

EOHEd may delay reimbursement to the Contractor if the Contractor does not submit a monthly report for a required period, submits an incomplete report, or submits a report after the monthly due date. EOHEd may also delay reimbursement to the Contractor if the reported expenditures are not sufficient to expend program funds in accordance with the Contractor's monthly achievement. Any such action by EOHEd shall be preceded by written notification of the intent to delay such reimbursement, except in the case of late reports by the Contractor, and allowance for the Contractor to make reasonable written explanation regarding the occurrence, and remedy of the situation. EOHEd shall not refuse to reimburse the Contractor for any allowed expenditure incurred during the course of this Contract, but may require the Contractor to expend a portion of prior to resuming reimbursement.

#### (3) Corrections

EOHEd may correct errors in monthly reports submitted by the Contractor after consultation with the Contractor. After EOHEd has made corrections with the consent of the Contractor, EOHEd shall promptly provide the Contractor with a copy of the corrected report.

(4) Recoupment

Nothing herein shall be construed to deprive EOHEd of its right to recoup or offset payments or to disallow any of the Contractor's costs which are not incurred in accordance with the terms of this Contract, provided EOHEd shall not disallow any costs claimed by the Contractor without first notifying the Contractor in writing, of the amount of and the reasons for any such disallowances, and affording the Contractor a reasonable period to respond.

(5) Reports

i. Prior to submitting the monthly report/invoice required pursuant to section III.4, the Contractor shall submit program reports to the EOHEd Contract Manager.

ii. The monthly report/invoice shall be delivered to EOHEd on or before the 15th calendar day of the month following that month for which the Contractor is reporting its activities.

iii. By submitting the reports, the Contractor certifies to the best of their knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. Any false, fictitious, or fraudulent information, or the omission of any material fact, may subject the Contractor to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).

**5. ENFORCEMENT, SUSPENSION, AND TERMINATION**

(A) Enforcement of this Contract and all rights and obligations hereunder are reserved solely to the Contractor and EOHEd, and not to any third party.

(B) EOHEd reserves the right to impose additional enforcement requirements, additional specific award conditions, and remedies for noncompliance on the Contractor as necessary, pursuant to 2 C.F.R. §§ 200.207 and 200.338 and pursue other remedies that may be legally available.

(C) EOHEd may terminate or suspend this Contract pursuant to Sections 4 and 5 of the Commonwealth Terms and Conditions.

(D) EOHEd may provide the Contractor with written notice to decrease or cease Contract activity. Effective upon receipt of notice from EOHEd, or a later date specified therein, the Contractor agrees to decrease, suspend, and/or terminate Contract activity in conformance with the terms of such notice.

**6. OBLIGATIONS IN THE EVENT OF TERMINATION OR SUSPENSION**

(A) Upon the expiration or termination of this Contract, all finished or unfinished documents including data, studies, and reports prepared by the Contractor pursuant to this Contract as well as any nonexpendable property, including without limitation, equipment, furnishings, vehicles, and material inventory, the cost of which was reimbursed by funds provided pursuant to this Contract, shall become the property of EOHEd. EOHEd may transfer records or property referenced herein to its own offices or to a designated successor Contractor. EOHEd shall provide a full and detailed accounting of any property and records taken from the Contractor and shall make any records available to the Contractor for subsequent audit, as necessary.

(B) Upon expiration or termination of this Contract, the Contractor shall be entitled to receive funds for costs properly incurred pursuant to this Contract that have not been paid previously by EOHEd, subject to EOHEd's right to offset and deduct for any claim against the Contractor. In order to receive such funds, the Contractor shall submit to EOHEd properly completed invoices in accordance with the terms of this Contract. The Contractor and EOHEd may negotiate amounts of compensation related to the Contractor's expenses for any additional period of close-out. In no event shall the Contractor receive funds in an amount in excess of that set forth in the Contractor's Authorized Budget. EOHEd may deduct only such amount as reasonably relates to the nature

and extent of EOHED's claims against the Contractor. EOHED shall notify the Contractor in writing of any amount withheld for the purpose of offset in accordance with this section.

(C) The Contractor shall reconcile program receipts with program expenditures and confirm these amounts with EOHED upon the termination or expiration of this Contract.

(D) Remaining unobligated funds must be remitted to EOHED within 45 days following the termination or expiration of this Contract.

(E) Within a maximum of 90 days following the termination or expiration of this Contract, the Contractor shall submit all audits, reports, and data as required by this Contract and shall liquidate all outstanding obligations incurred as a result of its performance pursuant to this Contract.

(F) Upon the termination or expiration of this Contract, the Contractor shall continue to cooperate with all audit, records, reporting, and monitoring requirements under this Contract.

## **7. NOTICE**

Unless otherwise specified, any notice required hereunder shall be addressed to the Contract Managers of EOHED and the Contractor at the business and mailing addresses, as well as E-Mail addresses, identified on the first page of the Commonwealth of Massachusetts Standard Contract Form for this Contract.

## **8. RECORDKEEPING, PROGRAMMATIC AND FISCAL REPORTS, INSPECTION OF RECORDS AND AUDITS**

(A) The Contractor shall ensure that audits required under section III.8.(C). of the Contract are performed and submitted to EOHED pursuant to the timelines outlined herein.

(B) The Contractor must conduct all audits in accordance with Generally Accepted Government Auditing Standards ("GAGAS"), as defined by § 200.1, and pursuant to 2 C.F.R. §§ 200.501 through 200.521, covering all aspects of the audit requirements.

(C) Single Audit: Pursuant to 2 C.F.R. § 200.501, if the Contractor has expended \$750,000.00 or more during their fiscal year in Federal awards, the Contractor shall arrange for and submit to EOHED a final, complete single audit indicating how and the extent to which the funds provided pursuant to this Contract were expended. Such audit shall be prepared by a Certified Public Accountant in conformance with the provisions of 2 C.F.R. §§ 200.501 through 200.521, and in accordance with Generally Accepted Accounting Principles. The audit report shall include financial statements, compliance report, report on internal control, schedule of findings and questioned costs, corrective action plan, if there are any findings, and a management letter. A separate schedule of revenue and expenditures shall be included that specifically identifies this Contract. The schedule shall reflect revenue, expenses, and net operations for each program year. Also, a schedule of amounts due from or to EOHED shall be provided reflecting amounts by Contract and program year. The Contractor shall submit the final audit report to the Federal Audit Clearinghouse within the earlier of 30 calendar days of receipt of the auditor's report, or nine months after the end of the audit period. The final report shall be submitted to EOHED within nine months of the end of the Contractor's fiscal year. The Contractor must submit the final audit report to the EOHED Contract Manager via E-Mail and First-Class Mail. The Contractor must present the final audit report to the Contractor's governing board or other applicable advisory body prior to submitting it to EOHED. The final audit report that the Contractor submits to EOHED must be identical in content to the final audit report that the Contractor submits to the Federal Audit Clearinghouse.

(D) Audit work pertaining to this Contract shall be made available upon request to EOHED or to an auditor approved by and/or selected by EOHED.

(E) EOHED reserves the right under this Contract to secure its own independent audit of the Contractor's records, if in its sole discretion, EOHED determines it is necessary for any reason.

(F) The Contractor's proportionate single audit cost pursuant to 2 C.F.R. Part 200 under this Contract shall be deemed an eligible administrative expenditure of grant funds provided under this Contract if listed in the Authorized Budget.

(G) EOHEd's staff and authorized representatives may evaluate the Contractor, and any subcontractors with whom the Contractor has executed a contract or other form of legal agreement in order to complete the Contractor's activities funded under this Contract between the Contractor and EOHEd, through ongoing monitoring. As deemed appropriate by EOHEd, EOHEd's staff and authorized representatives may also conduct further reviews and site-visits of the Contractor and any such subcontractors during the Contract term, which may include fiscal reviews. EOHEd staff shall use interviews, inspection of files, site visits and direct observation to identify program areas of concern so that Contractors can improve their productivity, efficiency, quality, and management capacity.

(H) Following each monitoring visit to the Contractor, EOHEd shall prepare a written report, a copy of which shall be sent to the Contractor's Executive Director or other authorized representative. EOHEd's Monitoring Report may contain observations, evaluations, recommendations, findings, and/or specific direction for corrective action on the part of the Contractor. In the event that specific corrective action is provided, the Contractor shall have 30 days from the receipt of the directions to comply, or 10 days to contact EOHEd in the event that the Contractor does not agree with the findings or direction of EOHEd's report. In the case of a dispute, EOHEd and the Contractor shall meet at the earliest convenience to resolve the specific disputed issues. Failure of the Contractor to reply to or comply with specific directions provided by EOHEd shall be treated as grounds for termination or suspension under Section 4 of the Commonwealth Terms and Conditions and herein.

(I) EOHEd or its authorized representative may conduct an exit interview at the end of each inspection, review, or audit.

(J) The Contractor and any other entity under subcontract having costs chargeable to Contract funds shall maintain Contract records in accordance with 2 C.F.R. § 200.334 and Section 7 of the Commonwealth Terms and Conditions including without limitation, a record of planned activities, a record of activities carried out, and an explanation of any changes or program activities and relevant quantifiable data on activities.

(K) Property and equipment records must be retained for 3 years after final disposition. Personnel expenses must be documented as provided under 2 C.F.R. § 200.430(i).

(L) The Contractor shall retain all records and supporting documents related to the Contract funds until any litigation, claim, audit, or other action related to the Contract funds is resolved to the satisfaction of EOHEd.

(M) The Contractor is required to comply with Section 7 of the Commonwealth Terms and Conditions regarding the retention of records and supporting documentation. The Contractor shall make all such books, records, reports, and compilations of data available to an auditor or other representative authorized by EOHEd (including without limitation, fiscal monitors or auditors). The Contractor shall ensure the cooperation of its employees and Board members in any review, audit, or inspection conducted by EOHEd, its authorized representatives, representatives of the Commonwealth of Massachusetts, DOC, EDA, Inspectors General and the Comptroller General of the United States, and will provide assistance in obtaining information maintained by the Contractor relevant to the completion of the audit of expenditures made pursuant to this Contract. The Contractor must give auditors access to personnel, accounts, books, records, supporting documentation and other information as needed for the auditors to perform the required audit, pursuant to 2 C.F.R. §§ 200.508(d) and 200.337(a).

(N) The Contractor shall maintain all funds received from EOHEd pursuant to this Contract in identifiable bookkeeping accounts separated for each funding source and shall use such funds solely for the purposes set forth in this Contract, in accordance with the terms of this Contract, and in compliance with the Authorized Budget. Account balances must reflect balances that, at a minimum, are equal to the outstanding obligations of the Contractor to EOHEd.

(O) The Contractor must maintain a financial management system that complies with the requirements of 2 C.F.R. § 200.302(b). The financial management system must provide for the:

- a. Retention, methods of transfer, transmission and storage of information.
- b. Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received.
- c. Accurate, current, and complete disclosure of financial results of each Federal award or program.
- d. Records that identify adequately the source and application of funds.
- e. Effective control over, and accountability for, all funds, property, and other assets.
- f. Comparison of expenditures with budget amounts.
- g. Written procedures to implement the payment requirements.
- h. Written procedures for determining the allowability of costs in accordance with the cost principles.
- i. Further, the Contractor and any other entity under subcontract having costs chargeable to Contract funds shall maintain an accounting system and supporting fiscal records adequate to audit and otherwise verify that assistance payments and administrative costs meet Federal and State requirements.

(P) Records to substantiate the Contractor's claim for payment hereunder shall include, without limitation, payroll records, accounting records, and purchase orders that are sufficient to document the Contractor's program and financial activities under this Contract.

(Q) The Contractor must have a system sufficient to provide reasonable assurance that the charges for personnel expenses are accurate, allowable and properly allocated. If an employee works on more than one Federal award, the system must also be able to track, support and document the distribution of the employee's salary or wages among specific activities or cost objectives. Records reflecting the distribution of activity of each employee must be maintained for all staff members whose compensation is charged directly to the award.

(R) The Contractor agrees to inform and/or provide EOHED with notice of any communication and/or correspondence originating from DOC/EDA or their representatives regarding the Broadband Project.

(S) Within 5 business days of receipt, the Contractor shall notify EOHED and provide EOHED with copies of any and all exception reports and written communications of an audit or review of the Contractor and any written final reports of such audits or reviews that the Contractor receives during the Contract term from the DOC/EDA, the Federal and/or State Office of the Inspector General ("OIG"), and the Office of the State Auditor. Such reports or communications may be provided electronically.

(T) Within 5 business days of being served with any pleading in a legal action filed with a court or administrative agency related to this Contract or which may affect the Contractor's ability to perform its obligations hereunder, the Contractor shall notify EOHED of such action and deliver copies of such pleadings to EOHED. Such pleadings may be provided electronically.

(U) The Contractor will submit any other reports or information requested by EOHED by the due date specified in EOHED's request.

## **9. SUBCONTRACTING BY CONTRACTOR:**

Pursuant to Section 9 of the Commonwealth Terms and Conditions, any subcontract entered into by the Contractor, for the purposes of fulfilling its obligations under this Contract must be in writing and authorized by EOHED in advance. The Contractor shall furnish to EOHED signed copies of all approved subcontracts within 15 calendar days of the effective date of each such subcontract. If EOHED determines that the Contractor is out of compliance with its EOHED Broadband Project contract obligations because of any act or omission of its subcontractor, the Contractor shall require its subcontractor to correct such deficiency and participate in any corrective action plan that

may be developed by EOHEd to remedy such noncompliance. The Contractor's failure to correct such noncompliance may be considered grounds for imposing special conditions and other remedies for noncompliance pursuant to 2 C.F.R. §§ 200.208 and 200.339 and other remedies that may be legally available.

## **10. AFFIRMATIVE ACTION**

Pursuant to Section 10 of the Commonwealth Terms and Conditions, the Contractor agrees to use its best efforts to utilize the funds granted pursuant to this Contract to contract for goods, equipment, or services with minority and women's business enterprises certified by the State Supplier Diversity Office in accordance with Executive Order No. 565, and M.G.L. c. 7 section 57.

Pursuant to 2 C.F.R. § 200.321(a), the Contractor must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

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

## **11. NONDISCRIMINATION IN DELIVERY OF SERVICES**

In addition to the requirements of Section 10 of the Commonwealth Terms and Conditions, the Contractor shall not deny services or otherwise discriminate in the delivery of services because of race, color, religion, disability, sex, sexual orientation, gender identity, familial status or children, marital status, age, national origin, ancestry, genetic information, receipt of Federal, State, or local public assistance or housing subsidies, veteran/military status, or because of any basis prohibited by law. The Contractor agrees to comply with all applicable Federal and State statutes, rules and regulations and administrative and Executive Orders prohibiting discrimination, including without limitation, the Americans with Disabilities Act, as amended (42 U.S.C. §§ 12101 et seq.), Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. §§ 2000d et seq.), the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), M.G.L. c. 151B, M.G.L. c. 272 §§ 92A, 98, and 98A, M.G.L. c. 111 § 199A, 42 U.S.C. 9918 (c) and 45 C.F.R. 80.

## **12. INTELLECTUAL PROPERTY RIGHTS, PUBLICITY PUBLICATION, REPRODUCTION AND USE OF CONTRACT MATERIALS**

(A) The Contractor may copyright any books, publications, or other copyrightable materials produced under this Contract, provided that the Contractor shall provide to EOHEd and the DOC as appropriate, an irrevocable, nonexclusive, royalty-free license to reproduce, publish, or otherwise use or authorize others to use the copyrighted material.

(B) The Contractor may disseminate, publish, or reproduce other documents produced in whole or in part pursuant to this Contract provided that the Contractor furnishes to EOHEd copies of any such material in advance of publication.

(C) If the Broadband Project grant funds are expended by the Contractor on preparation or production of a brochure or other publication, the brochure or publication shall include the following statement: “This publication was funded by a U.S. Department of Commerce/Economic Development Administration Statewide Planning grant for a Statewide Broadband Mapping and Innovations in Childcare Study from the Massachusetts Executive Office of Housing and Economic Assistance, in Partnership with the Massachusetts Broadband Institute.”

### **13. CONFIDENTIALITY**

(A) The Contractor certifies that it has established sufficient internal written conflict of interest policies to carry out its obligations hereunder.

(B) The Contractor shall keep all Contract records and information, wherever obtained, confidential at all times, and shall comply with all State and Federal laws concerning the confidentiality of information.

(C) The Contractor shall hold all personal data, wherever obtained, including, without limitation from an individual, EOHEd, the DOC, and the Economic Assistance Administration in accordance with Section 6 of the Commonwealth Terms and Conditions, the Standard Contract Form Instructions and Contractor Certifications, and all applicable Federal and State privacy and confidentiality laws and regulations, including M.G.L. c. 66A, “Massachusetts Fair Information Practices Act”, M.G.L. c. 93H, Security Breaches, M.G.L. c. 66 sec. 17A, 801 CMR 3.00: Privacy and Confidentiality, and 201 CMR 17.00: Standards for the Protection of Personal Information of Residents of the Commonwealth.

(D) Pursuant to the requirements of the Standard Contract Form Instructions and Contractor Certifications and the Commonwealth Terms and Conditions, the Contractor certifies that the Contractor has reviewed and shall comply with all information security programs, plans, guidelines, standards and policies that apply to the work to be performed under this Contract, that the Contractor shall communicate these provisions to and enforce them against its subcontractors, and that the Contractor shall implement and maintain any other reasonable and appropriate security procedures and practices necessary to protect personal information to which the Contractor is given access as part of this Contract, from unauthorized access, destruction use, modification, disclosure or loss.

(E) The Contractor understands and agrees that only those employees who must access personal data for the performance of their job duties under this Contract are authorized to access such personal data. These authorized employees shall not use or disclose this data for purposes other than those required to fulfill their job duties under this Contract. Pursuant to the above, the Contractor acts as a holder of personal data and the Contractor certifies that it and its authorized employees shall comply with all Federal and State laws and regulations applicable to the data, including but not limited to M.G.L. c. 66A, M.G.L. c. 93H, and M.G.L. c. 66 sec. 17A.

(F) The Contractor shall notify its agents, employees, subgrantees, contractors, and assignees who may come into contact with State records and confidential information that each is subject to the confidentiality requirements set forth herein.

(G) The Contractor shall deliver to EOHEd, within 14 days of a written request by EOHEd following termination of this Contract, such personal data relating to this Contract as EOHEd may request; provided, that the Contractor may keep copies of any personal data delivered to EOHEd; and provided further, that for the purposes of this sentence, the term, “personal data”, shall not include the Contractor’s personnel records. The Contractor’s obligations to comply with all Federal and State confidentiality requirements shall survive the termination or expiration of this Contract.

### **14. INTERNAL CONTROLS**

Pursuant to 2 C.F.R. § 200.303, the Contractor shall establish effective control over, and accountability for, all funds, property, and other assets funded under this Contract and assure that they are used solely for authorized purposes.

## 15. FRAUD, WASTE, AND ABUSE POLICY

The Contractor shall maintain and utilize systems and procedures to prevent, detect, and correct fraud, waste, and abuse in activities funded under this Contract.

The Contractor certifies its understanding that, pursuant to the 2 C.F.R. § 200.113, it must disclose to EOHED, in a timely manner, in writing, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award. Failure to make the required disclosures may result in any of the remedies described in 2 C.F.R. § 200.339.

## IV. BROADBAND PROJECT REQUIREMENTS

### (A) CERTIFICATION REGARDING DEBARMENT

Every private sector contractor from which the Contractor expects to purchase materials or services shall certify that they are not suspended or debarred from conducting business with any Federal agency in compliance with Federal Executive Order 12549. The Contractor shall further ensure that each affected private sector contractor shall complete the *“Certification Regarding Debarment & Suspension, and Other Responsibility Matters”* form found within said Executive Order. This form shall be retained by the Contractor for subsequent EOHED review.

(B) The Contractor represents that all personnel hired by the Contractor under this Contract shall be fully qualified to perform the services pertinent to this Contract, shall hold all required licenses or certifications, if any, to perform their responsibilities, and shall be authorized or otherwise permitted by Federal, State, and/or local laws to perform the contracted services.

### (C) CONFLICT OF INTEREST

(1) The Contractor shall adopt and enforce a conflict-of-interest policy that at a minimum ensures compliance with 2 C.F.R. Part 200, whereby the Contractor must disclose in writing any potential conflict of interest to EOHED, as well as compliance with M.G.L. c. 268A. The policy must ensure:

(a) that no member, officer, director, or employee of the Contractor shall solicit or accept gifts, gratuities, favors, or anything of monetary value from any contractor, subcontractor, or potential contractor or subcontractor of the Contractor;

(b) that members, officers, directors and employees having responsibility for activities under this Contract shall:  
i. disclose to his/her/their Department Manager and the Contractor Legal Department the existence and extent of his/her/their interest in or association with any business, agency or organization that may be the subject of consideration for the award of a contract or grant utilizing funds provided pursuant to this Contract;

ii. abstain from participation in the consideration of any contract or grant award to any business, agency or organization in which such person has an interest or with which such person is associated; and

iii. disclose to the official responsible for appointment to his/her/their position and the state ethics commission any other direct or indirect financial interest of such person or members of his/her/their immediate family in this Contract.

