

Section - - SPECIAL TERMS AND CONDITIONS FOR USE IN MOST GRANTS AND COOPERATIVE AGREEMENTS.....	3
LEGAL AUTHORITY AND EFFECT (JUNE 2015).....	3
RESOLUTION OF CONFLICTING CONDITIONS .....	3
AWARD AGREEMENT TERMS AND CONDITIONS (DECEMBER 2014).....	3
AWARD PROJECT PERIOD AND BUDGET PERIODS.....	4
CONFERENCE SPENDING (FEBRUARY 2015).....	4
PAYMENT PROCEDURES - ADVANCES THROUGH THE AUTOMATED STANDARD APPLICATION FOR PAYMENTS (ASAP) SYSTEM .....	4
PAYMENT PROCEDURES - REIMBURSEMENT THROUGH THE AUTOMATED STANDARD APPLICATION FOR PAYMENTS (ASAP) SYSTEM .....	4
PAYMENT PROCEDURES - REIMBURSEMENT THROUGH THE AUTOMATED CLEARING HOUSE (ACH) VENDOR INQUIRY PAYMENT ELECTRONIC REPORTING SYSTEM (VIPERS).....	5
PAYMENT PROCEDURES ADVANCE THROUGH THE AUTOMATED CLEARING HOUSE (ACH) VENDOR INQUIRY PAYMENT ELECTRONIC REPORTING SYSTEM (VIPERS).....	5
INCREMENTAL FUNDING AND MAXIMUM OBLIGATION - DIFFERENT BUDGET PERIOD AND PROJECT PERIOD .....	6
INCREMENTAL FUNDING AND MAXIMUM OBLIGATION - COEXTENSIVE BUDGET PERIOD AND PROJECT PERIOD.....	6
COST SHARING FFRDC'S NOT INVOLVED .....	6
COST SHARING FFRDC'S PARTICIPATE .....	7
COST SHARING FRONT-LOADED COST SHARING AND FFRDC'S NOT INVOLVED .....	7
COST SHARING FRONT-LOADED COST SHARING AND FFRDC'S INVOLVED.....	8
DIRECT PAYMENT BY DOE/NNSA OF FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER (FFRDC) CONTRACTOR COST .....	9
REBUDGETING AND RECOVERY OF INDIRECT COSTS - REIMBURSABLE INDIRECT COSTS AND FRINGE BENEFITS.....	9
REBUDGETING AND RECOVERY OF INDIRECT COSTS - REIMBURSABLE INDIRECT COSTS .....	9
REBUDGETING AND RECOVERY OF INDIRECT COSTS - INDIRECT COSTS AND FRINGE BENEFITS ARE NOT REIMBURSABLE.....	10
PRE-AWARD COSTS (DECEMBER 2014).....	10
USE OF PROGRAM INCOME - ADDITION .....	10
USE OF PROGRAM INCOME - COST SHARING .....	10
USE OF PROGRAM INCOME - DEDUCTION.....	10
STATEMENT OF FEDERAL STEWARDSHIP.....	10
STATEMENT OF SUBSTANTIAL INVOLVEMENT .....	10
STATEMENT OF SUBSTANTIAL INVOLVEMENT PROVIDED AS ATTACHMENT .....	10
SITE VISITS.....	10
REPORTING REQUIREMENTS (APRIL 2023) .....	11
PUBLICATIONS.....	11
FEDERAL, STATE, AND MUNICIPAL REQUIREMENTS .....	12
INTELLECTUAL PROPERTY PROVISIONS AND CONTACT INFORMATION .....	12
NATIONAL SECURITY: CLASSIFIABLE RESULTS ORIGINATING UNDER AN AWARD (DECEMBER 2014).....	12
CONTINUATION APPLICATION AND FUNDING - AWARDS UNDER 2 CFR PART 200 AS AMENDED BY 2 CFR PART 910 (DECEMBER 2014).....	13

CONTINUATION APPLICATION AND FUNDING - AWARDS UNDER 10 CFR 605 .....	14
CONTINUATION APPLICATION AND FUNDING - AWARDS UNDER 10 CFR 420 AND/OR 10 CFR 440.....	14
CONTINUATION APPLICATION AND FUNDING - AWARDS UNDER SBIR/STTR.....	14
NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS -- SENSE OF CONGRESS .....	15
ENVIRONMENTAL, SAFETY AND HEALTH (ES&H) PERFORMANCE OF WORK AT DOE FACILITIES .....	15
FUNDING OF BUDGET PERIODS.....	15
INSURANCE COVERAGE (DECEMBER 2014) .....	16
REAL PROPERTY (DECEMBER 2014) .....	16
FEDERALLY OWNED AND EXEMPT PROPERTY (DECEMBER 2014).....	16
EQUIPMENT (DECEMBER 2014).....	16
SUPPLIES (DECEMBER 2014).....	17
INTANGIBLE PROPERTY (DECEMBER 2014) .....	17
PROPERTY TRUST RELATIONSHIP (DECEMBER 2014) .....	17
AT RISK FOR FINANCIAL CAPABILITY .....	17
CONDITIONAL AVAILABILITY OF FUNDS (DECEMBER 2014).....	18
INSOLVENCY, BANKRUPTCY OR RECEIVERSHIP .....	18
PERFORMANCE OF WORK IN UNITED STATES.....	19
FFRDC ADVANCE UNDERSTANDING .....	19
NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) REQUIREMENTS.....	19
DECONTAMINATION AND/OR DECOMMISSIONING (D &D) COSTS .....	19
HISTORIC PRESERVATION .....	19
REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION.....	20
SYSTEM FOR AWARD MANAGEMENT AND UNIVERSAL IDENTIFIER REQUIREMENTS.....	23
FINAL INCURRED COST AUDIT (DECEMBER 2014) .....	24
INDEMNITY .....	24
ADVANCE PATENT WAIVER.....	24
HUMAN SUBJECTS (DECEMBER 2014).....	24
ANIMAL WELFARE.....	25
ANIMAL WELFARE (FOREIGN ENTITY) .....	25
FINANCIAL COMMITMENT/FUNDING PLAN.....	25
SUBAWARDS TO DOE NATIONAL LABORATORIES.....	26
LOBBYING RESTRICTIONS (MARCH 2012) .....	27
CORPORATE FELONY CONVICTION AND FEDERAL TAX LIABILITY ASSURANCES (MARCH 2014).....	27
NONDISCLOSURE AND CONFIDENTIALITY AGREEMENTS ASSURANCES (JUNE 2015) .....	27
DATA MANAGEMENT PLAN (SEPT 2015) .....	28
REPORTING OF MATTERS RELATED TO RECIPIENT INTEGRITY AND PERFORMANCE (DECEMBER 2015).....	31
IMPLEMENTATION OF EXECUTIVE ORDER 14173, ENDING ILLEGAL DISCRIMINATION AND RESTORING MERIT BASED OPPORTUNITY (DECEMBER 2025) .....	32