(2) EOHED and the Contractor shall not enter into any arrangement whereby:

(a) any employee of the Commonwealth participates in any decision relating to this Contract which affects his/her/their personal interest; or

(b) the Contractor knowingly employs or compensates any employee of the Commonwealth during the term of this Contract, unless such arrangement or decision is permitted under the provisions of M.G.L. c. 268A.

(3) Employment of former Commonwealth employees must also be in compliance with the provisions of M.G.L. c. 268A.

## V. ADDITIONAL FEDERAL REQUIREMENTS

### (A) FEDERAL RESTRICTIONS ON LOBBYING

In accordance with regulations concerning "New Restrictions on Lobbying," 45 C.F.R. § 93, as it may be amended or superseded, the Contractor certifies that to the best of its knowledge and belief:

(1) No Federal appropriated funds have been paid, or will be paid, by or on behalf of the Contractor, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal Contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and Contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is made a prerequisite for making or entering into this transaction by 31 U.S.C. 1352. The Contractor understands and acknowledges that an expenditure prohibited in paragraph (1) of this section, or a failure to file a Disclosure Form as required in paragraph (2) of this section, shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure, and not less than \$10,000 and not more than \$100,000 for each such failure.

### (B) PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

The Contractor shall use its best efforts to ensure that it will not knowingly use Contract funds to purchase, or enter into contracts to purchase, any equipment, services, or systems that use telecommunications equipment or services as a substantial or essential component of a system subject to 2 CFR § 200.216. In the event that the Contractor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system subject to 2 CFR § 200.216 during Contract performance, the Contractor shall alert the Department as soon as possible and shall provide information on any measures taken to prevent recurrence.

# EXHIBIT 6

FORM CD-450 (REV 10/18)	U. S. DEPARTMENT OF COMMERCE <b>FINANCIAL ASSISTANCE AWARD</b>	<input checked="" type="checkbox"/> GRANT <input type="checkbox"/> COOPERATIVE AGREEMENT
RECIPIENT NAME MASSACHUSETTS, COMMONWEALTH OF	FEDERAL AWARD ID NUMBER <b>ED21PHI3070028</b>	
	PERIOD OF PERFORMANCE 10/01/2021-03/31/2024	
STREET ADDRESS 1 ASHBURTON PLACE FL 9	FEDERAL SHARE OF COST <div style="text-align: right;">\$1,000,000.00</div>	
CITY, STATE, ZIP CODE BOSTON MA 02108-1518	RECIPIENT SHARE OF COST <div style="text-align: right;">\$0.00</div>	
AUTHORITY Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 et. seq) as amended, including the comprehensive amendments made by the Economic	TOTAL ESTIMATED COST <div style="text-align: right;">\$1,000,000.00</div>	
CFDA NO. AND NAME 11.307 Economic Adjustment Assistance		
PROJECT TITLE Commonwealth of Massachusetts' Proposal to Invest in Enablers of Economic and Workforce Development Through Statewide Broadband Mapping and Innovations in Children's Study		
<p><b>This Award Document (Form CD-450) signed by the Grants Officer constitutes an obligation of Federal funding. By signing this Form CD-450, the Recipient agrees to comply with the Award provisions checked below and attached. Upon acceptance by the Recipient, the Form CD-450 must be signed by an authorized representative of the Recipient and returned to the Grants Officer. If not signed and returned without modification by the Recipient within 30 days of receipt, the Grants Officer may unilaterally withdraw this Award offer and de-obligate the funds.</b></p> <p><input checked="" type="checkbox"/> DEPARTMENT OF COMMERCE FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS</p> <p><input type="checkbox"/> R &amp; D AWARD</p> <p><input type="checkbox"/> FEDERAL-WIDE RESEARCH TERMS AND CONDITIONS, AS ADOPTED BY THE DEPT. OF COMMERCE</p> <p><input type="checkbox"/> BUREAU SPECIFIC ADMINISTRATIVE STANDARD AWARD CONDITIONS</p> <p><input checked="" type="checkbox"/> SPECIFIC AWARD CONDITIONS</p> <p><input type="checkbox"/> LINE ITEM BUDGET</p> <p><input type="checkbox"/> 2 CFR PART 200, UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS, AS ADOPTED PURSUANT TO 2 CFR § 1327.101</p> <p><input type="checkbox"/> 48 CFR PART 31, CONTRACT COST PRINCIPLES AND PROCEDURES</p> <p><input checked="" type="checkbox"/> DEPARTMENT OF COMMERCE PRE-AWARD NOTIFICATION REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS (REF: 79 FR78390)</p> <p><input type="checkbox"/> MULTI-YEAR AWARD. PLEASE SEE THE MULTI-YEAR SPECIFIC AWARD CONDITION.</p> <p><input checked="" type="checkbox"/> OTHER(S):          ARPA Supplemental Economic Development Administration Planning, Research and Networks Notice of Federal Funding Opportunity, July 23, 2021, under which EDA announced the statewide planning grant programs to support states as they plan for economic recovery and prepare to building back better.</p>		
SIGNATURE OF DEPARTMENT OF COMMERCE GRANTS OFFICER  Linda Cruz-Carnall	DATE  09/27/2021	
PRINTED NAME, PRINTED TITLE AND SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL  Mike Kennealy	DATE  11/10/2021	

# EXHIBIT 7

## Commonwealth of Massachusetts Application for Economic Development Administration Statewide Planning Grant

On behalf of the Baker-Polito Administration of the Commonwealth of Massachusetts, the Executive Office of Housing & Economic Development (EOHED) is pleased to submit this application for the Economic Development Administration's Statewide Planning Grant in the amount of \$1,000,000.

As Governor Baker's designated agency, EOHED proposes to put this planning grant to work to prepare the Commonwealth for a post-COVID economy and will deploy these dollars through two independent projects. These plans will allow the Commonwealth to take a strategic approach to investing in two critical enablers of our workforce's participation in the economy: broadband and childcare. These projects are:

1. Statewide Broadband Coverage and Service Quality Gaps: EOHED will partner with the Massachusetts Broadband Institute (MBI) to deploy \$700,000 of the award to map gaps in infrastructure and substandard quality of service in communities across the Commonwealth. The Commonwealth has proposed \$100,000,000 in funding for broadband with the American Rescue Plan Act dollars allocated to the state, a proposal currently sitting before our Legislature. This study would inform how these dollars are spent.
2. "Innovations in Childcare" Study: EOHED will support the efforts of the Massachusetts Department of Early Education and Care (EEC) in creating a new plan for the future of childcare in the Commonwealth. With EOHED, EEC will deploy \$300,000 of the award to undertake a study, the findings of which will inform use of federal and state funds to build innovative childcare models. These models will address the high costs of childcare and help working parents to get back to work.

### Statewide Broadband Coverage and Service Quality Gaps

The ability to succeed in the innovation economy is now tied to having broadband access, a device, and fundamental digital skills. Job seekers without broadband connections are at a disadvantage compared to their digitally-equipped peers. Workplaces are increasingly more likely to operate via remote or hybrid models, and more than ever, small businesses rely on e-commerce and digital adaptations to compete in a post-COVID-19 economy.

To address this, Massachusetts proposes to deploy \$700,000 of its \$1,000,000 award with the Massachusetts Broadband Institute (MBI), and will utilize the funds to support the identification of the areas in the state that (1) are not served by broadband infrastructure; or (2) have access to broadband service that is not sufficiently reliable.

Through its Last Mile Grant Programs, Massachusetts has awarded grants to private providers and municipalities to build, operate, and maintain broadband networks in 44 rural, unserved "Last Mile" towns in Western and Central Massachusetts that did not have access to wireline broadband service. Projects have already been completed in 25 of the unserved towns and the projects in the remaining unserved towns will be completed within the next two years.

The Baker-Polito Administration, through EOHED and MBI, will develop strategies to address (1) the remaining gaps in coverage, whether in the Last Mile Towns or in other communities around the state; and (2) issues related to the quality of service, particularly in urban areas. While MBI is aware there are pockets of unserved households in many communities, identifying the exact number and location of these

households is a difficult task. The Form 477 data that is self-reported by broadband providers to the FCC typically underreports service availability. Census block level data also lacks the granularity needed to properly guide and target the investment of public funds.

With the unprecedented levels of federal investment to expand broadband access available to states and municipalities, there is an urgent need for access to better data. MBI will utilize a portion of EDA's planning award to implement a multi-faceted approach to accelerate access to accurate, granular data that can be also be converted into GIS mapping data layers.

### *Scope*

MBI will identify, compile, evaluate, and analyze broadband infrastructure coverage data and quality of service data (such as download speeds, upload speeds, latency, and packet loss) that will provide detailed statewide information at a granular level (preferably at the address level). This will include the following steps:

1. Identify existing datasets that support mapping of broadband availability and quality of broadband service. Datasets may be obtained from a variety of sources, including state & federal government agencies, ISPs, private companies, or non-profit organizations. Examples include American Community Survey datasets published by the Census Bureau, Broadband Now, Microsoft Broadband Usage Datasets, Federal Communications Commission, and the Indicators of Broadband Need Map published by the National Telecommunications and the Information Administration.
2. Evaluate the quality and content of the datasets for inclusion in a statewide broadband map and usefulness in validating other datasets.
3. Identify data that may need to be collected/created to supplement and enhance exist GIS broadband mapping.
4. Establish applications or tools to solicit and collect crowd sourced data.
5. Gather data from fieldwork and community outreach and engagement.
6. Compile datasets into a standard format for use as new GIS map data layers that can be accessed through a cloud based GIS system for viewing and analysis.

### *Deliverables and Outputs*

MBI expects to obtain the following deliverables/outputs from this planning process:

1. Individual datasets and new GIS data layers: broadband availability, quality of service, and other supporting data
2. Interactive map: cloud based GIS for viewing and analysis
3. Derivative datasets and collateral materials that provide actionable information targeted to the needs of specific audiences - results of analysis, key statistics, reports/whitepapers, presentations, etc.

These funds will be subawarded through an open and competitive procurement for goods and services, consistent with the Commonwealth's standard procedure. In addition to this primary procurement to produce the desired deliverables, MBI may solicit partnership proposals to leverage the expertise and

EXHIBIT 8

SPECIFIC AWARD CONDITIONS  
U.S. DEPARTMENT OF COMMERCE  
Economic Development Administration (EDA)

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**NON-CONSTRUCTION PROJECTS:** Economic Adjustment Assistance  
for Disaster Economic Recovery Under Sections 209 and 703 of the Public Works and  
Economic Development Act of 1965, as amended, 42 U.S.C. §§ 3149 and 3233

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**PROJECT TITLE:** American Rescue Plan Act Statewide Planning Awards  
ED21PHI3070028

1. **SCOPE OF WORK:** This EDA Award supports the work described in the approved final scope of work, which is incorporated by reference into this Award, as the *Authorized Scope of Work* (Attachment 1). All work on this project must be consistent with the *Authorized Scope of Work*, unless the Grants Officer has authorized a modification of the scope of work in writing through an amendment memorialized through execution of a Form CD-451.
2. **PROJECT CONTACT INFORMATION:** Contact information for the Recipient and key EDA staff with responsibilities for this award is contained in Attachment 2. The Recipient agrees to notify EDA promptly of any changes to the Recipient's contact information.
3. **ADDITIONAL INCLUDED DOCUMENTS:** In addition to the regulations, documents, or authorities incorporated by reference on the Financial Assistance Award (Form CD-450), the following additional documents are hereby incorporated by reference into this Award:
  - The Recipient's application, including any attachments, project descriptions, schedules, and subsequently submitted supplemental documentation
  - *Authorized Scope of Work* (Attachment 1)
  - *Project Contact Information* (Attachment 2)

Should there be a discrepancy among these documents, these Specific Award Conditions shall control.

4. **PROJECT DEVELOPMENT TIME SCHEDULE:** The Recipient agrees to the following Project Development Time Schedule:

Authorized Award End Date.....30 months from the Date of  
Award

Submission of Final Project Progress Report .....No later than 120 days from the

Authorized Award End Date

Submission of Final Financial Documents (SF-425).....No later than 120 days from the  
Authorized Award End Date

The Recipient shall diligently pursue the development and implementation of the project upon receipt of the EDA Award so as to ensure completion within this time schedule, and shall promptly notify EDA in writing of any event that could substantially delay meeting any of the time limits set forth above. The Recipient further acknowledges that failure to meet the Project Development Time Schedule may result in EDA pursuing remedies for non-compliance, potentially including termination of the Award, in accordance with the regulations set forth at 2 C.F.R. §§ 200.339–200.343.

**5. PROJECT REPORTING AND FINANCIAL DISBURSEMENT INSTRUCTIONS:**

**A. AWARD DISBURSEMENTS:** EDA will make disbursements using the Department of the Treasury’s Automated Standard Application for Payments (ASAP) system. The Recipient is required to furnish documentation required by ASAP. Complete information concerning the ASAP system may be obtained by visiting <https://www.fiscal.treasury.gov/asap/>.

To receive disbursements, the Recipient must submit a Form SF-270 “*Request for Advance or Reimbursement*” for the applicable period electronically to the Project Officer, who will review and process the request.

Prior to the initial disbursement, Recipients must complete the attached Form SF-3881, “ACH Vendor/Miscellaneous Payment Enrollment Form” and submit it to NOAA’s Accounting Office by emailing through secure/encrypted email to: [edagrants@noaa.gov](mailto:edagrants@noaa.gov). The form must be completed by the respective parties (EDA, Recipient Bank, and Recipient) at the start of each new award.

EDA retains the right to change Recipients from Advance to Reimbursement or Agency Review status if the Grants Officer deems it necessary or prudent to ensure successful monitoring of Federal funds. In such cases, Recipients may be required to submit a complete Form SF-270, “*Request for Reimbursement*” for the applicable period electronically to the Project Officer, who will review and process the request.

**B. REPORTS:**

*a. Project Progress Reports:* The Recipient agrees to provide the Project Officer with project progress reports, communicating the important activities and accomplishments of the project, on a semi-annual basis for the periods ending **March 31** and **September 30**, or any portion thereof, for the entire project period.

Reports are due no later than one month following the end of the semi-annual period (April 30 and October 31).

Performance progress reports shall be submitted to EDA in an electronic format no later than the due date. Reports shall be in a clear format, not exceeding six pages, and shall:

- i. Provide a concise overview of the activities undertaken during the semi-annual reporting period;
- ii. Document accomplishments, benefits, and impacts of the project. The Recipient should identify activities that have led to specific outcomes, such as job creation/retention, private investment, increased regional collaboration, engagement with historically excluded groups or regions, enhanced regional capacity, or other positive economic development benefits;
- iii. Identify any upcoming or potential press events or opportunities for collaborative press engagements to highlight the benefits of the EDA investment;
- iv. Compare progress on the project with the targeted schedule, explaining any departures, identifying how those departures will be remedied, and projecting the course of work for the next semi-annual reporting period;
- v. Outline challenges impeding or that may impede progress on the project over the next semi-annual reporting period and identify ways to address those challenges;
- vi. Outline any areas in which EDA assistance is needed to support the project; and
- vii. Provide any other information that would be helpful for your EDA Project Officer to know.

Final Project Reports may be posted on EDA's website, used for promotional materials or policy reviews, or otherwise shared. Recipients should not include any copyrighted or other sensitive business information in these reports. There is no page limit for Final Project Reports; however, such reports should concisely communicate key project information and should:

- i. Provide a high-level overview of the activities undertaken;
- ii. Outline the specific regional need the project was designed to address and explain how the project addressed that need and advanced economic development;
- iii. Document the expected and actual economic benefits of the project as of the time the report is written;

- iv. Detail lessons learned during the project that may be of assistance to EDA or other communities undertaking similar efforts; and
  - v. Provide any other information necessary to understand the project and its impacts.
- b. *Financial Reports*: The Recipient shall submit a “*Federal Financial Report*” (Form SF-425 or any successor form) on a semi-annual basis for the periods ending **March 31** and **September 30**, or any portion thereof, for the entire project period. Form SF-425 and instructions for completing it are available at: <https://www.grants.gov/forms/post-award-reporting-forms.html>. Reports are due no later than one month following the end of the semi-annual period (April 30 and October 31).

A final Form SF-425 must be submitted no more than 90 calendar days after the Award End Date specified on the Form CD-450 (or any subsequently executed Form CD-451). Final Financial Reports should follow the instructions for submitting mid-term financial reports, but should ensure that all fields accurately reflect the total outlays for the entire project period and that all matching funds and program income (if applicable) are fully reported. **Determination of the final grant rate and final balances owed to the government will be determined based on the information on the final Form SF-425, so it is imperative that it be submitted in a timely and accurate manner.**

6. **ALLOWABLE COSTS AND AUTHORIZED BUDGET:** Total allowable costs will be determined after the final financial documents are submitted in accordance with the applicable authorities specified on the Financial Assistance Award (Form CD-450), including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. part 200. The Recipient must submit a line item budget for EDA approval as part of its Grant Administration Plan (see Condition 16). Upon approval, the line item budget will be incorporated into these Specific Award Conditions as Attachment 3, *Authorized Budget*.
7. **FEDERAL SHARE:** The Federal Share of total allowable project cost for this Award is 100 percent. EDA will fund 100 percent of the total allowable project costs or the grant amount shown on the Financial Assistance Award (Form CD-450), whichever is less.
8. **REFUND CHECKS, INTEREST, OR UNUSED FUNDS:** If the Recipient needs to return money to EDA, it may use one of the following two methods:
- i. The first is the pay.gov website, which allows the Recipient to pay EDA online. The Recipient will have the option to make a one-time payment or to set up an account to make regular payments.

- ii. The second is paper check conversion. All checks must be made payable to “Department of Commerce, Economic Development Administration” and include the award number and a description of no more than two words identifying the reason for the payment. A copy of the check should be provided to the EDA Project Officer. The check should be mailed to NOAA’s Accounting Office, which processes EDA’s accounting functions, at the following address:

U.S. Department of Commerce  
National Oceanic and Atmospheric Administration  
Finance Office, AOD, EDA Grants  
20020 Century Boulevard  
Germantown, MD 20874

When funds are remitted to EDA by check, the check will be converted into an electronic funds transfer (EFT) by using the account information on the check to debit the payor’s account electronically. The debit from the payor’s account will usually occur within 24 hours. EDA will not return the check; the original will be destroyed and a copy will be retained. If the EFT cannot be completed because of insufficient funds, EDA will charge a one-time fee of \$25.00, which will be collected by EFT.

9. **PLANNING COORDINATION:** In keeping with regional economic development principles, the Recipient should coordinate economic development planning and implementation projects with other economic development organizations active in the project area, especially EDA-funded recipients such as state and urban planning grantees, adjoining Economic Development Districts (EDDs), Indian Tribes, and University Centers (UCs).
10. **TECHNICAL ASSISTANCE TO BUSINESSES:** Any technical assistance offered to businesses under the EDA award shall be widely advertised and accessible to all potentially benefitting businesses, as is reasonably permitted by the EDA project *Authorized Scope of Work* and *Authorized Budget*. The Recipient shall maintain adequate documentation of any technical assistance offered and/or provided to benefitting businesses under the EDA award.
11. **PROCUREMENT:** The Recipient agrees that all procurement transactions shall be in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. §§ 200.317–200.327.
12. **NONRELOCATION:** By accepting this Award, the Recipient attests that EDA funding is not intended by the Recipient to assist efforts to induce the relocation or the movement of existing jobs from one region to another region in competition for those jobs. In the event that EDA determines that its assistance was used for such purposes, EDA reserves the right

to pursue appropriate enforcement actions, including suspension of disbursements, termination of the Award for convenience or cause (which may include the establishment of a debt requiring the Recipient to reimburse EDA), or disallowance of any costs attributable, directly or indirectly, to the relocation.

13. **PERFORMANCE MEASURES:** The Semi-Annual Program Outputs Questionnaire for EDA Grantees (Non-infrastructure programs) (Form ED-916) must be submitted by Recipient to EDA on a semi-annual basis during the period of performance of this Award, or as otherwise directed by EDA. EDA will provide Recipient with the first electronic Outputs Questionnaire approximately six months after the date the period of performance starts, as set forth in Form CD-450. EDA will then provide Recipient subsequent electronic Outputs Questionnaires approximately every six months thereafter through the end of the period of performance, or any portion thereof if applicable. Recipient must complete and submit to EDA each electronic Outputs Questionnaire within 30 days of receipt.

The Annual Capacity Outcomes Questionnaire for EDA Grantees Serving Clients (Non-Infrastructure Programs) (Form ED-917) or the Annual Capacity Outcomes Questionnaire for EDA Grantees not Serving Clients (Non-infrastructure programs) (Form ED-918) must be submitted by Recipient to EDA on an annual basis for five years, or as otherwise directed by EDA. If Recipient will directly serve clients (i.e. beneficiaries) under the Authorized Scope of Work, Recipient must submit Form ED-917; if Recipient will not directly serve clients under the Authorized Scope of Work, Recipient must submit Form ED-918. (Recipient should consult the project officer if Recipient is unsure whether activities in the Authorized Scope of Work constitute serving clients.) Recipient will automatically receive whichever Outcomes Questionnaire is most appropriate, as determined by the EDA project officer, for the Authorized Scope of Work. EDA will provide Recipient with the first electronic Outcomes Questionnaire approximately one year after the date the period of performance starts, as set forth in Form CD-450. EDA will then provide Recipient subsequent electronic Outcomes Questionnaires approximately every 12 months thereafter for a total of five years, notwithstanding the end of the period of performance. Recipient must complete and submit to EDA each Outcomes Questionnaire within 30 days of receipt.