**Section - - SPECIAL TERMS AND CONDITIONS FOR USE IN MOST GRANTS AND  
COOPERATIVE AGREEMENTS**

**LEGAL AUTHORITY AND EFFECT (JUNE 2015)**

(a) A DOE financial assistance award is valid only if it is in writing and is signed, either in writing or electronically, by a DOE Contracting Officer.

(b) Recipients are free to accept or reject the award. A request to draw down DOE funds constitutes the Recipient's acceptance of the terms and conditions of this Award.

**RESOLUTION OF CONFLICTING CONDITIONS**

Any apparent inconsistency between Federal statutes and regulations and the terms and conditions contained in this award must be referred to the DOE Award Administrator for guidance.

**AWARD AGREEMENT TERMS AND CONDITIONS (DECEMBER 2014)**

This award/agreement consists of the Assistance Agreement cover page, plus the following:

a. Special terms and conditions.

b. Attachments:

Attachment No. Title

1 Intellectual Property Provisions

2 Statement of Project Objectives

3 Federal Assistance Reporting Checklist

4 Budget Pages

5 If the award is for Research, the Federal- Wide Research Terms and Conditions NOTE: The final version of the Research Terms and Conditions and the DOE Agency Specific Requirements will become effective for this award upon publication at <http://www.nsf.gov/awards/managing/rtc.jsp>

c. Applicable program regulations[, []] at <http://www.eCFR.gov>.

d. DOE Assistance Regulations, 2 CFR part 200 as amended by 2 CFR part 910 at <http://www.eCFR.gov>.

e. Application/proposal as approved by DOE.

f. National Policy Assurances to Be Incorporated as Award Terms in effect on date of award at <http://www.nsf.gov/awards/managing/rtc.jsp>.

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## **AWARD PROJECT PERIOD AND BUDGET PERIODS**

The Project Period for this award is [] through [] consisting of the following Budget Periods.

[CUT and PASTE Table from STRIPES Library document entitled FA Special Terms and Conditions Tables.]

## **CONFERENCE SPENDING (FEBRUARY 2015)**

The recipient shall not expend any funds on a conference not directly and programmatically related to the purpose for which the grant or cooperative agreement was awarded that would defray the cost to the United States Government of a conference held by any Executive branch department, agency, board, commission, or office for which the cost to the United States Government would otherwise exceed \$20,000, thereby circumventing the required notification by the head of any such Executive Branch department, agency, board, commission, or office to the Inspector General (or senior ethics official for any entity without an Inspector General), of the date, location, and number of employees attending such conference.

## **PAYMENT PROCEDURES - ADVANCES THROUGH THE AUTOMATED STANDARD APPLICATION FOR PAYMENTS (ASAP) SYSTEM**

- a. Method of Payment. Payment will be made by advances through the Department of Treasury's ASAP system.
- b. Requesting Advances. Requests for advances must be made through the ASAP system. You may submit requests as frequently as required to meet your needs to disburse funds for the Federal share of project costs. If feasible, you should time each request so that you receive payment on the same day that you disburse funds for direct project costs and the proportionate share of any allowable indirect costs. If same-day transfers are not feasible, advance payments must be as close as is administratively feasible to actual disbursements.
- c. Adjusting payment requests for available cash. You must disburse any funds that are available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries, credits, discounts, and interest earned on any of those funds before requesting additional cash payments from DOE/NNSA.
- d. Payments. All payments are made by electronic funds transfer to the bank account identified on the ASAP Bank Information Form that you filed with the U.S. Department of Treasury.

## **PAYMENT PROCEDURES - REIMBURSEMENT THROUGH THE AUTOMATED STANDARD APPLICATION FOR PAYMENTS (ASAP) SYSTEM**

- a. Method of Payment. Payment will be made by reimbursement through the Department of Treasury's ASAP system.
- b. Requesting Reimbursement. Requests for reimbursements must be made through the ASAP system. Your requests for reimbursement should coincide with your normal billing pattern, but not more frequently than every two weeks. Each request must be limited to the amount of disbursements made for the federal share of direct project costs and the proportionate share of allowable indirect costs incurred during that billing period.
- c. Adjusting payment requests for available cash. You must disburse any funds that are available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements,

audit recoveries, credits, discounts, and interest earned on any of those funds before requesting additional cash payments from DOE/NNSA.

d. Payments. All payments are made by electronic funds transfer to the bank account identified on the ASAP Bank Information Form that you filed with the U.S. Department of Treasury.

#### **PAYMENT PROCEDURES - REIMBURSEMENT THROUGH THE AUTOMATED CLEARING HOUSE (ACH) VENDOR INQUIRY PAYMENT ELECTRONIC REPORTING SYSTEM (VIPERS)**

a. Method of Payment. Payment will be made by reimbursement through ACH.

b. Requesting Reimbursement. Requests for reimbursements must be made electronically through Department of Energy's Oak Ridge Financial Service Center (ORFSC) VIPERS. To access and use VIPERS, you must enroll at <https://vipers.doe.gov>. Detailed instructions on how to enroll are provided on the web site.

For non-construction awards, you must submit a Standard Form (SF) 270, "Request for Advance or Reimbursement" at <https://vipers.doe.gov> and attach a file containing appropriate supporting documentation. The file attachment must show the total federal share claimed on the SF 270, the non-federal share claimed for the billing period if cost sharing is required, and cumulative expenditures to date (both Federal and non-Federal) for each of the following categories: salaries/wages and fringe benefits; equipment; travel; participant/training support costs, if any; other direct costs, including subawards/contracts; and indirect costs. For construction awards, you must submit a SF 271, "Outlay Report and Request for Reimbursement for Construction Programs," through VIPERS.

c. Timing of submittals. Submittal of the SF 270 or SF 271 should coincide with your normal billing pattern, but not more frequently than every two weeks. Requests for reimbursement must be limited to the amount of disbursements made during the billing period for the federal share of direct project costs and the proportionate share of any allowable indirect costs incurred during that billing period.

d. Adjusting payment requests for available cash. You must disburse any funds that are available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries, credits, discounts, and interest earned on any of those funds before requesting additional cash payments from DOE/NNSA.

e. Payments. The DOE approving official will approve the invoice as soon as practicable but not later than 30 days after your request is received, unless the billing is improper. Upon receipt of an invoice payment authorization from the DOE approving official, the ORFSC will disburse payment to you. You may check the status of your payments at the VIPER web site. All payments are made by electronic funds transfer to the bank account identified on the ACH Vendor/Miscellaneous Payment Enrollment Form (SF 3881) that you filed.

#### **PAYMENT PROCEDURES ADVANCE THROUGH THE AUTOMATED CLEARING HOUSE (ACH) VENDOR INQUIRY PAYMENT ELECTRONIC REPORTING SYSTEM (VIPERS)**

a. Method of Payment. Payment will be made by advances through ACH.

b. Requesting Advances. Requests for advances must be made electronically through Department of Energy's Oak Ridge Financial Service Center (ORFSC) VIPERS. To access and use VIPERS, you must enroll at <https://vipers.doe.gov>. Detailed instructions on how to enroll are provided on the web site.

For non-construction awards, you must submit a Standard Form (SF) 270, "Request for Advance or Reimbursement" at <https://vipers.doe.gov> and attach a file containing appropriate supporting documentation. The file attachment must show the total federal share claimed on the SF 270, the non-federal share claimed for the billing period if cost sharing is required, and cumulative expenditures to date (both Federal and non-Federal) for each of the following categories: salaries/wages and fringe benefits; equipment; travel; participant/training support costs, if any; other direct costs, including subawards/contracts; and indirect costs. For construction awards, you must submit a SF 271, "Outlay Report and Request for Reimbursement for Construction Programs," through VIPERS.

c. Timing of submittals. Submittal of the SF 270 or SF 271 should coincide with your normal billing pattern, but not more frequently than every two weeks. Requests for advances must be limited to the amount of disbursements made during the billing period for the federal share of direct project costs and the proportionate share of any allowable indirect costs incurred during that billing period.

d. Adjusting payment requests for available cash. You must disburse any funds that are available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries, credits, discounts, and interest earned on any of those funds before requesting additional cash payments from DOE/NNSA.

e. Payments. The DOE approving official will approve the request for advances as soon as practicable, unless the billing is improper. Upon receipt of a request for advance authorization from the DOE approving official, the ORFSC will disburse payment to you. You may check the status of your payments at the VIPER web site. All payments are made by electronic funds transfer to the bank account identified on the ACH Vendor/Miscellaneous Payment Enrollment Form (SF 3881) that you filed.

#### **INCREMENTAL FUNDING AND MAXIMUM OBLIGATION - DIFFERENT BUDGET PERIOD AND PROJECT PERIOD**

If at any time during the award a budget period is funded on an incremental basis, the maximum obligation of the DOE/NNSA is limited to the amount shown on the Award Agreement. You are not obligated to continue performance of the project beyond the total amount obligated and your pro rata share of the project costs, if cost sharing is required.

Subject to the availability of additional funds appropriated by Congress for the purpose of this program and the availability of future-year budget authority, DOE anticipates obligating the total estimated amount for the current budget period.

#### **INCREMENTAL FUNDING AND MAXIMUM OBLIGATION - COEXTENSIVE BUDGET PERIOD AND PROJECT PERIOD**

This award is funded on an incremental basis. The maximum obligation of the DOE/NNSA is limited to the amount shown on the Award Agreement. You are not obligated to continue performance of the project beyond the total amount obligated and your pro rata share of the project costs, if cost sharing is required. Additional funding is contingent upon (1) availability of funds appropriated by Congress for the purpose of this program; (2) the availability of future-year budget authority; and (3) substantial progress towards meeting the objectives of the award.