EDA may revise or replace the Outputs Questionnaire and/or the Outcomes Questionnaire at any time during or following the period of performance of this Award. Recipient agrees to report on program performance measures and program outcomes in such form and at such intervals as may be prescribed by EDA in compliance with the Government Performance and Results Act (GPRA) of 1993 and the Government Performance and Results Modernization Act of 2010 (collectively, GPRA Reports). Recipient must collect sufficient data and retain sufficient documentation to enable Recipient to complete required GPRA Reports. Failure to submit to EDA required GPRA Reports might adversely impact

the ability of the Recipient to secure future funding from EDA.

- 14. STAFFING CHANGES:** The Recipient must submit a Staffing Plan for EDA approval as part of its Grant Administration Plan (see Conditions 16). Upon approval, the Staffing Plan will be incorporated into these Specific Award Conditions as Attachment 4. In the event of a change in the professional staff positions primarily funded with the EDA grant, the Recipient shall provide the name of the individual selected to fill the position to the Project Officer and a copy of his or her resume within 30 business days of the selection.
- 15. REAFFIRMATION OF APPLICATION:** Recipient acknowledges that Recipient's application for this Award may have been submitted to the Government and signed by Recipient, or by an authorized representative of Recipient, electronically. Regardless of the means by which Recipient submitted its application to the Government or whether Recipient or an authorized representative of Recipient submitted its application to the Government, the Recipient hereby reaffirms and states that:

- i. All data in the application and documents submitted with the application are true and correct as of the date the application was submitted and remain true and correct as of the date of this Award;
- ii. The application was, as of the date of submission and the date of this Award, duly authorized as required by local law by the governing body of the Recipient; and
- iii. Recipient has read, understood, and will comply with all terms of this Award, including the Assurances and Certifications submitted with, or attached to, the application.

The term "application" includes all documentation and any information provided to the Government as part of, and in furtherance to, the request for funding, including submissions made in response to information requested by the Government after submission of the initial application.

- 16. GRANT ADMINISTRATION PLAN:** Prior to the initial disbursement of Award funds, the Recipient shall provide to the Project Officer a Grant Administration Plan, not to exceed five pages, that outlines how the Recipient will implement the *Authorized Scope of Work*. The plan must include the following information:
- A. A list of tasks that Recipient will undertake to implement the *Authorized Scope of Work* at a sufficient level of detail to allow EDA to monitor Recipient's progress in implementing the project. The list of tasks must be consistent with the *Authorized Scope of Work* and the Project Narrative submitted as part of Recipient's application;

- B. The expected outputs and outcomes of the project;
- C. A completed Form SF-424A, “Budget Information - Non-Construction Programs” showing a line-item budget for performance of the award and a Budget Narrative that aligns with both Form SF-424A and the list of tasks;
- D. A Staffing Plan showing the individuals or positions that will charge time to the Award along with salary, percentage of effort, and estimated total amount each individual will charge to the Award; and
- E. A timeline for implementing the tasks identified.

Upon approval by EDA, the Grant Administration Plan shall be incorporated into and become an enforceable part of these Specific Award Conditions. The approved line item budget will become the *Authorized Budget*, and the approved staffing plan will become the *Authorized Staffing Plan*.

- 17. DUTY TO REFRAIN FROM EMPLOYING CERTAIN EDA EMPLOYEES:** For the two-year period beginning on the date the Grants Officer executes this Award, Recipient agrees that it will not employ, offer any office or employment to, or retain for professional services any person who, on the date the Grants Officer executes this Award or within the one-year period prior to that date: (a) served as an officer, attorney, agent, or employee of EDA; and (b) occupied a position or engaged in activities that the Assistant Secretary for Economic Development determines involved discretion with respect to the granting of financial assistance under the American Rescue Plan Act (Pub. L. 117-2).

This Specific Award Condition is not applicable if Recipient is an Indian Tribe, a State, county, city, or other political subdivision of a State, or a public institution of higher education.

The two-year period and associated restrictions referenced above also shall apply beginning on the date the Grants Officer executes any cost amendment to this Award that provides additional funds to Recipient.

- 18. WASTE, FRAUD AND ABUSE:** Consistent with 2 C.F.R. part 200, at EDA’s direction, at any time(s) during the estimated useful life of the Project, Recipient’s key personnel will take a training on preventing waste, fraud and abuse as provided by the Government. Key personnel include those responsible for managing the Recipient’s finances and overseeing any contractors, sub-contractors or sub-grantees (for financial matters and/or general oversight related to this Project). EDA will provide instructions on when and how to take the training. Within sixty days of accepting the EDA Financial Assistance Award, the Recipient shall provide to the Project Officer all Certificates of Completion for the Waste, Fraud, and Abuse training. In the event there are co-recipients of this Award, the

obligations in the Specific Award Condition shall apply to all recipients whether or not designated in this Award as the Lead Recipient.

Further, Recipient will monitor award activities for common fraud schemes (hereinafter “Fraud Schemes”), such as but not limited to:

- false claims for materials and labor,
- bribes related to the acquisition of materials and labor,
- product substitution,
- mismarking or mislabeling on products and materials, and
- time and materials overcharging.

Should Recipient detect any Fraud Schemes or any other suspicious activity, Recipient will contact the EDA staff listed above and the Department of Commerce, Office of Inspector General, as indicated at <https://www.oig.doc.gov/Pages/Contact-Us.aspx>, as soon as possible.

- 19. SUBAWARDS:** It is understood that certain work activities undertaken as part of the project funded through this Financial Assistance Award will be accomplished through a subaward by the Recipient to the Subawardee. Before the subawardee undertakes any work to be funded through this Award, the Recipient shall enter into a written subaward agreement with the Subawardee governing the Subawardee’s work activities. The subaward agreement shall meet the requirements of 2 C.F.R. § 200.331(a) and shall include a requirement that the Subawardee comply with all of the terms and conditions of this Financial Assistance Award, including but not limited to the Standard and Specific Award conditions and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. part 200). The Recipient shall be responsible for monitoring the Subawardee’s performance under the Subaward in accordance with the requirements of 2 C.F.R. § 200.331.

All awardees of applicable grants and cooperative agreements are required to report to the Federal Subaward Reporting System (FSRS) available at [www.FSRS.gov](http://www.FSRS.gov) on all sub-awards over \$30,000. Please see the OMB guidance published at 2 C.F.R. part 170 (2015), which can be accessed at <http://www.gpo.gov/fdsys/pkg/CFR-2015-title2-vol1/pdf/CFR-2015-title2-vol1-part170.pdf>.

## ATTACHMENT 1

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### **Authorized Scope of Work for the Statewide Planning Program**

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The Scope of Work for this Award includes authorized activities to prevent, prepare for, and respond to the coronavirus (COVID-19) pandemic or respond to economic injury as a result of coronavirus. Such activities shall include one or more of the following pre-approved grant activities that shall focus on the economic development and recovery for the state:

- Developing economic development plans that identify new or existing industry clusters that would benefit from specific infrastructure, studies, and/or workforce investments to facilitate rapid expansion of such industry clusters. These plans may be designed specifically to facilitate future applications to EDA's ARPA Build Back Better Regional Challenge NOFO by, at a minimum, identifying projects that could promote the establishment or expansion of an industry clusters. For states negatively impacted by the downturn in the coal economy, EDA expects that the plans developed under this activity will specifically address the economic effects of the transition away from coal and expansion or creation of industry clusters to support affected communities.
- Bringing together potentially disparate existing local and regional plans, such as Comprehensive Economic Development Strategies (CEDS), or state and local plans under the Workforce Innovation and Opportunity Act (WIOA), into one holistic and inclusive state-wide plan or a plan that encompasses multiple regions within a state or across state lines including strengthening links between urban and rural areas. Any such plan should adhere to EDA's CEDS guidelines, take into account the needs of all populations, including Tribal, other indigenous communities, or other underserved communities, including rural communities and persistent poverty communities, and consider positive responses to current and long-term market dynamics driving the state's economic well-being and global competitiveness.
- Analyzing the needs of persistent poverty communities and formulating strategies to decrease disparities between these areas and more prosperous areas within a state.
- Facilitating coordination with Tribes or other indigenous communities regarding State, regional, or local planning efforts that intersect with the Tribes' interests and are supported by impacted Tribal communities.
- Hiring disaster recovery coordinators, including possibly extending the terms of disaster recovery coordinators hired by local Economic Development Districts pursuant to EDA's CARES Act funding.
- Supporting statewide broadband data collection and mapping efforts and developing statewide broadband deployment and technical assistance plans.
- Conducting a statewide skills assessment and analysis to help inform workforce development and training needs based on employers' demand for skills, including

coordination with the state labor market information agency and the state workforce development board.

- Cataloging state innovation and entrepreneurship assets including mechanisms to access capital and equity financing to support business development and expansion and gaps in access to capital for underserved rural and urban communities.
- Undertaking a statewide supply chain and logistics assessment to increase efficiencies.
- Identifying state assets and economic resources and developing action plans that will benefit the state's economy in a regional and global marketplace.
- Other related activities as approved in writing by EDA.

ATTACHMENT 2

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**Project Contact Information**

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The Recipient Contact's name, title, address, and telephone number are:

Michael Kennealy Secretary of Housing & Economic Dev (774) 608-6207 Michael.kennealy@mass.gov	Commonwealth of Massachusetts 1 Ashburton Place Boston, MA 02108
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The Grants Officer is authorized to award, amend, suspend, and terminate financial assistance awards. The Grants Officer is:

Linda Cruz Carnall Regional Director Fax: 215-597-4063	Economic Development Administration Philadelphia Regional Office Robert N.C. Nix Federal Building 900 Market Street, Room 602 Philadelphia, PA 19107
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The Federal Program Officer (Area Director) oversees the programmatic aspects of this Award. The Federal Program Officer is:

Christine Frost Area Director Phone: 1-267-314-3419 Email: <a href="mailto:cfrost2@eda.gov">cfrost2@eda.gov</a>	Economic Development Administration Philadelphia Regional Office Robert N.C. Nix Federal Building 900 Market Street, Room 602 Philadelphia, PA 19107
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The Project Officer is responsible for day-to-day administration and liaison with the Recipient and receives all reports and payment requests. The Project Officer is:

Matthew Magargee Economic Development Specialist Phone: (215) 518-9916 Email: <a href="mailto:mmcargee@eda.gov">mmcargee@eda.gov</a>	Economic Development Administration Philadelphia Regional Office Robert N.C. Nix Federal Building 900 Market Street, Room 602 Philadelphia, PA 19107
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capacity of appropriate organizations, such as regional planning agencies or community foundations. This project will be executed in a phased approach, with the first datasets for priority areas to be identified as soon as 6-8 months, and the full project to be completed within 12-18 months.

### **“Innovations in Childcare” Study**

The Commonwealth’s childcare system is critical to our economic productivity, as it provides the means for many talented individuals, who are parents and require care for their young children, to more fully participate in the workforce. It is also an industry in flux following the COVID-19 pandemic, as families with young children navigate the return to an in-person, remote, or hybrid work environment. At the same time, childcare businesses are struggling to rebuild capacity to serve the Commonwealth’s children and meet growing demand. Finally, business model challenges tie to affordability issues for families; it is clear that new strategies will be necessary to address the childcare “deserts” while keeping access affordable.

To address these pressing challenges, Massachusetts proposes deploying \$300,000 of the \$1,000,000 award to execute a study and produce actionable recommendations for the childcare industry in the Commonwealth, entitled “Innovations in Childcare.” This project will focus on two of the most pressing issues facing the childcare industry: 1) recruiting and sustaining a qualified workforce and 2) expanding access to affordable quality care for working families. This plan will be implemented in three phases:

*Phase 1, Community, Partner, and Stakeholder Engagement (August – November 2021):* In preparation to receive the EDA grant award, EEC will engage a variety of stakeholders to discuss opportunities to transform the industry. This phase will include the following:

1. Formally engage the business and employer community.
2. Review best practices in workforce recruitment which may bear on the childcare workforce from across the Administration and elsewhere.
3. Analyze working families’ needs for childcare in Massachusetts across regions of the state.

*Phase 2, Analysis of Economic Data and Childcare Business Models (November 2021 - January 2022):* Upon receipt of EDA grant funds, EEC will begin formal analysis with a panel of labor market economists, childcare market specialists, and counterparts from other states, compiling multiple sources of economic data and business model insights. Analysis will examine emerging workforce and childcare pilots, and focus on three factors:

1. Work with labor and market experts to help do a deeper data dive into the drivers of compensation.
2. Identify drivers of affordability in childcare through an analysis of the market rates.
3. Identify pilots for increasing industry innovation and sustainability through business incubation models.

*Phase 3, Finalize an Innovations in Childcare Report (January 2022 – March 2022):* Findings from Phases 1 and 2 analysis will be used to finalize a report on innovations within the Commonwealth. This document will recommend longer term policies and programs that support working families as we move into new ways of working, grow the industry, and enhance the ability of families to re-engage in the workplace. From this report, EEC, along with Administration and other partners, will set the stage for replicating and scaling interventions in future.

**EXHIBIT 9**

**DEPARTMENT OF COMMERCE  
FINANCIAL ASSISTANCE  
STANDARD TERMS AND CONDITIONS**



12 November 2020

**DEPARTMENT OF COMMERCE**  
**FINANCIAL ASSISTANCE STANDARD TERMS AND CONDITIONS**

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## PREFACE

This document sets out the standard terms and conditions (ST&Cs) applicable to this U.S. Department of Commerce (DOC or Commerce) financial assistance award (hereinafter referred to as the DOC ST&Cs or Standard Terms). A non-Federal entity<sup>1</sup> receiving a DOC financial assistance award must, in addition to the assurances made as part of the application, comply and require each of its subrecipients, contractors, and subcontractors employed in the completion of the project to comply with all applicable statutes, regulations, executive orders (E.O.s), Office of Management and Budget (OMB) circulars, provisions of the OMB *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (codified at 2 C.F.R. Part 200) (OMB Uniform Guidance), provisions of these Standard Terms, and any other terms and conditions incorporated into this DOC financial assistance award. In addition, unless otherwise provided by the terms and conditions of this DOC financial assistance award, Subparts A through E of 2 C.F.R. Part 200 and the Standard Terms are applicable to for-profit entities, foreign public entities and to foreign organizations that carry out a DOC financial assistance award.<sup>2</sup>

This award is subject to the laws and regulations of the United States. Any inconsistency or conflict in terms and conditions specified in the award will be resolved according to the following order of precedence: federal laws and regulations, applicable notices published in the *Federal Register*, E.O.s, OMB circulars, DOC ST&Cs, agency standard award conditions (if any), and specific award conditions. A specific award condition may amend or take precedence over a Standard Term on a case-by-case basis, when indicated by the specific award condition.

Some of the Standard Terms herein contain, by reference or substance, a summary of the pertinent statutes, regulations published in the *Federal Register* or Code of Federal Regulations (C.F.R.), E.O.s, OMB circulars, or the certifications and assurances provided by applicants through Standard Forms (*e.g.*, SF-424s) or through DOC forms (*e.g.* Form CD-511). To the extent that it is a summary, such Standard Term provision is not in derogation of, or an amendment to, any such statute, regulation, E.O., OMB circular, certification, or assurance.

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<sup>1</sup> Note that the OMB Uniform Guidance uses the term “non-Federal entity” to generally refer to an entity that carries out a Federal award as a recipient or subrecipient. Because some of the provisions of these DOC ST&Cs apply to recipients rather than subrecipients, or vice versa, for clarity, these DOC ST&Cs use the terms “non-Federal entity,” “recipient,” and “subrecipient” consistent with their meanings in the OMB Uniform Guidance. In addition, the OMB Uniform Guidance uses the term “pass-through entity” to refer to a non-Federal entity that makes a subaward. As defined at 2 C.F.R. § 200.1:

“Non-Federal entity” is “a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.”

“Recipient” is “an entity, usually but not limited to non-Federal entities, that receives a Federal award directly from a Federal awarding agency. The term recipient does not include subrecipients or individuals that are beneficiaries of the award.”

“Subrecipient” is “an entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.”

“Pass-through entity” is “a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.”

<sup>2</sup> See 2 C.F.R. § 200.1 for the definitions of “foreign public entity” and “foreign organization.”

DOC commenced implementation of the Research Terms and Conditions (RT&Cs) for Federal awards effective October 1, 2017; the RT&Cs address and implement the Uniform Guidance issued by OMB. For awards designated on the Form CD-450 (Financial Assistance Award) as Research, both the DOC ST&Cs and the RT&Cs as implemented by DOC apply to the award. The RT&Cs as well as the DOC implementation statement, agency specific requirements, prior approval matrix, subaward requirements, and national policy requirements are posted on the National Science Foundation's website – <https://www.nsf.gov/awards/managing/rtc.jsp>. The DOC ST&Cs and the RT&Cs are generally intended to harmonize with each other; however, where the DOC ST&Cs and the RT&Cs differ in a Research award, the RT&Cs prevail, unless otherwise indicated in a specific award condition.

## **A. PROGRAMMATIC REQUIREMENTS**

### **.01 Reporting Requirements**

a. Recipients must submit all reports as required by DOC, electronically or, if unable to submit electronically, in hard copy, as outlined below and as may be supplemented by the terms and conditions of a specific DOC award.

b. Performance (Technical) Reports. Recipients must submit performance (technical) reports to the Program Officer. Performance (technical) reports should be submitted in the same frequency as the Form SF-425 (Federal Financial Report), unless otherwise directed by the Grants Officer.

1. Performance (technical) reports must contain the information prescribed in 2 C.F.R. § 200.329 (Monitoring and reporting program performance), unless otherwise specified in the award conditions.

2. As appropriate and in accordance with the format provided by the Program Officer (or other OMB-approved information collections, including the Research Program Performance Report [RPPR] as adopted by DOC for use in research awards), recipients are required to relate financial data to the performance accomplishments of this Federal award. When applicable, recipients must also provide cost information to demonstrate cost effective practices (e.g., through unit cost data). The recipient's performance will be measured in a way that will help DOC to improve program outcomes, share lessons learned, and spread the adoption of best or promising practices. As described in 2 C.F.R. § 200.211 (Information contained in a Federal award), DOC will identify the timing and scope of expected performance by the recipient as related to the outcomes intended to be achieved by the Federal program.

3. Recipients (or pass-through entities as applicable) must submit a final performance report within 120 calendar days after the expiration of the period of performance. The subrecipient is required to submit its final performance report to the pass-through entity within 90 calendar days unless an extension has been granted.

c. Financial Reports. In accordance with 2 C.F.R. § 200.328 (Financial reporting), the recipient must submit a Form SF-425 (Federal Financial Report) or any successor form on a semi-annual basis for the periods ending March 31 and September 30, or any portion thereof, unless otherwise specified in a specific award condition. Reports must be submitted to DOC as directed by the Grants Officer, in accordance with the award conditions and are due no later than 30 calendar days following the end of each reporting period. Recipients (or pass-through entities as applicable) must submit a final Form SF-425 within 120 calendar days after the expiration of the period of performance. The subrecipient is required to submit its financial report to the pass-through entity within 90 calendar days unless an extension has been granted. A recipient may submit a final financial report in lieu of an interim financial report due at the end of the period of performance (e.g., in lieu of submitting a financial report for the last semi-annual or other reporting under an award, a recipient may submit a final (cumulative) financial report covering the entire award period).

d. Real Property, Tangible Personal Property and Intangible Property Reports and Requests for Dispositions. Unless otherwise required by the terms and conditions of a DOC financial assistance award, where real property, tangible personal property or intangible property is acquired or improved (in the case of real property or tangible personal property), or produced or acquired (in the case of intangible property), pursuant to a DOC award, non-Federal entities are required to submit the following real property, tangible personal property and intangible property reports (as appropriate):

1. Real Property Status Reports and Requests for Dispositions: Non-Federal entities must submit reports using Form SF-429 (Real Property Status Report) or any successor form, including appropriate attachments thereto, at least annually disclosing the status of real property that is Federally-owned property or real property in which the Federal Government retains a Federal Interest, unless the Federal Interest in the real property extends 15 years or longer. In cases where the Federal Interest attached is for a period of 15 years or more, the DOC or pass-through entity, at its option, may require the non-Federal entity to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or, the DOC or pass-through entity may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years). In addition, DOC or a pass-through entity may require a non-Federal entity to submit Form SF-429, with appropriate attachments, relating to a non-Federal entity's request to acquire, improve or contribute real property under a DOC financial assistance award.

Non-Federal entities wishing to dispose of real property acquired or improved, in whole or in part, pursuant to a DOC award must request disposition instructions, including the submission of Form SF-429, with appropriate attachments, from the Grants Officer in accordance with the requirements set forth in 2 C.F.R. § 200.311(c). *See also* the real property standards set forth in Section C. of these Standard Terms (Property Standards).