#### **COST SHARING FFRDC'S NOT INVOLVED**

a. Total Estimated Project Cost is the sum of the Government share and Recipient share of the estimated project costs. The Recipient's cost share must come from non-Federal sources unless otherwise allowed by law. By accepting federal funds under this award, you agree that you are liable for your percentage share of total allowable project costs, on a budget period basis, even if the project is terminated early or is not funded to its completion. This cost is shared as follows:

[CUT and PASTE Table from STRIPES Library document entitled FA Special Terms and Conditions Tables.]

b. If you discover that you may be unable to provide cost sharing of at least the amount identified in paragraph a of this term, you should immediately provide written notification to the DOE Award Administrator indicating whether you will continue or phase out the project. If you plan to continue the project, the notification must describe how replacement cost sharing will be secured.

c. You must maintain records of all project costs that you claim as cost sharing, including in-kind costs, as well as records of costs to be paid by DOE/NNSA. Such records are subject to audit.

d. Failure to provide the cost sharing required by this term may result in the subsequent recovery by DOE/NNSA of some or all the funds provided under the award.

#### **COST SHARING FFRDC'S PARTICIPATE**

a. Total Estimated Project Cost is the sum of the Government share, including Federally Funded Research and Development Corporation (FFRDC) contractor costs, and Recipient share of the estimated project costs. The DOE/NNSA FFRDC contractor cost is not included in the total approved budget for this award, because DOE/NNSA will pay the DOE/NNSA FFRDC contractor portion of the effort under an existing DOE/NNSA contract. Recipient is not responsible for reporting on that portion of the total estimated cost that is paid directly to the DOE/NNSA FFRDC contractor.

The Recipient's cost share must come from non-Federal sources unless otherwise allowed by law. By accepting federal funds under this award, you agree that you are liable for your percentage share of allowable project costs, on a budget period basis, even if the project is terminated early or is not funded to its completion. This cost is shared as follows:

[CUT and PASTE Table from STRIPES Library document entitled FA Special Terms and Conditions Tables.]

b. If you discover that you may be unable to provide cost sharing of at least the amount identified in paragraph a of this term, you should immediately provide written notification to the DOE Award Administrator indicating whether you will continue or phase out the project. If you plan to continue the project, the notification must describe how replacement cost sharing will be secured.

c. You must maintain records of all project costs that you claim as cost sharing, including in-kind costs, as well as records of costs to be paid by DOE/NNSA. Such records are subject to audit.

d. Failure to provide the cost sharing required by this term may result in the subsequent recovery by DOE/NNSA of some or all the funds provided under the award.

#### **COST SHARING FRONT-LOADED COST SHARING AND FFRDC'S NOT INVOLVED**

a. Total Estimated Project Cost is the sum of the Government share and Recipient share of the estimated project costs. The Recipient's cost share must come from non-Federal sources unless otherwise allowed by law. Recipient acknowledges that the Government has agreed to share at a higher rate in the early stages of the project with the expectation that the recipient shall share at a higher rate during later stages in order to achieve an overall recipient cost-share percentage of at least []% of the total allowable project costs. By accepting federal funds under this award, you agree that, notwithstanding the budget period cost-share percentages set forth below, you are liable for []% of the total allowable project costs, even if the project is terminated early or is not funded to completion. If you have not achieved []% cost-sharing at the time of project termination or discontinuance, you shall refund sufficient funds to the Government in order to achieve a Recipient cost-share percentage of []% based on total allowable project cost. The cost is shared as follows:

[CUT and PASTE Table from STRIPES Library document entitled FA Special Terms and Conditions Tables.]

b. If you discover that you may be unable to provide cost sharing of at least the amount identified in paragraph a of this term, you should immediately provide written notification to the DOE Award Administrator indicating whether you will continue or phase out the project. If you plan to continue the project, the notification must describe how replacement cost sharing will be secured.

c. You must maintain records of all project costs that you claim as cost sharing, including in-kind costs, as well as records of costs to be paid by DOE/NNSA. Such records are subject to audit.

d. Failure to provide the cost sharing required by this term may result in the subsequent recovery by DOE/NNSA of some or all the funds provided under the award.

#### **COST SHARING FRONT-LOADED COST SHARING AND FFRDC'S INVOLVED**

a. Total Estimated Project Cost is the sum of the Government share, including FFRDC contractor costs, and Recipient share of the estimated project costs. The DOE/NNSA FFRDC contractor cost is not included in the total approved budget for this award because DOE/NNSA will pay the DOE/NNSA FFRDC contractor portion of the effort under an existing DOE/NNSA contract. Recipient is not responsible for reporting on that portion of the total estimated cost that is paid directly to the DOE/NNSA FFRDC contractor.

The Recipient's cost share must come from non-Federal sources unless otherwise allowed by law. Recipient acknowledges that the Government has agreed to share at a higher rate in the early stages of the project with the expectation that the recipient shall share at a higher rate during later stages in order to achieve an overall recipient cost-share percentage of at least [Percentage]% of the total allowable project costs. By accepting federal funds under this award, you agree that, notwithstanding the budget period cost-share percentages set forth below, you are liable for [Percentage]% of the total allowable project costs, even if the project is terminated early or is not funded to completion. If you have not achieved [Percentage]% cost-sharing at the time of project termination or discontinuance, you shall refund sufficient funds to the Government in order to achieve a Recipient cost-share percentage of [Percentage]% based on total allowable project cost. The cost is shared as follows:

[CUT and PASTE Table from STRIPES Library document entitled FA Special Terms and Conditions Tables.]

b. If you discover that you may be unable to provide cost sharing of at least the amount identified in paragraph a of this term, you should immediately provide written notification to the DOE Award Administrator indicating



whether you will continue or phase out the project. If you plan to continue the project, the notification must describe how replacement cost sharing will be secured.

c. You must maintain records of all project costs that you claim as cost sharing, including in-kind costs, as well as records of costs to be paid by DOE/NNSA. Such records are subject to audit.

d. Failure to provide the cost sharing required by this term may result in the subsequent recovery by DOE/NNSA of some or all the funds provided under the award.

#### **DIRECT PAYMENT BY DOE/NNSA OF FEDERALLY FUNDED RESEARCH AND DEVELOPMENT CENTER (FFRDC) CONTRACTOR COST**

For the purposes of this term, Total Estimated Cost of Project includes DOE/NNSA FFRDC contractor costs. The DOE/NNSA FFRDC contractor cost is not included in the total approved budget for this award, because DOE/NNSA will pay the DOE/NNSA FFRDC contractor portion of the effort under an existing DOE/NNSA contract. Recipient is not responsible for reporting on that portion of the total estimated cost that is paid directly to the DOE/NNSA FFRDC contractor.

#### **REBUDGETING AND RECOVERY OF INDIRECT COSTS - REIMBURSABLE INDIRECT COSTS AND FRINGE BENEFITS**

a. If actual allowable indirect costs are less than those budgeted and funded under the award, you may use the difference to pay additional allowable direct costs during the project period. If at the completion of the award the Government's share of total allowable costs (i.e., direct and indirect), is less than the total costs reimbursed, you must refund the difference.

b. Recipients are expected to manage their indirect costs. DOE will not amend an award solely to provide additional funds for changes in indirect cost rates. DOE recognizes that the inability to obtain full reimbursement for indirect costs means the recipient must absorb the underrecovery. Such underrecovery may be allocated as part of the organization's required cost sharing.

#### **REBUDGETING AND RECOVERY OF INDIRECT COSTS - REIMBURSABLE INDIRECT COSTS**

a. If actual allowable indirect costs are less than those budgeted and funded under the award, you may use the difference to pay additional allowable direct costs during the project period. If at the completion of the award the Government's share of total allowable costs (i.e., direct and indirect), is less than the total costs reimbursed, you must refund the difference.

b. Recipients are expected to manage their indirect costs. DOE will not amend an award solely to provide additional funds for changes in indirect cost rates. DOE recognizes that the inability to obtain full reimbursement for indirect costs means the recipient must absorb the underrecovery. Such underrecovery may be allocated as part of the organization's required cost sharing.

c. The budget for this award includes indirect costs, but does not include fringe benefits. Therefore, fringe benefit costs shall not be charged to nor shall reimbursement be requested for this project nor shall the fringe benefit costs for this project be allocated to any other federally sponsored project. In addition, fringe benefit costs shall not be counted as cost share unless approved by the Contracting Officer.

## **REBUDGETING AND RECOVERY OF INDIRECT COSTS - INDIRECT COSTS AND FRINGE BENEFITS ARE NOT REIMBURSABLE**

The budget for this award does not include indirect costs or fringe benefits. Therefore, these expenses shall not be charged to nor reimbursement requested for this project nor shall the fringe and indirect costs from this project be allocated to any other federally sponsored project. In addition, indirect costs or fringe benefits shall not be counted as cost share unless approved by the Contracting Officer.

## **PRE-AWARD COSTS (DECEMBER 2014)**

You are entitled to reimbursement for costs incurred on or after [], as authorized by the pre-award costs letter dated [], if such costs are allowable in accordance with the applicable Federal cost principles referenced in 2 CFR part 200 as amended by 2 CFR part 910.

## **USE OF PROGRAM INCOME - ADDITION**

If you earn program income during the project period as a result of this award, you may add the program income to the funds committed to the award and use it to further eligible project objectives.

## **USE OF PROGRAM INCOME - COST SHARING**

If you earn program income during the project period as a result of this award, you may use the program income to meet your cost sharing requirement.

## **USE OF PROGRAM INCOME - DEDUCTION**

If you earn program income during the project period as a result of this award, you must deduct the program income from the total allowable project costs to determine the net allowable costs on which the Federal share is based.

## **STATEMENT OF FEDERAL STEWARDSHIP**

DOE/NNSA will exercise normal Federal stewardship in overseeing the project activities performed under this award. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the award objectives have been accomplished.

## **STATEMENT OF SUBSTANTIAL INVOLVEMENT**

[]

## **STATEMENT OF SUBSTANTIAL INVOLVEMENT PROVIDED AS ATTACHMENT**

A Statement of Substantial Involvement applicable to this cooperative agreement is provided as Attachment [] to this award.

## **SITE VISITS**

DOE/NNSA's authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. You must provide, and must require your subrecipients to provide, reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

## **REPORTING REQUIREMENTS (APRIL 2023)**

a. Requirements. The reporting requirements for this award are identified on the Federal Assistance Reporting Checklist, DOE F 4600.2, attached to this award. Failure to comply with these reporting requirements is considered a material noncompliance with the terms of the award. Noncompliance may result in withholding of future payments, suspension, or termination of the current award, and withholding of future awards. A willful failure to perform, a history of failure to perform, or unsatisfactory performance of this and/or other financial assistance awards, may also result in a debarment action to preclude future awards by Federal agencies.

b. Dissemination of scientific/technical reporting products. Reporting project results in scientific and technical information (STI) publications/products to the DOE Office of Scientific and Technical Information (OSTI) ensures dissemination of research results to the public as well as preservation of the results. The DOE form F 4600.2, B. Scientific/Technical Reporting, has instructions for the DOE Energy Link (E-Link) system managed by OSTI. Scientific/technical reports and other STI products submitted under this award will be disseminated publicly on the Web via OSTI.GOV (<https://www.osti.gov>), unless the STI contains patentable material, protected data, or SBIR/STTR data, which must be indicated per instructions in DOE 4600.2.

c. Restrictions. STI products submitted to the DOE via E-link must not contain any Protected Personally Identifiable Information (PII), limited rights data, classified information, information subject to export control classification, or other information not subject to public release. The Contracting Officer or Technical Project Officer should be contacted with any questions. Limited rights data means data (other than computer software) developed at private expense that embody trade secrets or are commercial or financial and confidential or privileged. SBIR/STTR Protected Data, and other data subject to statutory data protection authorized by the award may be submitted, provided such data is properly marked and identified during submission. Submissions must not contain any "Proprietary", "Confidential" or "Business Sensitive" markings or similar restrictive markings not authorized by the applicable government agreement.; it is acknowledged that DOE has the right to cancel or ignore such markings.