2. Tangible Personal Property Status Reports and Requests for Dispositions: DOC or a pass-through entity may also require a non-Federal entity to submit periodic reports using Form SF-428 (Tangible Personal Property Report) or any successor form, including appropriate attachments thereto, concerning tangible personal property that is Federally-owned or tangible personal property in which the Federal Government retains an interest. In

addition, DOC or a pass-through entity may require a non-Federal entity to submit Form SF-428 in connection with a non-Federal entity's request to dispose of tangible personal property acquired under a DOC financial assistance award. Non-Federal entities wishing to dispose of tangible personal property acquired or improved, in whole or in part, pursuant to a DOC award must request disposition instructions, including the submission of Form SF-428, with appropriate attachments, from the Grants Officer in accordance with the requirements set forth in 2 C.F.R. § 200.313(e). *See also* the tangible property standards set forth in Section C. of these Standard Terms (Property Standards).

3. Intangible Property Status Reports and Requests for Dispositions: The specific requirements governing the development, reporting, and disposition of rights to intangible property, including inventions and patents resulting from DOC awards, are set forth in 37 C.F.R. Part 401, which is hereby incorporated by reference into this award. Non-Federal entities are required to submit their disclosures, elections, and requests for waiver from any requirement for substantial U.S. manufacture, electronically using the Interagency Edison extramural invention reporting system (iEdison) at [www.iedison.gov](http://www.iedison.gov). Non-Federal entities may obtain a waiver of this electronic submission requirement by providing to the Grants Officer compelling reasons for allowing the submission of paper reports. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in 2 C.F.R. § 200.313(e). *See also* the intangible property standards set forth in Section C. of these Standard Terms (Property Standards).

e. Subawards and Executive Compensation Reports. For reporting requirements on subawards and Executive Compensation, see paragraph G.05.o of these Standard Terms (The Federal Funding Accountability and Transparency Act (FFATA) (31 U.S.C. § 6101 note)).

f. Recipient Integrity and Performance Matters. For reporting requirements pertaining to integrity and performance matters, see paragraph G.05.p of these Standard Terms (Recipient Integrity and Performance Matters (Appendix XII to 2 C.F.R. Part 200)).

g. Research Performance Progress Reports. All research awards shall submit the Research Performance Progress Report (RPPR) in accordance with instructions set forth in the following link: [RPPR Instructions](#).

## **.02 Revisions of Program Plans**

In accordance with 2 C.F.R. § 200.308 (Revision of budget and program plans) and 2 C.F.R. § 200.407 (Prior written approval (prior approval)), the recipient must obtain prior written approval from the DOC Grants Officer for certain proposed programmatic change requests, unless otherwise provided by the terms and conditions of a DOC award. Requests for prior approval for changes to program plans must be submitted to the Federal Program Officer (or electronically for awards administered through Grants Online). Requests requiring prior DOC approval are not effective unless and until approved in writing by the DOC Grants Officer.

### **.03 Other Federal Awards with Similar Programmatic Activities**

The recipient must immediately provide written notification to the DOC Program Officer and the DOC Grants Officer if, subsequent to receipt of the DOC award, other financial assistance is received to support or fund any portion of the scope of work incorporated into the DOC award. DOC will not pay for costs that are funded by other sources.

### **.04 Prohibition against Assignment by a Non-Federal Entity**

A non-Federal entity must not transfer, pledge, mortgage, assign, encumber or hypothecate a DOC financial assistance award or subaward, or any rights to, interests therein or claims arising thereunder, to any party or parties, including but not limited to banks, trust companies, other financing or financial institutions, or any other public or private organizations or individuals without the express prior written approval of the DOC Grants Officer or the pass-through entity (which, in turn, may need to obtain prior approval from the DOC Grants Officer).

### **.05 Disclaimer Provisions**

a. The United States expressly disclaims all responsibility or liability to the non-Federal entity or third persons (including but not limited to contractors) for the actions of the non-Federal entity or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any subaward, contract, or subcontract under this award.

b. The acceptance of this award or any subaward by the non-Federal entity does not in any way constitute an agency relationship between the United States and the non-Federal entity or the non-Federal entity's contractors or subcontractors.

### **.06 Unsatisfactory Performance or Non-Compliance with Award Provisions**

a. Failure to perform the work in accordance with the terms of the award and maintain satisfactory performance as determined by DOC may result in the imposition of additional award conditions pursuant to 2 C.F.R. § 200.208 (Specific conditions) or other appropriate enforcement action as specified in 2 C.F.R. § 200.339 (Remedies for noncompliance).

b. Failure to comply with the provisions of an award will be considered grounds for appropriate enforcement action pursuant to 2 C.F.R. § 200.339 (Remedies for noncompliance), including but not limited to: the imposition of additional award conditions in accordance with 2 C.F.R. § 200.208 (Specific conditions); temporarily withholding award payments pending the correction of the deficiency; changing the payment method to reimbursement only; the disallowance of award costs and the establishment of an accounts receivable; wholly or partially suspending or terminating an award; initiating suspension or debarment proceedings in accordance with 2 C.F.R. Parts 180 and 1326; and such other remedies as may be legally available.

c. 2 C.F.R. §§ 200.340 (Termination) through 200.343 (Effects of suspension and termination) apply to an award that is terminated prior to the end of the period of performance

due to the non-federal entity's material failure to comply with the award terms and conditions. In addition, the failure to comply with the provisions of a DOC award may adversely impact the availability of funding under other active DOC or Federal awards and may also have a negative impact on a non-Federal entity's eligibility for future DOC or Federal awards.

## **B. FINANCIAL REQUIREMENTS**

### **.01 Financial Management**

a. In accordance with 2 C.F.R. § 200.302(a) (Financial Management), each State must expend and account for the Federal award in accordance with State laws and procedures for expending and accounting for the State's own funds. In addition, the State's and any other non-Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used in accordance with Federal statutes, regulations, and the terms and conditions applicable to the Federal award. *See also* 2 C.F.R. § 200.450 (Lobbying) for additional management requirements to verify that Federal funds are not used for unallowable lobbying costs.

b. The financial management system of each non-Federal entity must provide all information required by 2 C.F.R. § 200.302(b). *See also* 2 C.F.R. §§ 200.334 (Retention requirements for records); 200.335 (Requests for transfer of records); 200.336 (Methods for collection, transmission and storage of information); 200.337 (Access to records); and 200.338 (Restrictions on public access to records).

### **.02 Award Payments**

a. Consistent with 2 C.F.R. § 200.305(a) (Federal payment), for States, payments are governed by Treasury-State Cash Management Improvement Act (CMIA) agreements and default procedures codified at 31 C.F.R. Part 205 (Rules and Procedures for Efficient Federal-State Funds Transfers) and Treasury Financial Manual Volume I, 4A-2000 (Overall Disbursing Rules for All Federal Agencies).

b. Consistent with 2 C.F.R. § 200.305(b), for non-Federal entities other than States, payment methods must minimize the amount of time elapsing between the transfer of funds from the U.S. Treasury or the pass-through entity and the disbursement by the non-Federal entity.

1. The Grants Officer determines the appropriate method of payment and, unless otherwise stated in a specific award condition, the advance method of payment must be authorized. Advances must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-Federal entity in carrying out the purpose of the approved program or project. Unless otherwise provided by the terms and conditions of a DOC award, non-Federal entities must time advance payment requests so that Federal funds are on hand for a maximum of 30 calendar days before being disbursed by the

non-Federal entity for allowable award costs.

2. If a non-Federal entity demonstrates an unwillingness or inability to establish procedures that will minimize the time elapsing between the transfer of funds and disbursement by the non-Federal entity or if a non-Federal entity otherwise fails to continue to qualify for the advance method of payment, the Grants Officer or the pass-through entity may change the method of payment to reimbursement only.

c. Unless otherwise provided for in the award terms, payments from DOC to recipients under this award will be made using the Department of Treasury's Automated Standard Application for Payment (ASAP) system. Under the ASAP system, payments are made through preauthorized electronic funds transfers directly to the recipient's bank account, in accordance with the requirements of the Debt Collection Improvement Act of 1996. To receive payments under ASAP, recipients are required to enroll with the Department of Treasury, Financial Management Service, Regional Financial Centers, which allows them to use the on-line and Voice Response System (VRS) method of withdrawing funds from their ASAP established accounts. The following information will be required to make withdrawals under ASAP:

1. ASAP account number – the Federal award identification number found on the cover sheet of the award;
2. Agency Location Code (ALC); and
3. Region Code.

d. Recipients enrolled in the ASAP system do not need to submit a Form SF-270 (Request for Advance or Reimbursement) for payments relating to their award. Awards paid under the ASAP system will contain a specific award condition, clause, or provision describing enrollment requirements and any controls or withdrawal limits set in the ASAP system.

e. When the Form SF-270 or successor form is used to request payment, the recipient must submit the request no more than monthly, and advances must be approved for periods to cover only expenses reasonably anticipated over the next 30 calendar days. Prior to receiving payments via the Form SF-270, the recipient must complete and submit to the Grants Officer the Form SF-3881 (ACH Vendor Miscellaneous Payment Enrollment Form) or successor form along with the initial Form SF-270. Form SF-3881 enrollment must be completed before the first award payment can be made via a Form SF-270 request.

f. The Federal award identification number must be included on all payment-related correspondence, information, and forms.

g. Non-Federal entities receiving advance award payments must adhere to the depository requirements set forth in 2 C.F.R. §§ 200.305(b)(7) through (b)(11). Interest amounts up to \$500 per non-Federal entity's fiscal year may be retained by the non-Federal entity for administrative expenses.

### **.03 Federal and Non-Federal Sharing**

a. Awards that include Federal and non-Federal sharing incorporate a budget consisting of shared allowable costs. If actual allowable costs are less than the total approved budget, the Federal and non-Federal cost shares must be calculated by applying the approved Federal and non-Federal cost share ratios to actual allowable costs. If actual allowable costs exceed the total approved budget, the Federal share must not exceed the total Federal dollar amount authorized by the award.

b. The non-Federal share, whether in cash or third-party in-kind contributions, is to be paid out at the same general rate as the Federal share. Exceptions to this requirement may be granted by the Grants Officer based on sufficient documentation demonstrating previously determined plans for, or later commitment of, cash or third-party in-kind contributions. In any case, the recipient must meet its cost share commitment as set forth in the terms and conditions of the award; failure to do so may result in the assignment of specific award conditions or other further action as specified in Standard Term A.06 (Unsatisfactory Performance or Non-Compliance with Award Provisions). The non-Federal entity must create and maintain sufficient records justifying all non-Federal sharing requirements to facilitate questions and audits; see Section D of these Standard Terms (Audits), for audit requirements. *See* 2 C.F.R. § 200.306 for additional requirements regarding cost sharing.

### **.04 Budget Changes and Transfer of Funds among Categories**

a. Recipients are required to report deviations from the approved award budget and request prior written approval from DOC in accordance with 2 C.F.R. § 200.308 (Revision of budget and program plans) and 2 C.F.R. § 200.407 (Prior written approval (prior approval)). Requests for such budget changes must be submitted to the Grants Officer (or electronically for awards serviced through Grants Online) who will notify the recipient of the final determination in writing. Requests requiring prior DOC approval do not become effective unless and until approved in writing by the DOC Grants Officer.

b. In accordance with 2 C.F.R. § 200.308(f), transfers of funds by the recipient among direct cost categories are permitted for awards in which the Federal share of the project is equal to or less than the simplified acquisition threshold. For awards in which the Federal share of the project exceeds the simplified acquisition threshold, transfers of funds among direct cost categories must be approved in writing by the Grants Officer when the cumulative amount of such direct costs transfers exceeds 10 percent of the total budget as last approved by the Grants Officer. The 10 percent threshold applies to the total Federal and non-Federal funds authorized by the Grants Officer at the time of the transfer request. This is the accumulated amount of Federal funding obligated to date by the Grants Officer along with any non-Federal share. The same requirements apply to the cumulative amount of transfer of funds among programs, functions, and activities. This transfer authority does not authorize the recipient to create new budget categories within an approved budget without Grants Officer approval. Any transfer that causes any Federal appropriation, or part thereof, to be used for an unauthorized purpose is not and will not be permitted. In addition, this provision does not prohibit the recipient from requesting Grants Officer approval for revisions to the budget. *See* 2 C.F.R. § 200.308 (Revision

of budget and program plans) (as applicable) for specific requirements concerning budget revisions and transfer of funds between budget categories.

## **.05 Program Income**

Unless otherwise indicated in the award terms, program income may be used for any required cost sharing or added to the project budget, consistent with 2 C.F.R. § 200.307 (Program income).

## **.06 Indirect or Facilities and Administrative Costs**

a. Indirect costs (or facilities and administration costs (F&A)) for major institutions of higher education and major nonprofit organizations can generally be defined as costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefited, without effort disproportionate to the results achieved. Indirect costs will not be allowable charges against an award unless permitted under the award and specifically included as a line item in the award's approved budget.

b. Unrecovered indirect costs, including unrecovered indirect costs on cost sharing or matching, may be included as part of cost sharing or matching as allowed under 2 C.F.R. § 200.306(c) (Cost sharing or matching) or the terms and conditions of a DOC award.

c. Cognizant Agency for Indirect (F&A) Costs. OMB established the cognizant agency concept, under which a single agency represents all others in dealing with non-Federal entities in common areas. The cognizant agency for indirect costs reviews and approves non-Federal entities' indirect cost rates. In accordance with Appendices III – VII to 2 C.F.R. Part 200 the cognizant agency for indirect costs reviews and approves non-Federal entities' indirect cost rates. With respect to for-profit organizations, the term cognizant Federal agency generally is defined as the agency that provides the largest dollar amount of negotiated contracts, including options. *See* 48 C.F.R. § 42.003. If the only Federal funds received by a commercial organization are DOC award funds, then DOC becomes the cognizant Federal agency for indirect cost negotiations.

### **1. General Review Procedures Where DOC is the Cognizant Agency.**

i. Within 90 calendar days of the award start date, the recipient must submit to the Grants Officer any documentation (indirect cost proposal, cost allocation plan, etc.) necessary to allow DOC to perform the indirect cost rate proposal review. Below are two sources available for guidance on how to put an indirect cost plan together:

- (A) Department of Labor: <https://www.dol.gov/oasam/boc/dcd/np-comm-guide.htm>  
or
- (B) Department of the Interior: <https://www.doi.gov/ibc/services/finance/indirect-Cost-Services/>.

ii. The recipient may use the rate proposed in the indirect cost plan as a provisional rate until the DOC provides a response to the submitted plan.

iii. The recipient is required to annually submit indirect cost proposals no later than six months after the recipient's fiscal year end, except as otherwise provided by 2 C.F.R. § 200.414(g).

2. When DOC is not the oversight or cognizant Federal agency, the recipient must provide the Grants Officer with a copy of a negotiated rate agreement or a copy of the transmittal letter submitted to the cognizant or oversight Federal agency requesting a negotiated rate agreement within 30 calendar days of receipt of a negotiated rate agreement or submission of a negotiated rate proposal.

3. If the recipient is proposing indirect costs as part of a project budget, but is not required to have a negotiated rate agreement pursuant to 2 C.F.R. Part 200, Appendix VII, Paragraph D.1.b (*i.e.*, a governmental department or agency that receives \$35 million or less in direct Federal funding), the recipient may be required to provide the Grants Officer with a copy of its Certificate of Indirect Costs as referenced in 2 C.F.R. Part 200, Appendix VII, Paragraph D.3. or such other documentation, acceptable in form and substance to the Grants Officer, sufficient to confirm that proposed indirect costs are calculated and supported by documentation in accordance with 2 C.F.R. Part 200, Appendix VII. In cases where the DOC is the recipient's cognizant Federal agency, the DOC reserves the right, pursuant to 2 C.F.R. Part 200, Appendix VII, Paragraph D.1.b, to require the recipient to submit its indirect cost rate proposal for review by DOC.

d. If the recipient fails to submit required documentation to DOC within 90 calendar days of the award start date, the Grants Officer may amend the award to preclude the recovery of any indirect costs under the award. If the DOC, oversight, or cognizant Federal agency determines there is a finding of good and sufficient cause to excuse the recipient's delay in submitting the documentation, an extension of the 90-day due date may be approved by the Grants Officer.

e. The maximum dollar amount of allocable indirect costs for which DOC will reimburse the recipient is the lesser of:

1. The line item amount for the Federal share of indirect costs contained in the approved award budget, including all budget revisions approved in writing by the Grants Officer; or

2. The Federal share of the total indirect costs allocable to the award based on the indirect cost rate approved by the cognizant agency for indirect costs and applicable to the period in which the cost was incurred, in accordance with 2 C.F.R. 200 Appendix III, C.7, provided that the rate is approved on or before the award end date.

f. In accordance with 2 CFR § 200.414(c)(3), DOC set forth policies, procedures, and general decision-making criteria for deviations from negotiated indirect cost rates. These policies and procedures are applicable to all Federal financial assistance programs awarded and administered by DOC bureaus as Federal awarding agencies and may be found at [http://www.osec.doc.gov/oam/grants\\_management/policy/documents/FAM%202015-02.pdf](http://www.osec.doc.gov/oam/grants_management/policy/documents/FAM%202015-02.pdf).

g. In accordance with 2 CFR § 200.414(g), any non-Federal entity that has a negotiated indirect cost rate may apply to the entity's cognizant agency for indirect costs for a one-time extension of a currently negotiated indirect cost rate for a period of up to four years, reducing the frequency of rate calculations and negotiations between an institution and its cognizant agency.

h. In accordance with 2 CFR § 200.414(f), any non-Federal entity that does not have a current negotiated (including provisional) rate, except for those non-Federal entities described in paragraph D.1.b of Appendix VII to 2 CFR Part 200, may elect to charge a de minimis rate of 10 percent of modified total direct costs. No documentation is required to justify the 10 percent de minimis indirect cost rate.

## **.07 Incurring Costs or Obligating Federal Funds Before and After the Period of Performance**

a. In accordance with 2 C.F.R. § 200.309 (Modifications to Period of Performance) and the terms and conditions of a DOC award, a non-Federal entity may charge to the Federal award only allowable costs incurred during the period of performance, which is established in the award document. As defined at 2 C.F.R. § 200.1, the "period of performance" means the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. Identification of the Period of Performance in the Federal award per § 200.211(b)(5) does not commit the awarding agency to fund the award beyond the currently approved budget period." The period of performance may sometimes be referred to as the project period or award period. This Standard Term is subject to exceptions for allowable costs pertaining to: (i) pre-award costs (*see* 2 C.F.R. § 200.458); (ii) publication and printing costs (*see* 2 C.F.R. § 200.461); and administrative costs incurred relating to the close-out of an award (*see* 2 C.F.R. § 200.344).

b. Reasonable, necessary, allowable and allocable administrative award closeout costs are authorized for a period of up to 120 calendar days following the end of the period of performance. For this purpose, award closeout costs are those strictly associated with close-out activities and are typically limited to the preparation of final progress, financial, and required project audit reports, unless otherwise approved in writing by the Grants Officer. A non-Federal entity may request an extension of the 120-day closeout period, as provided in 2 C.F.R. § 200.344 (Closeout).

c. Unless authorized by a specific award condition, any extension of the period of performance may only be authorized by the Grants Officer in writing. This is not a delegable authority. Verbal or written assurances of funding from anyone other than the Grants Officer does not constitute authority to obligate funds for programmatic activities beyond the end of the period of performance.

d. The DOC has no obligation to provide any additional prospective funding. Any amendment of the award to increase funding and to extend the period of performance is at the sole discretion of DOC.

## **.08 Tax Refunds**

The non-Federal entity shall contact the Grants Officer immediately upon receipt of the refund of any taxes, including but not limited to Federal Insurance Contributions Act (FICA) taxes, Federal Unemployment Tax Act (FUTA) taxes, or Value Added Taxes (VAT) that were allowed as charges to a DOC award, regardless of whether such refunds are received by the non-Federal entity during or after the period of performance. The Grants Officer will provide written disposition instructions to the non-Federal entity, which may include the refunded taxes being credited to the award as either a cost reduction or a cash refund, or may allow the non-Federal entity to use such refunds for approved activities and costs under a DOC award. *See* 2 C.F.R. § 200.470 (Taxes (including Value Added Tax)).

## **.09 Internal Controls**

Each recipient must comply with standards for internal controls described at 2 C.F.R. § 200.303 (Internal controls). The “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States referenced in § 200.303 are available online at <http://www.gao.gov/assets/80/76455.pdf> and the “Internal Control Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) is available online at [Internal Control Guidance](#).

# **C. PROPERTY STANDARDS**

## **.01 Standards**

Each non-Federal entity must comply with the Property Standards set forth in 2 C.F.R. §§ 200.310 (Insurance coverage) through 200.316 (Property trust relationship).