## **PUBLICATIONS**

a. You are encouraged to publish or otherwise make publicly available the results of the work conducted under the award.

b. An acknowledgment of Federal support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

Acknowledgment: "This material is based upon work supported by the Department of Energy [National Nuclear Security Administration] [] under Award Number(s) []."

Disclaimer: "This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes

any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof."

## **FEDERAL, STATE, AND MUNICIPAL REQUIREMENTS**

You must obtain any required permits and comply with applicable federal, state, and municipal laws, codes, and regulations for work performed under this award.

## **INTELLECTUAL PROPERTY PROVISIONS AND CONTACT INFORMATION**

- a. The intellectual property provisions applicable to this award are provided as an attachment to this award or are referenced on the Assistance Agreement Face Page. A list of all intellectual property provisions may be found at <http://energy.gov/gc/standard-intellectual-property-ip-provisions-financial-assistance-awards>
- b. Questions regarding intellectual property matters should be referred to the DOE Award Administrator and the Patent Counsel designated as the service provider for the DOE office that issued the award. The IP Service Providers List is found at <http://energy.gov/gc/downloads/intellectual-property-ip-service-providers-acquisition-and-assistance-transactions>

## **NATIONAL SECURITY: CLASSIFIABLE RESULTS ORIGINATING UNDER AN AWARD (DECEMBER 2014)**

This award is intended for unclassified, publicly releasable research. You will not be granted access to classified information. DOE/NNSA does not expect that the results of the research project will involve classified information. Under certain circumstances, however, a classification review of information originated under the award may be required. The Department may review research work generated under this award at any time to determine if it requires classification.

b. Executive Order 12958 (60 Fed. Reg. 19,825 (1995)) states that basic scientific research information not clearly related to the national security shall not be classified. Nevertheless, some information concerning (among other things) scientific, technological, or economic matters relating to national security or cryptology may require classification. If you originate information during the course of this award that you believe requires classification, you must promptly:

1. Notify the DOE Project Officer and the DOE Award Administrator;
2. Submit the information by registered mail directly to the Director, Office of Classification and Information Control, SO-10.2; U.S. Department of Energy; P.O. Box A; Germantown, MD 20875-0963, for classification review.
3. Restrict access to the information to the maximum extent possible until you are informed that the information is not classified, but no longer than 30 days after receipt by the Director, Office of Classification and Information Control.

c. If you originate information concerning the production or utilization of special nuclear material (i.e., plutonium, uranium enriched in the isotope 233 or 235, and any other material so determined under section 51 of the Atomic Energy Act) or nuclear energy, you must:

1. Notify the DOE Project Officer and the DOE Award Administrator;
  2. Submit the information by registered mail directly to the Director, Office of Classification and Information Control, SO-10.2; U.S. Department of Energy; P. O. Box A; Germantown, MD 20875-0963 for classification review within 180 days of the date the recipient first discovers or first has reason to believe that the information is useful in such production or utilization; and
  3. Restrict access to the information to the maximum extent possible until you are informed that the information is not classified, but no longer than 90 days after receipt by the Director, Office of Classification and Information Control.
- d. If DOE determines any of the information requires classification, you agree that the Government may terminate the award with consent of the recipient in accordance with 2 CFR part 200.339(a)(3). All material deemed to be classified must be forwarded to the DOE, in a manner specified by DOE.
- e. If DOE does not respond within the specified time periods, you are under no further obligation to restrict access to the information.

#### **CONTINUATION APPLICATION AND FUNDING - AWARDS UNDER 2 CFR PART 200 AS AMENDED BY 2 CFR PART 910 (DECEMBER 2014)**

Continuation Application. A continuation application is a non-competitive application for an additional budget period within a previously approved project period. At least 90 days before the end of each budget period, you must submit your continuation application to the DOE Program Manager whose name is in block 15 of the Award Agreement and to the Agreements Officer/Administrator whose name is in block 25 and address is listed in block 16 of the Award Agreement

Your continuation application must include the following information:

1. A report on your progress towards meeting the objectives of the project, including any significant findings, conclusions, or developments, and an estimate of any unobligated balances remaining at the end of the budget period. If the remaining unobligated balance is estimated to exceed 20 percent of the funds available for the budget period, explain why the excess funds have not been obligated and how they will be used in the next budget period.
2. A detailed budget and supporting justification for the upcoming budget period if additional funds are requested, a reduction of funds is anticipated, or a budget for the upcoming budget period was not approved at the time of award
3. A description of your plans for the conduct of the project during the upcoming budget period, if there are changes from the DOE approved application.

b. Continuation Funding. Continuation funding is contingent on (1) availability of funds appropriated by Congress for the purpose of this program; (2) the availability of future-year budget authority; (3) substantial

progress towards meeting the objectives of your approved application; (4) submittal of required reports; and (5) compliance with the terms and conditions of the award.