## **.02 Real and Personal Property**

a. In accordance with 2 C.F.R. § 200.316 (Property trust relationship), real property, equipment, and other personal property acquired or improved with a Federal award must be held in trust by the non-Federal entity as trustee for the beneficiaries of the project or program under which the property was acquired or improved. This trust relationship exists throughout the duration of the property’s estimated useful life, as determined by the Grants Officer in consultation with the Program Office, during which time the Federal Government retains an undivided, equitable reversionary interest in the property (Federal Interest). During the duration of the Federal Interest, the non-Federal entity must comply with all use and disposition requirements and restrictions as set forth in 2 C.F.R. §§ 200.310 (Insurance coverage) through 200.316 (Property trust relationship), as applicable, and in the terms and conditions of the Federal award.

b. The Grants Officer may require a non-Federal entity to execute and to record (as applicable) a statement of interest, financing statement (form UCC-1), lien, mortgage or other public notice of record to indicate that real or personal property acquired or improved in whole or in part with Federal funds is subject to the Federal Interest, and that certain use and disposition

requirements apply to the property. The statement of interest, financing statement (Form UCC 1), lien, mortgage or other public notice must be acceptable in form and substance to the DOC and must be placed on record in accordance with applicable State and local law, with continuances re-filed as appropriate. In such cases, the Grants Officer may further require the non-Federal entity to provide the DOC with a written statement from a licensed attorney in the jurisdiction where the property is located, certifying that the Federal Interest has been protected, as required under the award and in accordance with applicable State and local law. The attorney's statement, along with a copy of the instrument reflecting the recordation of the Federal Interest, must be returned to the Grants Officer. Without releasing or excusing the non-Federal entity from these obligations, the non-Federal entity, by execution of the financial assistance award or by expending Federal financial assistance funds (in the case of a subrecipient), authorizes the Grants Officer and/or program office to file such notices and continuations as it determines to be necessary or convenient to disclose and protect the Federal Interest in the property. The Grants Officer may elect not to release any or a portion of the Federal award funds until the non-Federal entity has complied with this provision and any other applicable award terms or conditions, unless other arrangements satisfactory to the Grants Officer are made.

### **.03 Intellectual Property Rights**

a. General. The rights to any work or other intangible property produced or acquired under a Federal award are determined by 2 C.F.R. § 200.315 (Intangible property). The non-Federal entity owns any work produced or purchased under a Federal award subject to the DOC's royalty-free, nonexclusive, and irrevocable right to obtain, reproduce, publish, or otherwise use the work or authorize others to receive, reproduce, publish, or otherwise use the work for Government purposes.

b. Inventions. Unless otherwise provided by law, the rights to any invention made by a non-Federal entity under a DOC financial assistance award are determined by the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and as codified in 35 U.S.C. § 200 *et seq.*, and modified by E.O. 12591 (52 FR 13414), as amended by E.O. 12618 (52 FR 48661). 35 U.S.C. § 201(h) defines "small business firm" as "a small business concern as defined at section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration." Section 1(b)(4) of E.O. 12591 extended the Bayh-Dole Act to non-Federal entities "regardless of size" to the extent permitted by law. The specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from Federal awards are described in more detail in 37 C.F.R. Part 401, which implements 35 U.S.C. 202 through 204 and includes standard patent rights clauses in 37 C.F.R. § 401.14, which is hereby incorporated by reference into this award.

The Bayh-Dole regulations set forth in 37 C.F.R. parts 401 and 404 were amended by 83 FR 15954, with an effective date of May 14, 2018 (Amended Bayh-Dole Regulations). The Amended Bayh-Dole Regulations apply to all new financial assistance awards issued on or after May 14, 2018. The Amended Bayh-Dole Regulations do not apply to financial assistance awards issued prior to May 14, 2018, including amendments made to such awards, unless an award amendment includes a specific condition incorporating the Amended Bayh-Dole Regulations into the terms and conditions of the subject award.

1. Ownership. A non-Federal entity may have rights to inventions in accordance with 37 C.F.R. Part 401. These requirements are technical in nature and non-Federal entities are encouraged to consult with their Intellectual Property counsel to ensure the proper interpretation of and adherence to the ownership rules. Unresolved questions pertaining to a non-Federal entities' ownership rights may further be addressed to the Grants Officer.

2. Responsibilities - iEdison. The non-Federal entity must comply with all the requirements of the standard patent rights clause and 37 C.F.R. Part 401, including the standard patent rights clause in 37 C.F.R. § 401.14. Non-Federal entities are required to submit their disclosures, elections, and requests for waiver from any requirement for substantial U.S. manufacture, electronically using the Interagency Edison extramural invention reporting system (iEdison) at [www.iedison.gov](http://www.iedison.gov). Non-Federal entities may obtain a waiver of this electronic submission requirement by providing the Grants Officer with compelling reasons for allowing the submission of paper reports.

c. Patent Notification Procedures. Pursuant to E.O. 12889 (58 FR 69681), the DOC is required to notify the owner of any valid patent covering technology whenever the DOC or a non-Federal entity, without making a patent search, knows (or has demonstrable reasonable grounds to know) that technology covered by a valid United States patent has been or will be used without a license from the owner. To ensure proper notification, if the non-Federal entity uses or has used patented technology under this award without a license or permission from the owner, the non-Federal entity must notify the Grants Officer.

This notice does not constitute authorization or consent by the Government to any copyright or patent infringement occurring under the award.

d. A non-Federal entity may copyright any work produced under a Federal award, subject to the DOC's royalty-free, nonexclusive, and irrevocable right to obtain, reproduce, publish, or otherwise use the work, or authorize others to do so for Government purposes. Works jointly authored by DOC and non-Federal entity employees may be copyrighted, but only the part of such works authored by the non-Federal entity is protectable in the United States because, under 17 U.S.C. § 105, copyright protection is not available within the United States for any work of the United States Government. On occasion and as permitted under 17 U.S.C. § 105, DOC may require the non-Federal entity to transfer to DOC a copyright in a particular work for Government purposes or when DOC is undertaking primary dissemination of the work.

e. Freedom of Information Act (FOIA). In response to a FOIA request for research data relating to published research findings (as defined by 2 C.F.R. § 200.315(e)(2)) produced under a Federal award that were used by the Federal government in developing an agency action that has the force and effect of law, the DOC will request, and the non-Federal entity must provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA.

## D. AUDITS

Under the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3, §§ 1 *et seq.*, an audit of the award may be conducted at any time. The Inspector General of the DOC, or any of his or her duly authorized representatives, must have the right to access any pertinent books, documents, papers, and records of the non-Federal entity, whether written, printed, recorded, produced, or reproduced by any electronic, mechanical, magnetic, or other process or medium, to make audits, inspections, excerpts, transcripts, or other examinations as authorized by law. This right also includes timely and reasonable access to the non-Federal entity's personnel for interview and discussion related to such documents. *See* 2 C.F.R. § 200.337 (Access to records). When the DOC Office of Inspector General (OIG) requires a program audit on a DOC award, the OIG will usually make the arrangements to audit the award, whether the audit is performed by OIG personnel, an independent accountant under contract with DOC, or any other Federal, State, or local audit entity.

### .01 Organization-Wide, Program-Specific, and Project Audits

a. A recipient must, within 90 days of the end of its fiscal year, notify the Grants Officer of the amount of Federal awards, including all DOC and non-DOC awards, that the recipient expended during its fiscal year.

b. Recipients that are subject to the provisions of Subpart F of 2 C.F.R. Part 200 and that expend \$750,000 or more in a year in Federal awards during their fiscal year must have an audit conducted for that year in accordance with the requirements contained in Subpart F of 2 C.F.R. Part 200. Within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a different period is specified in a program-specific audit guide, a copy of the audit must be submitted electronically to the Federal Audit Clearinghouse (FAC) through the FAC's Internet Data Entry System (IDES) (<https://harvester.census.gov/facides/>). In accordance with 2 C.F.R. § 200.425 (Audit services), the recipient may include a line item in the budget for the allowable costs associated with the audit, which is subject to the approval of the Grants Officer.

c. Unless otherwise specified in the terms and conditions of the award, entities that are not subject to Subpart F of 2 C.F.R. Part 200 (e.g., for-profit entities, foreign public entities and foreign organizations) and that expend \$750,000 or more in DOC funds during their fiscal year (including both as a recipient and a subrecipient) must submit to the Grants Officer either: (i) a financial related audit of each DOC award or subaward in accordance with Generally Accepted Government Auditing Standards (GAGAS); or (ii) a project specific audit for each award or subaward in accordance with the requirements contained in 2 C.F.R. § 200.507. Within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a different period is specified in a program-specific audit guide, a copy of the audit must be submitted to the Grants Officer. In accordance with 2 C.F.R. § 200.425, the recipient may include a line item in the budget for the allowable costs associated with the audit, which is subject to the approval of the Grants Officer. Entities that are not subject to Subpart F of 2 C.F.R. Part 200 and that expend less than \$750,000 in DOC funds in a given fiscal year are

not required to submit an audit(s) for that year, but must make their award-related records available to DOC or other designated officials for review and audit.

d. Recipients are responsible for compliance with the above audit requirements and for informing the Grants Officer of the status of their audit, including when the relevant audit has been completed and submitted in accordance with the requirements of this section. Failure to provide audit reports within the timeframes specified above may result in appropriate enforcement action, up to and including termination of the award, and may jeopardize eligibility for receiving future DOC awards.

e. In accordance with 2 C.F.R. § 200.332(d)(3), pass-through entities are responsible for issuing a management decision for applicable audit findings pertaining only to the Federal award provided by the pass-through entity to a subrecipient.

## **.02 Audit Resolution Process**

a. An audit of the award may result in the disallowance of costs incurred by the recipient and the establishment of a debt (account receivable) due to DOC. For this reason, the recipient should take seriously its responsibility to respond to all audit findings and recommendations with adequate explanations and supporting evidence whenever audit results are disputed.

b. A recipient whose award is audited has the following opportunities to dispute the proposed disallowance of costs and the establishment of a debt:

1. The recipient has 30 calendar days from the date of the transmittal of the draft audit report to submit written comments and documentary evidence.

2. The recipient has 30 calendar days from the date of the transmittal of the final audit report to submit written comments and documentary evidence.

3. The DOC will review the documentary evidence submitted by the recipient and will notify the recipient of the results in an *Audit Resolution Determination Letter*. The recipient has 30 calendar days from the date of receipt of the *Audit Resolution Determination Letter* to submit a written appeal, unless this deadline is extended in writing by the DOC. The appeal is the last opportunity for the recipient to submit written comments and documentary evidence to the DOC to dispute the validity of the audit resolution determination.

4. An appeal of the Audit Resolution Determination does not prevent the establishment of the audit-related debt nor does it prevent the accrual of applicable interest, penalties and administrative fees on the debt in accordance with 15 C.F.R. Part 19. If the Audit Resolution Determination is overruled or modified on appeal, appropriate corrective action will be taken retroactively.

5. The DOC will review the recipient's appeal and notify the recipient of the results in an *Appeal Determination Letter*. After the opportunity to appeal has expired or after the appeal determination has been rendered, DOC will not accept any further documentary evidence from the recipient. No other administrative appeals are available in DOC.

## E. DEBTS

### .01 Payment of Debts Owed to the Federal Government

a. The non-Federal entity must promptly pay any debts determined to be owed to the Federal Government. Any funds paid to a non-Federal entity in excess of the amount to which the non-Federal entity is finally determined to be entitled under the terms of the Federal award constitute a debt to the Federal government. In accordance with 2 C.F.R. § 200.346 (Collection of amounts due), if not paid within 90 calendar days after demand, DOC may reduce a debt owed to the Federal Government by:

1. Making an administrative offset against other requests for reimbursement;
2. Withholding advance payments otherwise due to the non-Federal entity; or
3. Taking any other action permitted by Federal statute.

The foregoing does not waive any claim on a debt that DOC may have against another entity, and all rights and remedies to pursue other parties are preserved.

b. DOC debt collection procedures are set out in 15 C.F.R. Part 19. In accordance with 2 C.F.R. § 200.346 (Collection of amounts due) and 31 U.S.C. § 3717, failure to pay a debt owed to the Federal Government must result in the assessment of interest, penalties and administrative costs in accordance with the provisions of 31 U.S.C. § 3717 and 31 C.F.R. § 901.9. Commerce entities will transfer any Commerce debt that is delinquent for more than 120 calendar days to the U.S. Department of the Treasury's Financial Management Service for debt collection services, a process known as cross-servicing, pursuant to 31 U.S.C. § 3711(g), 31 C.F.R. § 285.12, and 15 C.F.R. § 19.9. DOC may also take further action as specified in DOC ST&C A.06 (Unsatisfactory Performance or Non-Compliance with Award Provisions). Funds for payment of a debt must not come from other Federally-sponsored programs, and the DOC may conduct on-site visits, audits, and other reviews to verify that other Federal funds have not been used to pay a debt.

### .02 Late Payment Charges

a. Interest will be assessed on the delinquent debt in accordance with section 11 of the Debt Collection Act of 1982, as amended (31 U.S.C. § 3717(a)). The minimum annual interest rate to be assessed is the U.S. Department of the Treasury's Current Value of Funds Rate (CVFR). The CVFR is available online at [https://www.fiscal.treasury.gov/fsreports/rpt/cvfr/cvfr\\_home.htm](https://www.fiscal.treasury.gov/fsreports/rpt/cvfr/cvfr_home.htm) and also published by the Department of the Treasury in the *Federal Register* (<http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=FR>) and in the *Treasury Financial Manual Bulletin*. The assessed rate must remain fixed for the duration of the indebtedness.

b. Penalties will accrue at a rate of not more than six percent per year or such other higher rate as authorized by law.

c. Administrative charges, i.e., the costs of processing and handling a delinquent debt, will be determined by the Commerce entity collecting the debt, as directed by the Office of the Chief Financial Officer and Assistant Secretary for Administration.

### **.03 Barring Delinquent Federal Debtors from Obtaining Federal Loans or Loan Insurance Guarantees**

Pursuant to 31 U.S.C. § 3720B and 31 C.F.R. § 901.6, unless waived by DOC, the DOC is not permitted to extend financial assistance in the form of a loan, loan guarantee, or loan insurance to any person delinquent on a nontax debt owed to a Federal agency. This prohibition does not apply to disaster loans.

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

Pursuant to 28 U.S.C. § 3201(e), unless waived by the DOC, a debtor who has a judgment lien against the debtor's property for a debt to the United States is not eligible to receive any grant or loan that is made, insured, guaranteed, or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied.

## **F. CONFLICT OF INTEREST, CODE OF CONDUCT AND OTHER REQUIREMENTS PERTAINING TO DOC FINANCIAL ASSISTANCE AWARDS, INCLUDING SUBAWARD AND PROCUREMENT ACTIONS**

### **.01 Conflict of Interest and Code of Conduct**

a. DOC Conflict of Interest Policy. In accordance with 2 C.F.R. § 200.112 (Conflict of interest), the non-Federal entity must disclose in writing any potential conflict of interest to the DOC or pass-through entity. In addition, a non-Federal entity will establish and maintain written standards of conduct that include safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain in the administration of an award. It is the DOC's policy to maintain the highest standards of conduct and to prevent real or apparent conflicts of interest in connection with DOC financial assistance awards.

b. A conflict of interest generally exists when an interested party participates in a matter that has a direct and predictable effect on the interested party's personal or financial interests. A financial interest may include employment, stock ownership, a creditor or debtor relationship, or prospective employment with the organization selected or to be selected for a subaward. A conflict also may exist where there is an appearance that an interested party's objectivity in performing his or her responsibilities under the project is impaired. For example, an appearance of impairment of objectivity may result from an organizational conflict where, because of other activities or relationships with other persons or entities, an interested party is unable to render

impartial assistance, services or advice to the recipient, a participant in the project or to the Federal Government. Additionally, a conflict of interest may result from non-financial gain to an interested party, such as benefit to reputation or prestige in a professional field. For purposes of the DOC Conflict of Interest Policy, an interested party includes, but is not necessarily limited to, any officer, employee or member of the board of directors or other governing board of a non-Federal entity, 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.

c. Procurement-related conflict of interest. In accordance with 2 C.F.R. § 200.318 (General procurement standards), non-Federal entities must maintain written standards of conduct covering conflicts of interest and governing the performance of their employees engaged in the selection, award and administration of contracts. *See* paragraph F.04 of these Standard Terms (Requirements for Procurements).

## **.02 Nonprocurement Debarment and Suspension**

Non-Federal entities must comply with the provisions of 2 C.F.R. Part 1326 (Nonprocurement Debarment and Suspension), which generally prohibit entities that have been debarred, suspended, or voluntarily excluded from participating in Federal nonprocurement transactions either through primary or lower tier covered transactions, and which set forth the responsibilities of recipients of Federal financial assistance regarding transactions with other persons, including subrecipients and contractors.

## **.03 Requirements for Subawards**

a. The recipient or pass-through entity must require all subrecipients, including lower tier subrecipients, to comply with the terms and conditions of a DOC financial assistance award, including applicable provisions of the OMB Uniform Guidance (2 C.F.R. Part 200), and all associated Terms and Conditions set forth herein. *See* 2 C.F.R. § 200.101(b)(2) (Applicability to different types of Federal awards), which describes the applicability of 2 C.F.R. Part 200 to various types of Federal awards and §§ 200.331-333 (Subrecipient monitoring and management).

b. The recipient or pass through entity may have more restrictive policies for the RTC *waived* prior approvals (no-cost extensions, re-budgeting, etc.) for their subaward recipients. Such restrictive policies must be addressed in their subaward agreements and in accordance with §200.331.

## **.04 Requirements for Procurements**

a. States. Pursuant to 2 C.F.R. § 200.317 (Procurements by states), when procuring property and services under this Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State must comply with 2 C.F.R. §§ 200.321 (Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms), 200.322 (Domestic preferences for procurements), and

200.323 (Procurement of recovered materials), and ensure that every purchase order or other contract includes any clauses required by 2 C.F.R. § 200.327 (Contract provisions).

b. Other Non-Federal Entities. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in 2 C.F.R. §§ 200.318 (General procurement standards) through 200.327 (Contract provisions) which include the requirement that non-Federal entities maintain written standards of conduct covering conflicts of interest and governing the performance of their employees engaged in the selection, award, and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest.

## **.05 Whistleblower Protections**

This award is subject to the whistleblower protections afforded by 41 U.S.C. § 4712 (Enhancement of contractor protection from reprisal for disclosure of certain information), which generally provide that an employee or contractor (including subcontractors and personal services contractors) of a non-Federal entity may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body information that the employee reasonably believes is evidence of gross mismanagement of a Federal award, subaward, or a contract under a Federal award or subaward, a gross waste of Federal funds, an abuse of authority relating to a Federal award or subaward or contract under a Federal award or subaward, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal award, subaward, or contract under a Federal award or subaward. These persons or bodies include:

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

Non-Federal entities and contractors under Federal awards and subawards must inform their employees in writing of the rights and remedies provided under 41 U.S.C. § 4712, in the predominant native language of the workforce.

## **.06 Small Businesses, Minority Business Enterprises and Women's Business Enterprises**

In accordance with 2 C.F.R. § 200.321 (Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms), the recipient must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. DOC encourages non-Federal entities to use small

businesses, minority business enterprises and women’s business enterprises in contracts under financial assistance awards. The Minority Business Development Agency within the DOC will assist non-Federal entities in matching qualified minority business enterprises with contract opportunities. For further information visit MBDA’s website at <http://www.mbda.gov>. If you do not have access to the Internet, you may contact MBDA via telephone or mail:

U.S. Department of Commerce  
Minority Business Development Agency  
Herbert C. Hoover Building  
14th Street and Constitution Avenue, N.W.  
Washington, D.C. 20230  
(202) 482-0101

## **G. NATIONAL POLICY REQUIREMENTS**

### **.01 United States Laws and Regulations**

This award is subject to the laws and regulations of the United States. The recipient must comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

### **.02 Non-Discrimination Requirements**

No person in the United States may, on the ground of race, color, national origin, handicap, age, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity receiving Federal financial assistance. The recipient agrees to comply with the non-discrimination requirements below:

#### **a. Statutory Provisions**

1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d *et seq.*) and DOC implementing regulations published at 15 C.F.R. Part 8 prohibiting discrimination on the grounds of race, color, or national origin under programs or activities receiving Federal financial assistance;
2. Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681 *et seq.*) prohibiting discrimination on the basis of sex under Federally assisted education programs or activities;
3. The Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*) prohibiting discrimination on the basis of disability under programs, activities, and services provided or made available by State and local governments or instrumentalities or agencies thereto, as well as public or private entities that provide public transportation;
4. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), and DOC implementing regulations published at 15 C.F.R. Part 8b prohibiting discrimination on the

basis of handicap under any program or activity receiving or benefiting from Federal assistance.

For purposes of complying with the accessibility standards set forth in 15 C.F.R. § 8b.18(c), non-federal entities must adhere to the regulations, published by the U.S. Department of Justice, implementing Title II of the Americans with Disabilities Act (ADA) (28 C.F.R. part 35; 75 FR 56164, as amended by 76 FR 13285) and Title III of the ADA (28 C.F.R. part 36; 75 FR 56164, as amended by 76 FR 13286). The revised regulations adopted new enforceable accessibility standards called the “2010 ADA Standards for Accessible Design” (2010 Standards), which replace and supersede the former Uniform Federal Accessibility Standards for new construction and alteration projects;

5. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 *et seq.*), and DOC implementing regulations published at 15 C.F.R. Part 20 prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance; and
6. Any other applicable non-discrimination law(s).

#### **b. Other Provisions**

1. Parts II and III of E.O. 11246 (Equal Employment Opportunity, 30 FR 12319),<sup>3</sup> which requires Federally assisted construction contracts to include the nondiscrimination provisions of §§ 202 and 203 of E.O. 11246 and Department of Labor regulations implementing E.O. 11246 (41 C.F.R. § 60-1.4(b)).
2. E.O. 13166 (65 FR 50121, Improving Access to Services for Persons with Limited English Proficiency), requiring Federal agencies to examine the services provided, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them. The DOC issued policy guidance on March 24, 2003 (68 FR 14180) to articulate the Title VI prohibition against national origin discrimination affecting LEP persons and to help ensure that non-Federal entities provide meaningful access to their LEP applicants and beneficiaries.
3. In accordance with E.O. 13798 and Office of Management and Budget, M-20-09 – Guidance Regarding Federal Grants, states or other public grantees may not condition sub-awards of Federal grant money in a manner that would disadvantage grant applicants based on their religious character.