#### **CONTINUATION APPLICATION AND FUNDING - AWARDS UNDER 10 CFR 605**

a. Continuation Application. A continuation application is a non-competitive application for an additional budget period within a previously approved project period. At least 90 days before the end of each budget period, you must submit your continuation application to the DOE Program Manager whose name is in block 15 of the Award Agreement and to the Agreements Officer/Administrator whose name is in block 25 and address is listed in block 16 of the Award Agreement. Your continuation application must include the following information:

1. A report on your progress towards meeting the objectives of the project, including any significant findings, conclusions, or developments, and an estimate of any unobligated balances remaining at the end of the budget period. If the remaining unobligated balance is estimated to exceed 10 percent of the funds available for the budget period, explain why the excess funds have not been obligated and how they will be used in the next budget period.

2. A completed budget page and supporting justification for the upcoming budget period when a change (increase or decrease) to anticipated future costs will exceed 25 percent of the original recommended future budget or when a budget for the upcoming budget period was not approved at the time of award.

3. A description of your plans for the conduct of the project during the upcoming budget period, if there are changes from the DOE approved application.

b. Continuation Funding. Continuation funding is contingent on (1) availability of funds appropriated by Congress for the purpose of this program; (2) the availability of future-year budget authority; (3) substantial progress towards meeting the objectives of your approved application; (4) submittal of required reports; and (5) compliance with the terms and conditions of the award.

#### **CONTINUATION APPLICATION AND FUNDING - AWARDS UNDER 10 CFR 420 AND/OR 10 CFR 440**

a. Continuation Application. A continuation/annual application shall be submitted to DOE in accordance with the annual Funding Opportunity Announcement/Grant Guidance that is issued by DOE.

b. Continuation Funding. Funding is contingent on (1) availability of funds appropriated by Congress for the purpose of this program; (2) the availability of future-year budget authority; (3) satisfactory progress towards meeting the objectives of the State Energy Program or Weatherization Assistance Program; (4) submittal of required reports; and (5) compliance with the terms and conditions of the award.

#### **CONTINUATION APPLICATION AND FUNDING - AWARDS UNDER SBIR/STTR**

a. Continuation Application. A continuation application is a non-competitive application for an additional budget period within a previously approved project period. At least 90 days before the end of the first budget period of Phase II, you must submit a copy of your continuation application to the DOE Program Manager identified in block 15 on the Award Agreement, and e-mail a copy to [sbir-sttr@science.doe.gov](mailto:sbir-sttr@science.doe.gov). Your continuation application must include the following information:

1. A report on your progress towards meeting the objectives of the project, including any significant findings, conclusions, or developments, and an estimate of any unobligated balances remaining at the end of the budget period. If the remaining unobligated balance is estimated to exceed 20 percent of the funds available for the budget period, explain why the excess funds have not been obligated and how they will be used in the next budget period.

2. A detailed budget and supporting justification for the upcoming budget period if additional funds are requested, a reduction of funds is anticipated, or a budget for the upcoming budget period was not approved at the time of award

3. A description of your plans for the conduct of the project during the upcoming budget period, if there are changes from the DOE approved application.

b. Continuation Funding. Continuation funding is contingent on (1) availability of funds appropriated by Congress for the purpose of this program; (2) the availability of future-year budget authority; (3) substantial progress towards meeting the objectives of your approved application; (4) submittal of required reports; and (5) compliance with the terms and conditions of the award.

## **NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS -- SENSE OF CONGRESS**

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this award should be American-made.

## **ENVIRONMENTAL, SAFETY AND HEALTH (ES&H) PERFORMANCE OF WORK AT DOE FACILITIES**

With respect to the performance of any portion of the work under this award which is performed at a DOE-owned or controlled site, the recipient agrees to comply with all State and Federal ES&H regulations and with all other ES&H requirements of the operator of such site.

Prior to the performance on any work at a DOE-Owned or controlled site, the recipient shall contact the site facility manager for information on DOE and site specific ES&H requirements.

The recipient shall apply this term to its sub-recipients and contractors.

## **FUNDING OF BUDGET PERIODS**

DOE has obligated \$[] for completion of the Project authorized by this agreement, however, only \$[] is available for work performed by the Recipient during Budget Period [] of the Project. For Budget Period [], the remainder or \$[] will be available contingent upon (1) availability of funds appropriated by Congress for the purpose of this program; (2) the availability of future-year budget authority; (3) substantial progress towards meeting the objectives of your approved application; (4) submittal of required reports; (5) compliance with the terms and conditions of the award; (6) the submission by the Recipient of a continuation application; and (7) written approval of the continuation application by the DOE Contracting Officer.

In the event that the Recipient does not submit a continuation application for subsequent Budget Periods or DOE disapproves a continuation application for subsequent Budget Periods, the maximum DOE liability to the

Recipient is the funds that are available for the current approved Budget Period(s). In such event, DOE reserves the right to deobligate any remaining funds.

#### **INSURANCE COVERAGE (DECEMBER 2014)**

See 2 CFR 200.310 for insurance requirements for real property and equipment acquired or improved with Federal funds.

#### **REAL PROPERTY (DECEMBER 2014)**

Subject to the conditions set forth in 2 CFR Part 200.311, title to real property acquired or improved under a Federal award will vest upon acquisition in the non-Federal entity.

The non-Federal entity cannot encumber this property and must follow the requirements of 2 CFR Part 200.311 before disposing of the property.

Except as otherwise provided by Federal statutes or by the Federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose. When real property is no longer needed for the originally authorized purpose, the non-Federal entity must obtain disposition instructions from the Federal awarding agency or pass-through entity. The instructions must provide for one of the following alternatives: (a) retain title after compensating the Federal awarding agency as described in 2 CFR Part 200.311(c)(1); (b) Sell the property and compensate the federal awarding agency as specified in CFR Part 200.311(c)(2); or (c) transfer title to the Federal awarding agency or to a third Party designated/approved by the Federal awarding agency as specified in CFR Part 200.311(c)(3).