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<sup>3</sup> As amended by E.O. 11375(32 FR 14303), E.O. 11478 (34 FR 12985), E.O. 12086 (43 FR 46501), E.O. 12107 (44 FR 1055), E.O. 13279 (F67 FR 77141), E.O. 13665 (79 FR 20749), and E.O. 13672 (79 FR 42971).

### **c. Title VII Exemption for Religious Organizations**

Generally, Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e *et seq.*, provides that it is an unlawful employment practice for an employer to discharge any individual or otherwise to discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment because of such individual's race, color, religion, sex, or national origin. However, Title VII, 42 U.S.C. § 2000e-1(a), expressly exempts from the prohibition against discrimination based on religion, "a religious corporation, association, educational institution, or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities."

## **.03 LOBBYING RESTRICTIONS**

### **a. Statutory Provisions**

Non-Federal entities must comply with 2 C.F.R. § 200.450 (Lobbying), which incorporates the provisions of 31 U.S.C. § 1352; and OMB guidance and notices on lobbying restrictions. In addition, non-Federal entities must comply with the DOC regulations published at 15 C.F.R. Part 28, which implement the New Restrictions on Lobbying. These provisions prohibit the use of Federal funds for lobbying the executive or legislative branches of the Federal Government in connection with the award and require the disclosure of the use of non-Federal funds for lobbying. Lobbying includes attempting to improperly influence, meaning any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a Federal award or regulatory matter on any basis other than the merits of the matter, either directly or indirectly. Costs incurred to improperly influence are unallowable. *See* 2 C.F.R. § 200.450(b) and (c).

### **b. Disclosure of Lobbying Activities**

Any recipient that receives more than \$100,000 in Federal funding and conducts lobbying with non-federal funds relating to a covered Federal action must submit a completed Form SF-LLL (Disclosure of Lobbying Activities). The Form SF-LLL must be submitted within 30 calendar days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed. The recipient must submit any required SF-LLL forms, including those received from subrecipients, contractors, and subcontractors, to the Grants Officer.

## **.04 Environmental Requirements**

Environmental impacts must be considered by Federal decision makers in their decisions whether or not to approve: (1) a proposal for Federal assistance; (2) the proposal with mitigation; or (3) a different proposal having less adverse environmental impacts. Federal environmental laws require that the funding agency initiate an early planning process that considers potential impacts that projects funded with Federal assistance may have on the environment. Each non-Federal entity must comply with all environmental standards, to include those prescribed under

the following statutes and E.O.s and must identify to the awarding agency any impact the award may have on the environment. In some cases, award funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to submit additional environmental compliance information sufficient to enable the DOC to make an assessment on any impacts that a project may have on the environment.

**a. The National Environmental Policy Act (42 U.S.C. §§ 4321 *et seq.*)**

The National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) implementing regulations (40 C.F.R. Parts 1500 through 1508) require that an environmental analysis be completed for all major Federal actions to determine whether they have significant impacts on the environment. NEPA applies to the actions of Federal agencies and may include a Federal agency's decision to fund non-Federal projects under grants and cooperative agreements when the award activities remain subject to Federal authority and control. Non-Federal entities are required to identify to the awarding agency any direct, indirect or cumulative impact an award will have on the quality of the human environment and assist the agency in complying with NEPA. Non-Federal entities may also be requested to assist DOC in drafting an environmental assessment or environmental impact statement if DOC determines such documentation is required, but DOC remains responsible for the sufficiency and approval of the final documentation. Until the appropriate NEPA documentation is complete and in the event that any additional information is required during the period of performance to assess project environmental impacts, funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to submit the appropriate environmental information and NEPA documentation sufficient to enable DOC to make an assessment on any impacts that a project may have on the environment.

**b. The National Historic Preservation Act (16 U.S.C. §§ 470 *et seq.*)**

Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. § 470f) and the Advisory Council on Historic Preservation (ACHP) implementing regulations (36 C.F.R. Part 800) require that Federal agencies take into account the effects of their undertakings on historic properties and, when appropriate, provide the ACHP with a reasonable opportunity to comment. Historic properties include but are not necessarily limited to districts, buildings, structures, sites and objects. In this connection, archeological resources and sites that may be of traditional religious and cultural importance to Federally-recognized Indian Tribes, Alaskan Native Villages and Native Hawaiian Organizations may be considered historic properties. Non-Federal entities are required to identify to the awarding agency any effects the award may have on properties included on or eligible for inclusion on the National Register of Historic Places. Non-Federal entities may also be requested to assist DOC in consulting with State or Tribal Historic Preservation Officers, ACHPs or other applicable interested parties necessary to identify, assess, and resolve adverse effects to historic properties. Until such time as the appropriate NHPA consultations and documentation are complete and in the event that any additional information is required during the period of performance in order to assess project impacts on historic properties, funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to

submit any information sufficient to enable DOC to make the requisite assessment under the NHPA.

Additionally, non-Federal entities are required to assist the DOC in assuring compliance with the Archeological and Historic Preservation Act of 1974 (54 U.S.C. § 312502 *et seq.*, formerly 16 U.S.C. § 469a-1 *et seq.*); Executive Order 11593 (Protection and Enhancement of the Cultural Environment, May 13, 1971); Executive Order 13006 (Locating Federal Facilities on Historic Properties in Our Nation’s Central Cities, May 21, 1996); and Executive Order 13007 (Indian Sacred Sites, May 24, 1996).

**c. Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands)**

Non-Federal entities must identify proposed actions in Federally defined floodplains and wetlands to enable DOC to decide whether there is an alternative to minimize any potential harm.

**d. Clean Air Act (42 U.S.C. §§ 7401 *et seq.*), Federal Water Pollution Control Act (33 U.S.C. §§ 1251 *et seq.*) (Clean Water Act), and Executive Order 11738 (“Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants or loans”)**

Non-Federal entities must comply with the provisions of the Clean Air Act (42 U.S.C. §§ 7401 *et seq.*), Clean Water Act (33 U.S.C. §§ 1251 *et seq.*), and E.O. 11738 (38 FR 25161), and must not use a facility on the Excluded Parties List (EPL) (located on the System for Award Management (SAM) website, SAM.gov) in performing any award that is nonexempt under 2 C.F.R. § 1532, and must notify the Program Officer in writing if it intends to use a facility that is on the EPL or knows that the facility has been recommended to be placed on the EPL.

**e. The Flood Disaster Protection Act (42 U.S.C. §§ 4002 *et seq.*)**

Flood insurance, when available, is required for Federally assisted construction or acquisition in flood-prone areas. Per 2 C.F.R. § 200.447(a), the cost of required flood insurance is an allowable expense, if it is reflected in the approved project budget.

**f. The Endangered Species Act (16 U.S.C. §§ 1531 *et seq.*)**

Non-Federal entities must identify any impact or activities that may involve a threatened or endangered species. Federal agencies have the responsibility to ensure that no adverse effects to a protected species or habitat occur from actions under Federal assistance awards and conduct the reviews required under the Endangered Species Act, as applicable.

**g. The Coastal Zone Management Act (16 U.S.C. §§ 1451 *et seq.*)**

Funded projects must be consistent with a coastal State’s approved management program for the coastal zone.

**h. The Coastal Barriers Resources Act (16 U.S.C. §§ 3501 *et seq.*)**

Only in certain circumstances can Federal funding be provided for actions within a Coastal Barrier System.

**i. The Wild and Scenic Rivers Act (16 U.S.C. §§ 1271 *et seq.*)**

This Act applies to awards that may affect existing or proposed components of the National Wild and Scenic Rivers system.

**j. The Safe Drinking Water Act of 1974, as amended, (42 U.S.C. §§ 300f *et seq.*)**

This Act precludes Federal assistance for any project that the EPA determines may contaminate a sole source aquifer which threatens public health.

**k. The Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 *et seq.*)**

This Act regulates the generation, transportation, treatment, and disposal of hazardous wastes, and provides that non-Federal entities give preference in their procurement programs to the purchase of recycled products pursuant to EPA guidelines.

**l. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, commonly known as Superfund) (42 U.S.C. §§ 9601 *et seq.*) and the Community Environmental Response Facilitation Act (42 U.S.C. § 9601 note *et seq.*)**

These requirements address responsibilities related to hazardous substance releases, threatened releases and environmental cleanup. There are also reporting and community involvement requirements designed to ensure disclosure of the release or disposal of regulated substances and cleanup of hazards to state and local emergency responders.

**m. Executive Order 12898 (“Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations”)**

Federal agencies are required to identify and address the disproportionately high and adverse human health or environmental effects of Federal programs, policies, and activities on low income and minority populations.

**n. The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 *et seq.*)**

Non-Federal entities must identify to DOC any effects the award may have on essential fish habitat (EFH). Federal agencies which fund, permit, or carry out activities that may adversely impact EFH are required to consult with the National Marine Fisheries Service (NMFS) regarding the potential effects of their actions and respond in writing to NMFS recommendations. These recommendations may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH. In addition, NMFS is required to comment on any state agency activities that would impact EFH. Provided the specifications outlined in the regulations are met, EFH consultations will be incorporated into interagency

procedures previously established under NEPA, the ESA, Clean Water Act, Fish and Wildlife Coordination Act, or other applicable statutes.

**o. Clean Water Act (CWA) Section 404 (33 U.S.C. § 1344)**

CWA Section 404 regulates the discharge of dredged or fill material into waters of the United States, including wetlands. Activities in waters of the United States regulated under this program include fill for development, water resource projects (such as levees and some coastal restoration activities), and infrastructure development (such as highways and airports). CWA Section 404 requires a permit from the U.S. Army Corps of Engineers before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g., certain farming and forestry activities).

**p. Rivers and Harbors Act (33 U.S.C. § 407)**

A permit may be required from the U.S. Army Corps of Engineers if the proposed activity involves any work in, over or under navigable waters of the United States. Recipients must identify any work (including structures) that will occur in, over or under navigable waters of the United States and obtain the appropriate permit, if applicable.

**q. The Migratory Bird Treaty Act (16 U.S.C. §§ 703-712), Bald and Golden Eagle Protection Act (16 U.S.C. § 668 *et seq.*), and Executive Order 13186 (Responsibilities of Federal Agencies to Protect Migratory Birds, January 10, 2001)**

Many prohibitions and limitations apply to projects that adversely impact migratory birds and bald and golden eagles. Executive Order 13186 directs Federal agencies to enter a Memorandum of Understanding with the U.S. Fish and Wildlife Service to promote conservation of migratory bird populations when a Federal action will have a measurable negative impact on migratory birds.

**r. Executive Order 13112 (Invasive Species, February 3, 1999)**

Federal agencies must identify actions that may affect the status of invasive species and use relevant programs and authorities to: (i) prevent the introduction of invasive species; (ii) detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner; (iii) monitor invasive species populations accurately and reliably; (iv) provide for restoration of native species and habitat conditions in ecosystems that have been invaded; (v) conduct research on invasive species and develop technologies to prevent introduction and provide for environmentally sound control of invasive species; and (vi) promote public education on invasive species and the means to address them. In addition, an agency may not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere.

**s. Fish and Wildlife Coordination Act (16 U.S.C. § 661 *et seq.*)**

During the planning of water resource development projects, agencies are required to give fish and wildlife resources equal consideration with other values. Additionally, the U.S.

Fish and Wildlife Service and fish and wildlife agencies of states must be consulted whenever waters of any stream or other body of water are “proposed or authorized, permitted or licensed to be impounded, diverted... or otherwise controlled or modified” by any agency under a Federal permit or license.

## **.05 OTHER NATIONAL POLICY REQUIREMENTS**

### **a. Buy-American Preferences**

Strengthening Buy-American Preferences for Infrastructure Projects. Recipients of covered programs (as defined in Executive Order 13858, 31 January 2019, and 2 C.F.R. §200.322 (Domestic preferences for procurements)) are hereby notified that they are encouraged to use, to the greatest extent practicable, iron and aluminum as well as steel, cement, and other manufactured products produced in the United States in every contract, subcontract, purchase order, or subaward that is chargeable under this Award.

### **b. Criminal and Prohibited Activities**

1. The Program Fraud Civil Remedies Act (31 U.S.C. § 3801 *et seq.*), provides for the imposition of civil penalties against persons who make false, fictitious, or fraudulent claims to the Federal Government for money (including money representing grants, loans, or other benefits).
2. The False Claims Amendments Act of 1986 and the False Statements Accountability Act of 1996 (18 U.S.C. §§ 287 and 1001, respectively), provide that whoever makes or presents any false, fictitious, or fraudulent statement, representation, or claim against the United States must be subject to imprisonment of not more than five years and must be subject to a fine in the amount provided by 18 U.S.C. § 287.
3. The Civil False Claims Act (31 U.S.C. §§ 3729 - 3733), provides that suits can be brought by the government, or a person on behalf of the government, for false claims made under Federal assistance programs.
4. The Copeland Anti-Kickback Act (18 U.S.C. § 874), prohibits a person or organization engaged in a Federally supported project from enticing an employee working on the project from giving up a part of his compensation under an employment contract. The Copeland Anti-Kickback Act also applies to contractors and subcontractors pursuant to 40 U.S.C. § 3145.
5. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.*) and implementing regulations issued at 15 C.F.R. Part 11, which provides for fair and equitable treatment of displaced persons or persons whose property is acquired as a result of Federal or Federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

6. The Hatch Act (5 U.S.C. §§ 1501-1508 and 7321-7326), which limits the political activities of employees or officers of state or local governments whose principal employment activities are funded in whole or in part with Federal funds.

7. To ensure compliance with Federal law pertaining to financial assistance awards, an authorized representative of a non-Federal entity may be required to periodically provide certain certifications to the DOC regarding Federal felony and Federal criminal tax convictions, unpaid federal tax assessments, delinquent Federal tax returns and such other certifications that may be required by Federal law.

### **c. Drug-Free Workplace**

The non-Federal entity must comply with the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 8102) and DOC implementing regulations published at 2 C.F.R. Part 1329 (Requirements for Drug-Free Workplace (Financial Assistance)), which require that the non-Federal entity take certain actions to provide a drug-free workplace.

### **d. Foreign Travel**

1. Each non-Federal entity must comply with the provisions of the Fly America Act (49 U.S.C. § 40118). The implementing regulations of the Fly America Act are found at 41 C.F.R. §§ 301-10.131 through 301-10.143.

2. The Fly America Act requires that Federal travelers and others performing U.S. Government-financed air travel must use U.S. flag air carriers, to the extent that service by such carriers is available. Foreign air carriers may be used only in specific instances, such as when a U.S. flag air carrier is unavailable or use of U.S. flag air carrier service will not accomplish the agency's mission.

3. One exception to the requirement to fly U.S. flag carriers is transportation provided under a bilateral or multilateral air transport agreement, to which the United States Government and the government of a foreign country are parties, and which the Department of Transportation has determined meets the requirements of the Fly America Act pursuant to 49 U.S.C. § 40118(b). The United States Government has entered into bilateral/multilateral "Open Skies Agreements" (U.S. Government Procured Transportation) that allow federal funded transportation services for travel and cargo movements to use foreign air carriers under certain circumstances. There are multiple "Open Skies Agreements" currently in effect. For more information about the current bilateral and multilateral agreements, visit the GSA [website](#). Information on the Open Skies agreements (U.S. Government Procured Transportation) and other specific country agreements may be accessed via the Department of State's [website](#).

4. If a foreign air carrier is anticipated to be used for any portion of travel under a DOC financial assistance award, the non-Federal entity must receive prior approval from the Grants Officer. When requesting such approval, the non-Federal entity must provide a justification in accordance with guidance provided by 41 C.F.R. § 301-10.142, which requires the non-Federal entity to provide the Grants Officer with the following: name; dates

of travel; origin and destination of travel; detailed itinerary of travel; name of the air carrier and flight number for each leg of the trip; and a statement explaining why the non-Federal entity meets one of the exceptions to the regulations. If the use of a foreign air carrier is pursuant to a bilateral agreement, the non-Federal entity must provide the Grants Officer with a copy of the agreement or a citation to the official agreement available on the GSA website. The Grants Officer must make the final determination and notify the non-Federal entity in writing (which may be done through the recipient in the case of subrecipient travel). Failure to adhere to the provisions of the Fly America Act will result in the non-Federal entity not being reimbursed for any transportation costs for which any non-Federal entity improperly used a foreign air carrier.

Note: When using code-sharing flights (two or more airlines having flight numbers assigned to the same flight) involving U.S. flag carriers and non-U.S. flag carriers, the airline symbol and flight number of the U.S. flag carrier must be used on the ticket to qualify as a U.S. flag carrier (e.g. "*Delta Airlines Flight XXXX, operated by KLM*"). Conversely, if the ticket shows "*[Foreign Air Carrier] XXX, operated by Delta*," that travel is using a foreign air carrier and is subject to the Fly America Act and must receive prior approval from the Grants Officer as outlined in paragraph G.05.d.4.

#### **e. Increasing Seat Belt Use in the United States**

Pursuant to E.O. 13043 (62 FR 19217), non-Federal entities should encourage employees and contractors to enforce on-the-job seat belt policies and programs when operating company-owned, rented, or personally owned vehicles.

#### **f. Federal Employee Expenses and Subawards or Contracts Issued to Federal Employees or Agencies**

1. Use of award funds (Federal or non-Federal) or the non-Federal entity's provision of in-kind goods or services for the purposes of transportation, travel, or any other expenses for any Federal employee may raise appropriation augmentation issues. In addition, DOC policy may prohibit the acceptance of gifts, including travel payments for federal employees, from non-Federal entities regardless of the source. Therefore, before award funds may be used by Federal employees, non-Federal entities must submit requests for approval of such action to the Federal Program Officer who must review and make a recommendation to the Grants Officer. The Grants Officer will notify the non-Federal entity in writing (generally through the recipient) of the final determination.
2. A non-Federal entity or its contractor may not issue a subaward, contract or subcontract of any part of a DOC award to any agency or employee of DOC or to other Federal employee, department, agency, or instrumentality, without the advance prior written approval of the DOC Grants Officer.

#### **g. Minority Serving Institutions Initiative**

Pursuant to E.O.s 13555 (White House Initiative on Educational Excellence for Hispanics) (75 FR 65417), 13592 (Improving American Indian and Alaska Native

Educational Opportunities and Strengthening Tribal Colleges and Universities) (76 FR 76603), and 13779 (White House Initiative to Promote Excellence and Innovation at Historically Black Colleges and Universities) (82 FR 12499), DOC is strongly committed to broadening the participation of minority serving institutions (MSIs) in its financial assistance programs. DOC's goals include achieving full participation of MSIs to advance the development of human potential, strengthen the Nation's capacity to provide high-quality education, and increase opportunities for MSIs to participate in and benefit from Federal financial assistance programs. DOC encourages all applicants and non-Federal entities to include meaningful participation of MSIs. Institutions eligible to be considered MSIs are listed on the Department of Education website.

#### **h. Research Misconduct**

The DOC adopts, and applies to financial assistance awards for research, the Federal Policy on Research Misconduct (Federal Policy) issued by the Executive Office of the President's Office of Science and Technology Policy on December 6, 2000 (65 FR 76260). As provided for in the Federal Policy, research misconduct refers to the fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest errors or differences of opinion. Non-Federal entities that conduct extramural research funded by DOC must foster an atmosphere conducive to the responsible conduct of sponsored research by safeguarding against and resolving allegations of research misconduct. Non-Federal entities also have the primary responsibility to prevent, detect, and investigate allegations of research misconduct and, for this purpose, may rely on their internal policies and procedures, as appropriate, to do so. Non-Federal entities must notify the Grants Officer of any allegation that meets the definition of research misconduct and detail the entity's inquiry to determine whether there is sufficient evidence to proceed with an investigation, as well as the results of any investigation. The DOC may take appropriate administrative or enforcement action at any time under the award, up to and including award termination and possible suspension or debarment, and referral to the Commerce OIG, the U.S. Department of Justice, or other appropriate investigative body.

#### **i. Research Involving Human Subjects**

1. All proposed research involving human subjects must be conducted in accordance with 15 C.F.R. Part 27 (Protection of Human Subjects). No research involving human subjects is permitted under this award unless expressly authorized by specific award condition, or otherwise in writing by the Grants Officer.
2. Federal policy defines a human subject as a living individual about whom an investigator (whether professional or student) conducting research (1) Obtains information or biospecimens through intervention or interaction with the individual, and uses, studies, or analyzes the information or biospecimens; or (2) Obtains, uses, studies, analyzes, or generates identifiable private information or identifiable biospecimens. Research means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.

3. DOC regulations at 15 C.F.R. Part 27 require that non-Federal entities maintain appropriate policies and procedures for the protection of human subjects. In the event it becomes evident that human subjects may be involved in this project, the non-Federal entity (generally through the recipient) must submit appropriate documentation to the Federal Program Officer for approval by the appropriate DOC officials. As applicable, this documentation must include:

- i. Documentation establishing approval of an activity in the project by an Institutional Review Board (IRB) under a Federal wide Assurance issued by Department of Health and Human Services or other Federal agency guidelines (*see also* 15 C.F.R. § 27.103);
- ii. Documentation to support an exemption for an activity in the project under 15 C.F.R. § 27.104(d);
- iii. Documentation of IRB approval of any modification to a prior approved protocol or to an informed consent form;
- iv. Documentation of an IRB approval of continuing review approved prior to the expiration date of the previous IRB determination; and
- v. Documentation of any reportable events, such as serious adverse events, unanticipated problems resulting in risk to subjects or others, and instances of noncompliance.

4. No work involving human subjects may be undertaken, conducted, or costs incurred and/or charged for human subjects research, until the appropriate documentation is approved in writing by the Grants Officer. In accordance with 15 C.F.R. § 27.118, if research involving human subjects is proposed after an award is made, the non-Federal entity must contact the Federal Program Officer and provide required documentation. Notwithstanding this prohibition, work may be initiated or costs incurred and/or charged to the project for protocol or instrument development related to human subjects research.

#### **j. Care and Use of Live Vertebrate Animals**

Non-Federal entities must comply with the Laboratory Animal Welfare Act of 1966, as amended, (Pub. L. No. 89-544, 7 U.S.C. §§ 2131 *et seq.*) (animal acquisition, transport, care, handling, and use in projects), and implementing regulations (9 C.F.R. Parts 1, 2, and 3); the Endangered Species Act (16 U.S.C. §§ 1531 *et seq.*); Marine Mammal Protection Act (16 U.S.C. §§ 1361 *et seq.*) (taking possession, transport, purchase, sale, export or import of wildlife and plants); the Nonindigenous Aquatic Nuisance Prevention and Control Act (16 U.S.C. §§ 4701 *et seq.*) (ensure preventive measures are taken or that probable harm of using species is minimal if there is an escape or release); and all other applicable statutes pertaining to the care, handling, and treatment of warm-blooded animals held for research, teaching, or other activities supported by Federal financial assistance. No research involving vertebrate animals is permitted under any DOC financial assistance award unless authorized by the Grants Officer.

## k. Management and Access to Data and Publications

1. In General. The recipient acknowledges and understands that information and data contained in applications for financial assistance, as well as information and data contained in financial, performance and other reports submitted by recipients, may be used by the DOC in conducting reviews and evaluations of its financial assistance programs. For this purpose, recipient information and data may be accessed, reviewed and evaluated by DOC employees, other Federal employees, Federal agents and contractors, and/or by non-Federal personnel, all of who enter into appropriate or are otherwise subject to confidentiality and nondisclosure agreements covering the use of such information. Recipients are expected to support program reviews and evaluations by submitting required financial and performance information and data in an accurate and timely manner, and by cooperating with DOC and external program evaluators. In accordance with 2 C.F.R. § 200.303(e), recipients are reminded that they must take reasonable measures to safeguard protected personally identifiable information and other confidential or sensitive personal or business information created or obtained relating to a DOC financial assistance award.
2. Scientific Data. Non-Federal entities must comply with the data management and access to data requirements established by the DOC funding agency as set forth in the applicable Notice of Funding Opportunity and/or in Specific Award Conditions.
3. Publications, Videos, and Acknowledgment of Sponsorship.
  - i. Publication of results or findings in appropriate professional journals and production of video or other media is encouraged as an important method of recording, reporting and otherwise disseminating information and expanding public access to federally-funded projects (*e.g.*, scientific research). Non-Federal entities must comply with the data management and access to data requirements established by the DOC funding agency as set forth in the applicable Notice of Funding Opportunity and/or in Specific Award Conditions.
  - ii. Non-Federal entities may be required to submit a copy of any publication materials, including but not limited to print, recorded, or Internet materials, to the funding agency.
  - iii. When releasing information related to a funded project, non-Federal entities must include a statement that the project or effort undertaken was or is sponsored by DOC and must also include the applicable financial assistance award number.
  - iv. Non-Federal entities are responsible for assuring that every publication of material based on, developed under, or otherwise produced pursuant to a DOC financial assistance award contains the following disclaimer or other disclaimer approved by the Grants Officer:

*This [report/video/etc.] was prepared by [recipient name] using Federal funds under award [number] from [name of operating unit], U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author(s) and do*

*not necessarily reflect the views of the [name of operating unit] or the U.S. Department of Commerce.*

## **I. Homeland Security Presidential Directive**

If the performance of this DOC financial assistance award requires non-Federal entity personnel to have routine access to Federally-controlled facilities and/or Federally-controlled information systems (for purpose of this term “routine access” is defined as more than 180 calendar days), such personnel must undergo the personal identity verification credential process. In the case of foreign nationals, the DOC will conduct a check with U.S. Citizenship and Immigration Services’ (USCIS) Verification Division, a component of the Department of Homeland Security (DHS), to ensure the individual is in a lawful immigration status and that he or she is eligible for employment within the United States. Any items or services delivered under a financial assistance award must comply with DOC personal identity verification procedures that implement Homeland Security Presidential Directive 12 (Policy for a Common Identification Standard for Federal Employees and Contractors), Federal Information Processing Standard (FIPS) PUB 201, and OMB Memorandum M-05-24. The recipient must ensure that its subrecipients and contractors (at all tiers) performing work under this award comply with the requirements contained in this term. The Grants Officer may delay final payment under an award if the subrecipient or contractor fails to comply with the requirements listed in the term below. The recipient must insert the following term in all subawards and contracts when the subaward recipient or contractor is required to have routine physical access to a Federally-controlled facility or routine access to a Federally-controlled information system:

*The subrecipient or contractor must comply with DOC personal identity verification procedures identified in the subaward or contract that implement Homeland Security Presidential Directive 12 (HSPD-12), Office of Management and Budget (OMB) Guidance M-05-24, as amended, and Federal Information Processing Standards Publication (FIPS PUB) Number 201, as amended, for all employees under this subaward or contract who require routine physical access to a Federally-controlled facility or routine access to a Federally-controlled information system.*

*The subrecipient or contractor must account for all forms of Government-provided identification issued to the subrecipient or contractor employees in connection with performance under this subaward or contract. The subrecipient or contractor must return such identification to the issuing agency at the earliest of any of the following, unless otherwise determined by DOC: (1) When no longer needed for subaward or contract performance; (2) Upon completion of the subrecipient or contractor employee’s employment; (3) Upon subaward or contract completion or termination.*

## **m. Compliance with Department of Commerce Bureau of Industry and Security Export Administration Regulations**

1. This clause applies to the extent that this financial assistance award encompasses activities that involve export-controlled items.

2. In performing this financial assistance award, a non-Federal entity may participate in activities involving items subject to export control (export-controlled items) under the Export Administration Regulations (EAR). The non-Federal entity is responsible for compliance with all applicable laws and regulations regarding export-controlled items, including the EAR's deemed exports and re-exports provisions. The non-Federal entity must establish and maintain effective export compliance procedures at DOC and non-DOC facilities, including facilities located abroad, throughout performance of the financial assistance award. At a minimum, these export compliance procedures must include adequate restrictions on export-controlled items, to guard against any unauthorized exports, including in the form of releases or transfers to foreign nationals. Such releases or transfers may occur through visual inspection, including technology transmitted electronically, and oral or written communications.

### 3. Definitions

- i. Export-controlled items. Items (commodities, software, or technology), that are subject to the EAR (15 C.F.R. §§ 730-774), implemented by the DOC's Bureau of Industry and Security. These are generally known as "dual-use" items, items with a military and commercial application. The export (shipment, transmission, or release/transfer) of export-controlled items may require a license from DOC.
- ii. Deemed Export/Re-export. The EAR defines a deemed export as a release or transfer of export-controlled items (specifically, technology or source code) to a foreign person (foreign national) in the U.S. Such release is "deemed" to be an export to the foreign person's most recent country of citizenship or permanent residency (*see* 15 C.F.R. § 734.13(a)(2) & (b)). A release may take the form of visual inspection or oral or written exchange of information. *See* 15 C.F.R. § 734.15(a). If such a release or transfer is made abroad to a foreign person of a country other than the country where the release occurs, it is considered a deemed re-export to the foreign person's most recent country of citizenship or permanent residency. *See* 15 C.F.R. § 734.14(a)(2). Licenses from DOC may be required for deemed exports or re-exports. An act causing the release of export-controlled items to a foreign person (e.g., providing or using an access key or code) may require authorization from DOC to the same extent that an export or re-export of such items to the foreign person would. *See* 15 C.F.R. § 734.15(b).

4. The non-Federal entity must secure all export-controlled items that it possesses or that comes into its possession in performance of this financial assistance award, to ensure that the export of such items, including in the form of release or transfer to foreign persons, is prevented, or licensed, as required by applicable Federal laws, E.O.s, and/or regulations, including the EAR.

5. As applicable, non-Federal entity personnel and associates at DOC sites will be informed of any procedures to identify and protect export-controlled items from unauthorized export.

6. To the extent the non-Federal entity wishes to release or transfer export-controlled items to foreign persons, the non-Federal entity will be responsible for obtaining any necessary licenses, including licenses required under the EAR for deemed exports or deemed re-exports. Failure to obtain any export licenses required under the EAR may subject the non-Federal entity to administrative or criminal enforcement. See 15 C.F.R. part 764.
7. Nothing in the terms of this financial assistance award is intended to change, supersede, or waive the requirements of applicable Federal laws, E.O.s or regulations.
8. Compliance with this term will not satisfy any legal obligations the non-Federal entity may have regarding items that may be subject to export controls administered by other agencies such as the Department of State, which has jurisdiction over exports and re-exports of defense articles and services subject to the International Traffic in Arms Regulations (ITAR) (22 C.F.R. §§ 120-130), including the release of defense articles to foreign persons in the United States and abroad.
9. The non-Federal entity must include the provisions contained in this term in all lower tier transactions (subawards, contracts, and subcontracts) under this financial assistance award that may involve research or other activities that implicate export-controlled items.

**n. The Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7104(g)), as amended, and the implementing regulations at 2 C.F.R. Part 175**

The Trafficking Victims Protection Act of 2000 authorizes termination of financial assistance provided to a private entity, without penalty to the Federal Government, if any non-Federal entity engages in certain activities related to trafficking in persons. The DOC hereby incorporates the following award term required by 2 C.F.R. § 175.15(b):

***Trafficking in persons.***

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

*1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—*

- i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;*
- ii. Procure a commercial sex act during the period of time that the award is in effect; or*
- iii. Use forced labor in the performance of the award or subawards under the award.*

2. *We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —*

*i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or*

*ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either— (A) Associated with performance under this award; or (B) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180 (OMB Guidelines to Agencies on Governmentwide Debarment and Suspension – Nonprocurement), as implemented by DOC at 2 C.F.R. Part 1326 (Nonprocurement Debarment and Suspension).*

***b. Provision applicable to a recipient other than a private entity.*** *We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—*

*1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or*

*2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—*

*i. Associated with performance under this award; or*

*ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180 (OMB Guidelines to Agencies on Governmentwide Debarment and Suspension – Nonprocurement), as implemented by DOC at 2 C.F.R. Part 1326, (Nonprocurement Debarment and Suspension).*

***c. Provisions applicable to any recipient.***

*1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.*

*2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:*

*i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and*

*ii. Is in addition to all other remedies for noncompliance that are available to us under this award.*

3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

**d. Definitions. For purposes of this award term:**

1. “Employee” means either:

i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3. “Private entity”:

i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. § 175.25;

ii. Includes: (A) A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 C.F.R. § 175.25(b); and (B) A for-profit organization.

4. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).

**o. The Federal Funding Accountability and Transparency Act (FFATA) (31 U.S.C. § 6101 note)**

1. **Reporting Subawards and Executive Compensation.** Under FFATA, recipients of financial assistance awards of \$30,000 or more are required to report periodically on executive compensation and subawards, as described in the following term from 2 C.F.R. Part 170, Appendix A, which is incorporated into this award:

***Reporting Subawards and Executive Compensation***

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

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds \$30,000 in Federal funds for a subaward

to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).

2. *Where and when to report.*

i. *You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.*

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

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

**b. *Reporting Total Compensation of Recipient Executives for non-Federal entities.***

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

i. *the total Federal funding authorized to date under this Federal award equals or exceeds \$30,000 as defined in 2 C.F.R § 170.320;*

ii. *in the preceding fiscal year, you received—*

(A) *80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards), and*

(B) *\$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards); and,*

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

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

i. *As part of your registration profile found at the System for Award Management (SAM) website located at <https://www.sam.gov>.*

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

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

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

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

(A) *80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards) and,*

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

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

*See also 2 C.F.R. § 200.300(b).*

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

i. *To the recipient.*

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

**d. Exemptions.** *If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report: i. Subawards, and ii. The total compensation of the five most highly compensated executives of any subrecipient.*

e. **Definitions.** For purposes of this award term:

1. *Federal Agency means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).*
2. *Non-Federal entity means all of the following, as defined in 2 C.F.R. Part 25:*
  - i. *A Governmental organization, which is a State, local government, or Indian tribe;*
  - ii. *A foreign public entity;*
  - iii. *A domestic or foreign nonprofit organization; and,*
  - iv. *A domestic or foreign for-profit organization.*
3. *Executive means officers, managing partners, or any other employees in management positions.*
4. *Subaward:*
  - i. *This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.*
  - ii. *The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 C.F.R § 200.331).*
  - iii. *A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.*
5. *Subrecipient means a non-Federal entity or Federal agency that:*
  - i. *Receives a subaward from you (the recipient) under this award; and*
  - ii. *Is accountable to you for the use of the Federal funds provided by the subaward.*
6. *Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 C.F.R. § 229.402(c)(2)):*
  - i. *Salary and bonus.*
  - ii. *Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.*

- iii. *Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.*
- iv. *Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.*
- v. *Above-market earnings on deferred compensation which is not tax-qualified.*
- vi. *Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.*

2. **System for Award Management (SAM) and Universal Identifier Requirements** -- as described in 2 C.F.R. Part 25, Appendix A, which is incorporated into this award:

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

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

b. ***Requirement for Unique Entity Identifier.*** *If you are authorized to make subawards under this Federal award, you:*

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

c. ***Definitions for purposes of this term:***

- 1. *SAM means the Federal repository into which a recipient must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at <https://www.SAM.gov>).*

2. *Unique Entity Identifier means the identifier assigned by SAM to uniquely identify business entities.*
3. *Entity includes non-Federal entities as defined at 2 C.F.R. § 200.1 and also includes all of the following, for purposes of this part:*
  - i. *A foreign organization;*
  - ii. *A foreign public entity;*
  - iii. *A domestic for-profit organization; and*
  - iv. *A Federal agency.*
4. *Subaward has the meaning given in 2 C.F.R § 200.1.*
5. *Subrecipient has the meaning given in 2 C.F.R § 200.1.*

See also 2 C.F.R. § 200.300(b).

#### **p. Recipient Integrity and Performance Matters (Appendix XII to 2 C.F.R. Part 200)**

##### ***Reporting of Matters Related to Recipient Integrity and Performance***

1. **General Reporting Requirement.** If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.
2. **Proceedings About Which You Must Report.** Submit the information required about each proceeding that:
  - i. Is relating to the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
  - ii. Reached its final disposition during the most recent five-year period; and

iii. Is one of the following:

- (A) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
- (B) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
- (C) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
- (D) Any other criminal, civil, or administrative proceeding if:
  - I. It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
  - II. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
  - III. The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

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

4. Reporting Frequency. During any period when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five-year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions. For purposes of this award term and condition:

- i. Administrative proceeding means a non-judicial process that is adjudicatory in nature to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

ii. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

iii. Total value of currently active grants, cooperative agreements, and procurement contracts includes:

(A) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and

(B) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

#### **q. Never Contract with the Enemy (2 C.F.R Part 183; 2 C.F.R. § 200.215)**

Under 2 C.F.R. § 200.215 (Never contract with the enemy) Federal awarding agencies and recipients are subject to the regulations implementing Never Contract with the Enemy in 2 C.F.R. Part 183. These regulations affect covered contracts, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

1. **Applicability.** This term applies only to recipients of covered grants or cooperative agreements, as defined in 2 C.F.R. § 183.35 Definitions.

2. **Requirements.** As applicable, recipients must fulfill the requirements as described in the following terms from 2 C.F.R. Part 183, Appendix A, which is incorporated into this award:

##### ***a. Term 1. Prohibition on Providing Funds to the Enemy.***

1. *The recipient must—*

i. *Exercise due diligence to ensure that none of the funds, including supplies and services, received under this grant or cooperative agreement are provided directly or indirectly (including through subawards or contracts) to a person or entity who is actively opposing the United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, which must be completed through 2 CFR Part 180.300 prior to issuing a subaward or contract and;*

ii. *Terminate or void in whole or in part any subaward or contract with a person or entity listed in SAM as a prohibited or restricted source pursuant to subtitle E of Title VIII of the NDAA for FY 2015, unless the Federal awarding agency provides written approval to continue the subaward or contract.*

2. *The recipient may include the substance of this clause, including this paragraph (1), in subawards under this grant or cooperative agreement that have an estimated value over \$50,000 and will be performed outside the United States, including its outlying areas.*

3. *The Federal awarding agency has the authority to terminate or void this grant or cooperative agreement, in whole or in part, if the Federal awarding agency becomes aware that the recipient failed to exercise due diligence as required by paragraph (1) of this clause or if the Federal awarding agency becomes aware that any funds received under this grant or cooperative agreement have been provided directly or indirectly to a person or entity who is actively opposing coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities*

**b. Term 2. Additional Access to Recipient Records.**

1. *In addition to any other existing examination-of-records authority, the Federal Government is authorized to examine any records of the recipient and its subawards or contracts to the extent necessary to ensure that funds, including supplies and services, available under this grant or cooperative agreement are not provided, directly or indirectly, to a person or entity that is actively opposing United States or coalition forces involved in a contingency operation in which members of the Armed Forces are actively engaged in hostilities, except for awards awarded by the Department of Defense on or before Dec 19, 2017 that will be performed in the United States Central Command (USCENTCOM) theater of operations*

2. *The substance of this clause, including this paragraph (2), is required to be included in subawards or contracts under this grant or cooperative agreement that have an estimated value over \$50,000 and will be performed outside the United States, including its outlying areas.*

**r. Prohibition on certain telecommunications and video surveillance services or equipment (Public Law 115-232, section 889; 2 C.F.R. § 200.216)**

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

- (1) Procure or obtain,
- (2) Extend or renew a contract to procure or obtain, or
- (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

- (i). For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- (ii). Telecommunications or video surveillance services provided by such entities or using such equipment.
- (iii). Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

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

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

(d) See also §200.471.

#### **s. Federal Financial Assistance Planning During a Funding Hiatus or Government Shutdown**

This term sets forth initial guidance that will be implemented for Federal assistance awards in the event of a lapse in appropriations, or a government shutdown. The Grants Officer may issue further guidance prior to an anticipated shutdown.

1. Unless there is an actual rescission of funds for specific grant or cooperative agreement obligations, non-Federal entities under Federal financial assistance awards for which funds have been obligated generally will be able to continue to perform and incur allowable expenses under the award during a funding hiatus. Non-Federal entities are advised that ongoing activities by Federal employees involved in grant or cooperative agreement administration (including payment processing) or similar operational and administrative work cannot continue when there is a funding lapse. Therefore, there may be delays, including payment processing delays, in the event of a shutdown.

2. All award actions will be delayed during a government shutdown; if it appears that a non-Federal entity's performance under a grant or cooperative agreement will require agency involvement, direction, or clearance during the period of a possible government shutdown, the Program Officer or Grants Officer, as appropriate, may attempt to provide such involvement, direction, or clearance prior to the shutdown or advise non-Federal entities that such involvement, direction, or clearance will not be forthcoming during the shutdown. Accordingly, non-Federal entities whose ability to withdraw funds is subject to prior agency approval, which in general are non-Federal entities that have been designated high risk, non-Federal entities under construction awards, or are otherwise limited to reimbursements or subject to agency review, will be able to draw funds down from the relevant Automatic Standard Application for Payment (ASAP) account only if agency approval is given and coded into ASAP prior to any government shutdown or closure. This limitation may not be lifted during a government shutdown. Non-Federal entities should plan to work with the Grants Officer to request prior approvals in advance of a shutdown wherever possible. Non-Federal entities whose authority to draw down award funds is restricted may decide to suspend work until the government reopens.

3. The ASAP system should remain operational during a government shutdown. Non-Federal entities that do not require any Grants Officer or agency approval to draw down advance funds from their ASAP accounts should be able to do so during a shutdown. The 30-day limitation on the drawdown of advance funds will still apply notwithstanding a government shutdown (see section B.02.b.1 of these terms).

# ATTACHMENT E

SPECIFIC AWARD CONDITIONS  
U.S. DEPARTMENT OF COMMERCE  
Economic Development Administration (EDA)

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**NON-CONSTRUCTION PROJECTS:** Economic Adjustment Assistance  
for Disaster Economic Recovery Under Sections 209 and 703 of the Public Works and  
Economic Development Act of 1965, as amended, 42 U.S.C. §§ 3149 and 3233

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**PROJECT TITLE:** American Rescue Plan Act Statewide Planning Awards  
ED21PHI3070028

1. **SCOPE OF WORK:** This EDA Award supports the work described in the approved final scope of work, which is incorporated by reference into this Award, as the *Authorized Scope of Work* (Attachment 1). All work on this project must be consistent with the *Authorized Scope of Work*, unless the Grants Officer has authorized a modification of the scope of work in writing through an amendment memorialized through execution of a Form CD-451.
2. **PROJECT CONTACT INFORMATION:** Contact information for the Recipient and key EDA staff with responsibilities for this award is contained in Attachment 2. The Recipient agrees to notify EDA promptly of any changes to the Recipient's contact information.
3. **ADDITIONAL INCLUDED DOCUMENTS:** In addition to the regulations, documents, or authorities incorporated by reference on the Financial Assistance Award (Form CD-450), the following additional documents are hereby incorporated by reference into this Award:
  - The Recipient's application, including any attachments, project descriptions, schedules, and subsequently submitted supplemental documentation
  - *Authorized Scope of Work* (Attachment 1)
  - *Project Contact Information* (Attachment 2)

Should there be a discrepancy among these documents, these Specific Award Conditions shall control.

4. **PROJECT DEVELOPMENT TIME SCHEDULE:** The Recipient agrees to the following Project Development Time Schedule:

Authorized Award End Date.....30 months from the Date of  
Award

Submission of Final Project Progress Report .....No later than 120 days from the

Authorized Award End Date

Submission of Final Financial Documents (SF-425).....No later than 120 days from the  
Authorized Award End Date

The Recipient shall diligently pursue the development and implementation of the project upon receipt of the EDA Award so as to ensure completion within this time schedule, and shall promptly notify EDA in writing of any event that could substantially delay meeting any of the time limits set forth above. The Recipient further acknowledges that failure to meet the Project Development Time Schedule may result in EDA pursuing remedies for non-compliance, potentially including termination of the Award, in accordance with the regulations set forth at 2 C.F.R. §§ 200.339–200.343.

**5. PROJECT REPORTING AND FINANCIAL DISBURSEMENT INSTRUCTIONS:**

**A. AWARD DISBURSEMENTS:** EDA will make disbursements using the Department of the Treasury’s Automated Standard Application for Payments (ASAP) system. The Recipient is required to furnish documentation required by ASAP. Complete information concerning the ASAP system may be obtained by visiting <https://www.fiscal.treasury.gov/asap/>.

To receive disbursements, the Recipient must submit a Form SF-270 “*Request for Advance or Reimbursement*” for the applicable period electronically to the Project Officer, who will review and process the request.

Prior to the initial disbursement, Recipients must complete the attached Form SF-3881, “ACH Vendor/Miscellaneous Payment Enrollment Form” and submit it to NOAA’s Accounting Office by emailing through secure/encrypted email to: [edagrants@noaa.gov](mailto:edagrants@noaa.gov). The form must be completed by the respective parties (EDA, Recipient Bank, and Recipient) at the start of each new award.

EDA retains the right to change Recipients from Advance to Reimbursement or Agency Review status if the Grants Officer deems it necessary or prudent to ensure successful monitoring of Federal funds. In such cases, Recipients may be required to submit a complete Form SF-270, “*Request for Reimbursement*” for the applicable period electronically to the Project Officer, who will review and process the request.

**B. REPORTS:**

*a. Project Progress Reports:* The Recipient agrees to provide the Project Officer with project progress reports, communicating the important activities and accomplishments of the project, on a semi-annual basis for the periods ending **March 31** and **September 30**, or any portion thereof, for the entire project period.

Reports are due no later than one month following the end of the semi-annual period (April 30 and October 31).

Performance progress reports shall be submitted to EDA in an electronic format no later than the due date. Reports shall be in a clear format, not exceeding six pages, and shall:

- i. Provide a concise overview of the activities undertaken during the semi-annual reporting period;
- ii. Document accomplishments, benefits, and impacts of the project. The Recipient should identify activities that have led to specific outcomes, such as job creation/retention, private investment, increased regional collaboration, engagement with historically excluded groups or regions, enhanced regional capacity, or other positive economic development benefits;
- iii. Identify any upcoming or potential press events or opportunities for collaborative press engagements to highlight the benefits of the EDA investment;
- iv. Compare progress on the project with the targeted schedule, explaining any departures, identifying how those departures will be remedied, and projecting the course of work for the next semi-annual reporting period;
- v. Outline challenges impeding or that may impede progress on the project over the next semi-annual reporting period and identify ways to address those challenges;
- vi. Outline any areas in which EDA assistance is needed to support the project; and
- vii. Provide any other information that would be helpful for your EDA Project Officer to know.

Final Project Reports may be posted on EDA's website, used for promotional materials or policy reviews, or otherwise shared. Recipients should not include any copyrighted or other sensitive business information in these reports. There is no page limit for Final Project Reports; however, such reports should concisely communicate key project information and should:

- i. Provide a high-level overview of the activities undertaken;
- ii. Outline the specific regional need the project was designed to address and explain how the project addressed that need and advanced economic development;
- iii. Document the expected and actual economic benefits of the project as of the time the report is written;

- iv. Detail lessons learned during the project that may be of assistance to EDA or other communities undertaking similar efforts; and
- v. Provide any other information necessary to understand the project and its impacts.

b. *Financial Reports*: The Recipient shall submit a “*Federal Financial Report*” (Form SF-425 or any successor form) on a semi-annual basis for the periods ending **March 31** and **September 30**, or any portion thereof, for the entire project period. Form SF-425 and instructions for completing it are available at: <https://www.grants.gov/forms/post-award-reporting-forms.html>. Reports are due no later than one month following the end of the semi-annual period (April 30 and October 31).

A final Form SF-425 must be submitted no more than 90 calendar days after the Award End Date specified on the Form CD-450 (or any subsequently executed Form CD-451). Final Financial Reports should follow the instructions for submitting mid-term financial reports, but should ensure that all fields accurately reflect the total outlays for the entire project period and that all matching funds and program income (if applicable) are fully reported. **Determination of the final grant rate and final balances owed to the government will be determined based on the information on the final Form SF-425, so it is imperative that it be submitted in a timely and accurate manner.**

6. **ALLOWABLE COSTS AND AUTHORIZED BUDGET:** Total allowable costs will be determined after the final financial documents are submitted in accordance with the applicable authorities specified on the Financial Assistance Award (Form CD-450), including the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. part 200. The Recipient must submit a line item budget for EDA approval as part of its Grant Administration Plan (see Condition 16). Upon approval, the line item budget will be incorporated into these Specific Award Conditions as Attachment 3, *Authorized Budget*.
7. **FEDERAL SHARE:** The Federal Share of total allowable project cost for this Award is 100 percent. EDA will fund 100 percent of the total allowable project costs or the grant amount shown on the Financial Assistance Award (Form CD-450), whichever is less.
8. **REFUND CHECKS, INTEREST, OR UNUSED FUNDS:** If the Recipient needs to return money to EDA, it may use one of the following two methods:
  - i. The first is the pay.gov website, which allows the Recipient to pay EDA online. The Recipient will have the option to make a one-time payment or to set up an account to make regular payments.

- ii. The second is paper check conversion. All checks must be made payable to “Department of Commerce, Economic Development Administration” and include the award number and a description of no more than two words identifying the reason for the payment. A copy of the check should be provided to the EDA Project Officer. The check should be mailed to NOAA’s Accounting Office, which processes EDA’s accounting functions, at the following address:

U.S. Department of Commerce  
National Oceanic and Atmospheric Administration  
Finance Office, AOD, EDA Grants  
20020 Century Boulevard  
Germantown, MD 20874

When funds are remitted to EDA by check, the check will be converted into an electronic funds transfer (EFT) by using the account information on the check to debit the payor’s account electronically. The debit from the payor’s account will usually occur within 24 hours. EDA will not return the check; the original will be destroyed and a copy will be retained. If the EFT cannot be completed because of insufficient funds, EDA will charge a one-time fee of \$25.00, which will be collected by EFT.

9. **PLANNING COORDINATION:** In keeping with regional economic development principles, the Recipient should coordinate economic development planning and implementation projects with other economic development organizations active in the project area, especially EDA-funded recipients such as state and urban planning grantees, adjoining Economic Development Districts (EDDs), Indian Tribes, and University Centers (UCs).
10. **TECHNICAL ASSISTANCE TO BUSINESSES:** Any technical assistance offered to businesses under the EDA award shall be widely advertised and accessible to all potentially benefitting businesses, as is reasonably permitted by the EDA project *Authorized Scope of Work* and *Authorized Budget*. The Recipient shall maintain adequate documentation of any technical assistance offered and/or provided to benefitting businesses under the EDA award.
11. **PROCUREMENT:** The Recipient agrees that all procurement transactions shall be in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. §§ 200.317–200.327.
12. **NONRELOCATION:** By accepting this Award, the Recipient attests that EDA funding is not intended by the Recipient to assist efforts to induce the relocation or the movement of existing jobs from one region to another region in competition for those jobs. In the event that EDA determines that its assistance was used for such purposes, EDA reserves the right

to pursue appropriate enforcement actions, including suspension of disbursements, termination of the Award for convenience or cause (which may include the establishment of a debt requiring the Recipient to reimburse EDA), or disallowance of any costs attributable, directly or indirectly, to the relocation.

13. **PERFORMANCE MEASURES:** The Semi-Annual Program Outputs Questionnaire for EDA Grantees (Non-infrastructure programs) (Form ED-916) must be submitted by Recipient to EDA on a semi-annual basis during the period of performance of this Award, or as otherwise directed by EDA. EDA will provide Recipient with the first electronic Outputs Questionnaire approximately six months after the date the period of performance starts, as set forth in Form CD-450. EDA will then provide Recipient subsequent electronic Outputs Questionnaires approximately every six months thereafter through the end of the period of performance, or any portion thereof if applicable. Recipient must complete and submit to EDA each electronic Outputs Questionnaire within 30 days of receipt.

The Annual Capacity Outcomes Questionnaire for EDA Grantees Serving Clients (Non-Infrastructure Programs) (Form ED-917) or the Annual Capacity Outcomes Questionnaire for EDA Grantees not Serving Clients (Non-infrastructure programs) (Form ED-918) must be submitted by Recipient to EDA on an annual basis for five years, or as otherwise directed by EDA. If Recipient will directly serve clients (i.e. beneficiaries) under the Authorized Scope of Work, Recipient must submit Form ED-917; if Recipient will not directly serve clients under the Authorized Scope of Work, Recipient must submit Form ED-918. (Recipient should consult the project officer if Recipient is unsure whether activities in the Authorized Scope of Work constitute serving clients.) Recipient will automatically receive whichever Outcomes Questionnaire is most appropriate, as determined by the EDA project officer, for the Authorized Scope of Work. EDA will provide Recipient with the first electronic Outcomes Questionnaire approximately one year after the date the period of performance starts, as set forth in Form CD-450. EDA will then provide Recipient subsequent electronic Outcomes Questionnaires approximately every 12 months thereafter for a total of five years, notwithstanding the end of the period of performance. Recipient must complete and submit to EDA each Outcomes Questionnaire within 30 days of receipt.

EDA may revise or replace the Outputs Questionnaire and/or the Outcomes Questionnaire at any time during or following the period of performance of this Award. Recipient agrees to report on program performance measures and program outcomes in such form and at such intervals as may be prescribed by EDA in compliance with the Government Performance and Results Act (GPRA) of 1993 and the Government Performance and Results Modernization Act of 2010 (collectively, GPRA Reports). Recipient must collect sufficient data and retain sufficient documentation to enable Recipient to complete required GPRA Reports. Failure to submit to EDA required GPRA Reports might adversely impact

the ability of the Recipient to secure future funding from EDA.

- 14. STAFFING CHANGES:** The Recipient must submit a Staffing Plan for EDA approval as part of its Grant Administration Plan (see Conditions 16). Upon approval, the Staffing Plan will be incorporated into these Specific Award Conditions as Attachment 4. In the event of a change in the professional staff positions primarily funded with the EDA grant, the Recipient shall provide the name of the individual selected to fill the position to the Project Officer and a copy of his or her resume within 30 business days of the selection.
- 15. REAFFIRMATION OF APPLICATION:** Recipient acknowledges that Recipient's application for this Award may have been submitted to the Government and signed by Recipient, or by an authorized representative of Recipient, electronically. Regardless of the means by which Recipient submitted its application to the Government or whether Recipient or an authorized representative of Recipient submitted its application to the Government, the Recipient hereby reaffirms and states that:
- i. All data in the application and documents submitted with the application are true and correct as of the date the application was submitted and remain true and correct as of the date of this Award;
  - ii. The application was, as of the date of submission and the date of this Award, duly authorized as required by local law by the governing body of the Recipient; and
  - iii. Recipient has read, understood, and will comply with all terms of this Award, including the Assurances and Certifications submitted with, or attached to, the application.

The term "application" includes all documentation and any information provided to the Government as part of, and in furtherance to, the request for funding, including submissions made in response to information requested by the Government after submission of the initial application.

- 16. GRANT ADMINISTRATION PLAN:** Prior to the initial disbursement of Award funds, the Recipient shall provide to the Project Officer a Grant Administration Plan, not to exceed five pages, that outlines how the Recipient will implement the *Authorized Scope of Work*. The plan must include the following information:
- A. A list of tasks that Recipient will undertake to implement the *Authorized Scope of Work* at a sufficient level of detail to allow EDA to monitor Recipient's progress in implementing the project. The list of tasks must be consistent with the *Authorized Scope of Work* and the Project Narrative submitted as part of Recipient's application;

- B. The expected outputs and outcomes of the project;
- C. A completed Form SF-424A, “Budget Information - Non-Construction Programs” showing a line-item budget for performance of the award and a Budget Narrative that aligns with both Form SF-424A and the list of tasks;
- D. A Staffing Plan showing the individuals or positions that will charge time to the Award along with salary, percentage of effort, and estimated total amount each individual will charge to the Award; and
- E. A timeline for implementing the tasks identified.

Upon approval by EDA, the Grant Administration Plan shall be incorporated into and become an enforceable part of these Specific Award Conditions. The approved line item budget will become the *Authorized Budget*, and the approved staffing plan will become the *Authorized Staffing Plan*.

- 17. DUTY TO REFRAIN FROM EMPLOYING CERTAIN EDA EMPLOYEES:** For the two-year period beginning on the date the Grants Officer executes this Award, Recipient agrees that it will not employ, offer any office or employment to, or retain for professional services any person who, on the date the Grants Officer executes this Award or within the one-year period prior to that date: (a) served as an officer, attorney, agent, or employee of EDA; and (b) occupied a position or engaged in activities that the Assistant Secretary for Economic Development determines involved discretion with respect to the granting of financial assistance under the American Rescue Plan Act (Pub. L. 117-2).

This Specific Award Condition is not applicable if Recipient is an Indian Tribe, a State, county, city, or other political subdivision of a State, or a public institution of higher education.

The two-year period and associated restrictions referenced above also shall apply beginning on the date the Grants Officer executes any cost amendment to this Award that provides additional funds to Recipient.

- 18. WASTE, FRAUD AND ABUSE:** Consistent with 2 C.F.R. part 200, at EDA’s direction, at any time(s) during the estimated useful life of the Project, Recipient’s key personnel will take a training on preventing waste, fraud and abuse as provided by the Government. Key personnel include those responsible for managing the Recipient’s finances and overseeing any contractors, sub-contractors or sub-grantees (for financial matters and/or general oversight related to this Project). EDA will provide instructions on when and how to take the training. Within sixty days of accepting the EDA Financial Assistance Award, the Recipient shall provide to the Project Officer all Certificates of Completion for the Waste, Fraud, and Abuse training. In the event there are co-recipients of this Award, the

obligations in the Specific Award Condition shall apply to all recipients whether or not designated in this Award as the Lead Recipient.

Further, Recipient will monitor award activities for common fraud schemes (hereinafter “Fraud Schemes”), such as but not limited to:

- false claims for materials and labor,
- bribes related to the acquisition of materials and labor,
- product substitution,
- mismarking or mislabeling on products and materials, and
- time and materials overcharging.

Should Recipient detect any Fraud Schemes or any other suspicious activity, Recipient will contact the EDA staff listed above and the Department of Commerce, Office of Inspector General, as indicated at <https://www.oig.doc.gov/Pages/Contact-Us.aspx>, as soon as possible.

- 19. SUBAWARDS:** It is understood that certain work activities undertaken as part of the project funded through this Financial Assistance Award will be accomplished through a subaward by the Recipient to the Subawardee. Before the subawardee undertakes any work to be funded through this Award, the Recipient shall enter into a written subaward agreement with the Subawardee governing the Subawardee’s work activities. The subaward agreement shall meet the requirements of 2 C.F.R. § 200.331(a) and shall include a requirement that the Subawardee comply with all of the terms and conditions of this Financial Assistance Award, including but not limited to the Standard and Specific Award conditions and the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 C.F.R. part 200). The Recipient shall be responsible for monitoring the Subawardee’s performance under the Subaward in accordance with the requirements of 2 C.F.R. § 200.331.

All awardees of applicable grants and cooperative agreements are required to report to the Federal Subaward Reporting System (FSRS) available at [www.FSRS.gov](http://www.FSRS.gov) on all sub-awards over \$30,000. Please see the OMB guidance published at 2 C.F.R. part 170 (2015), which can be accessed at <http://www.gpo.gov/fdsys/pkg/CFR-2015-title2-vol1/pdf/CFR-2015-title2-vol1-part170.pdf>.

## ATTACHMENT 1

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### **Authorized Scope of Work for the Statewide Planning Program**

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The Scope of Work for this Award includes authorized activities to prevent, prepare for, and respond to the coronavirus (COVID-19) pandemic or respond to economic injury as a result of coronavirus. Such activities shall include one or more of the following pre-approved grant activities that shall focus on the economic development and recovery for the state:

- Developing economic development plans that identify new or existing industry clusters that would benefit from specific infrastructure, studies, and/or workforce investments to facilitate rapid expansion of such industry clusters. These plans may be designed specifically to facilitate future applications to EDA's ARPA Build Back Better Regional Challenge NOFO by, at a minimum, identifying projects that could promote the establishment or expansion of an industry clusters. For states negatively impacted by the downturn in the coal economy, EDA expects that the plans developed under this activity will specifically address the economic effects of the transition away from coal and expansion or creation of industry clusters to support affected communities.
- Bringing together potentially disparate existing local and regional plans, such as Comprehensive Economic Development Strategies (CEDS), or state and local plans under the Workforce Innovation and Opportunity Act (WIOA), into one holistic and inclusive state-wide plan or a plan that encompasses multiple regions within a state or across state lines including strengthening links between urban and rural areas. Any such plan should adhere to EDA's CEDS guidelines, take into account the needs of all populations, including Tribal, other indigenous communities, or other underserved communities, including rural communities and persistent poverty communities, and consider positive responses to current and long-term market dynamics driving the state's economic well-being and global competitiveness.
- Analyzing the needs of persistent poverty communities and formulating strategies to decrease disparities between these areas and more prosperous areas within a state.
- Facilitating coordination with Tribes or other indigenous communities regarding State, regional, or local planning efforts that intersect with the Tribes' interests and are supported by impacted Tribal communities.
- Hiring disaster recovery coordinators, including possibly extending the terms of disaster recovery coordinators hired by local Economic Development Districts pursuant to EDA's CARES Act funding.
- Supporting statewide broadband data collection and mapping efforts and developing statewide broadband deployment and technical assistance plans.
- Conducting a statewide skills assessment and analysis to help inform workforce development and training needs based on employers' demand for skills, including

coordination with the state labor market information agency and the state workforce development board.

- Cataloging state innovation and entrepreneurship assets including mechanisms to access capital and equity financing to support business development and expansion and gaps in access to capital for underserved rural and urban communities.
- Undertaking a statewide supply chain and logistics assessment to increase efficiencies.
- Identifying state assets and economic resources and developing action plans that will benefit the state's economy in a regional and global marketplace.
- Other related activities as approved in writing by EDA.

ATTACHMENT 2

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**Project Contact Information**

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The Recipient Contact's name, title, address, and telephone number are:

Michael Kennealy Secretary of Housing & Economic Dev (774) 608-6207 Michael.kennealy@mass.gov	Commonwealth of Massachusetts 1 Ashburton Place Boston, MA 02108
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The Grants Officer is authorized to award, amend, suspend, and terminate financial assistance awards. The Grants Officer is:

Linda Cruz Carnall Regional Director Fax: 215-597-4063	Economic Development Administration Philadelphia Regional Office Robert N.C. Nix Federal Building 900 Market Street, Room 602 Philadelphia, PA 19107
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The Federal Program Officer (Area Director) oversees the programmatic aspects of this Award. The Federal Program Officer is:

Christine Frost Area Director Phone: 1-267-314-3419 Email: <a href="mailto:cfrost2@eda.gov">cfrost2@eda.gov</a>	Economic Development Administration Philadelphia Regional Office Robert N.C. Nix Federal Building 900 Market Street, Room 602 Philadelphia, PA 19107
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The Project Officer is responsible for day-to-day administration and liaison with the Recipient and receives all reports and payment requests. The Project Officer is:

Matthew Magargee Economic Development Specialist Phone: (215) 518-9916 Email: <a href="mailto:mmcargee@eda.gov">mmcargee@eda.gov</a>	Economic Development Administration Philadelphia Regional Office Robert N.C. Nix Federal Building 900 Market Street, Room 602 Philadelphia, PA 19107
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