See 2 CFR Part 200.311 for additional requirements pertaining to real property acquired or improved under a Federal award.

Also see 2 CFR Part 910.360 for amended requirements for Real Property for For-Profit recipients.

#### **FEDERALLY OWNED AND EXEMPT PROPERTY (DECEMBER 2014)**

See Attachment [] for a listing of federally-owned property accountable under this award.

Title to Federally owned property remains vested in the Federal government.

Federally-owned property shall be managed in accordance with 2 CFR Part 200.312 and reported as prescribed in Attachment 3, Federal Assistance Reporting Checklist and Instructions.

#### **EQUIPMENT (DECEMBER 2014)**

Subject to the conditions provided in 2 CFR Part 200.313, title to equipment (property) acquired under a Federal award will vest conditionally with the non-Federal entity.

The non-Federal entity cannot encumber this property and must follow the requirements of 2 CFR Part 200.313 before disposing of the property.

States must use equipment acquired under a Federal award by the state in accordance with state laws and procedures.



Equipment must be used by the non-Federal entity in the program or project for which it was acquired as long as it is needed, whether or not the project or program continues to be supported by the Federal award. When no longer needed for the originally authorized purpose, the equipment may be used by programs supported by the Federal awarding agency in the priority order specified in 2 CFR Part 200.313(c)(1)(i) and (ii).

Management requirements, including inventory and control systems, for equipment are provided in 2 CFR Part 200.313(d).

When equipment acquired under a Federal award is no longer needed, the non-Federal entity must obtain disposition instructions from the Federal awarding agency or pass-through entity.

Disposition will be made as follows: (a) items of equipment with a current fair market value of \$5,000 or less may be retained, sold, or otherwise disposed of with no further obligation to the Federal awarding agency; (b) Non-Federal entity may retain title or sell the equipment after compensating the Federal awarding agency as described in 2 CFR Part 200.313(e)(2); or (c) transfer title to the Federal awarding agency or to an eligible third Party as specified in CFR Part 200.313(e)(3).

See 2 CFR Part 200.313 for additional requirements pertaining to equipment acquired under a Federal award. Also see 2 CFR Part 200.439 Equipment and other capital expenditures.

See 2 CFR Part 910.360 for amended requirements for Equipment for For-Profit recipients.

#### **SUPPLIES (DECEMBER 2014)**

See 2 CFR Part 200.314 for requirements pertaining to supplies acquired under a Federal award.

See also § 200.453 Materials and supplies costs, including costs of computing devices.

#### **INTANGIBLE PROPERTY (DECEMBER 2014)**

Title to intangible property (as defined in 2 CFR Part 200.59) acquired under a Federal award vests upon acquisition in the non-Federal entity. Intangible property includes trademarks, copyrights, patents and patent applications.

See 2 CFR Part 200.315 for additional requirements pertaining to intangible property acquired under a Federal award.

Also see 2 CFR Part 910.362 for amended requirements for Intellectual Property for For-Profit recipients.

#### **PROPERTY TRUST RELATIONSHIP (DECEMBER 2014)**

Real property, equipment, and intangible property, that are 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.

See 2 CFR Part 200.316 for additional requirements pertaining to real property, equipment, and intangible property acquired or improved under a Federal award.

#### **AT RISK FOR FINANCIAL CAPABILITY**

You have been determined to be at risk for financial capability based on []

Based on this determination the following requirements, as listed below, have been incorporated into this award.

[]

You may report any change in circumstances that impact DOE's determination of your financial capability. If you feel that your circumstances have changed to this degree, you may request a re-evaluation at any time after 6 months from the initial determination. Please provide a written request and support to the DOE Award Administrator.

DOE will remove this term by modification to the award if the conditions that prompted it have been corrected, as approved by the Contracting Officer.

### **CONDITIONAL AVAILABILITY OF FUNDS (DECEMBER 2014)**

Notwithstanding the obligation of funds shown on the Agreement Face Page, the Parties hereby agree that the availability of funds to the Recipient for payment of costs incurred by the Recipient is conditioned upon Contracting Officer review and approval of the Recipient's application and completion of negotiations. When the Parties have completed negotiations, the Contracting Officer shall issue an Amendment to this Award making available the obligated amount for payment in accordance with the payment terms contained in the Special Terms and Conditions of this Award. Failure by the Recipient to provide an application with supporting documentation acceptable to the Contracting Officer or complete negotiations may be deemed in Noncompliance pursuant to 2 CFR Part 910.338 and subject to the Remedies for Noncompliance contained in 2 CFR Parts 910.338 through 910.342.

### **INSOLVENCY, BANKRUPTCY OR RECEIVERSHIP**

a. You shall immediately notify the DOE of the occurrence of any of the following events: (i) you or your parent's filing of a voluntary case seeking liquidation or reorganization under the Bankruptcy Act; (ii) your consent to the institution of an involuntary case under the Bankruptcy Act against you or your parent; (iii) the filing of any similar proceeding for or against you or your parent, or its consent to, the dissolution, winding-up or readjustment of your debts, appointment of a receiver, conservator, trustee, or other officer with similar powers over you, under any other applicable state or federal law; or (iv) your insolvency due to your inability to pay your debts generally as they become due.

b. Such notification shall be in writing and shall: (i) specifically set out the details of the occurrence of an event referenced in paragraph a; (ii) provide the facts surrounding that event; and (iii) provide the impact such event will have on the project being funded by this award.

c. Upon the occurrence of any of the four events described in the first paragraph, DOE reserves the right to conduct a review of your award to determine your compliance with the required elements of the award (including such items as cost share, progress towards technical project objectives, and submission of required reports). If the DOE review determines that there are significant deficiencies or concerns with your performance under the award, DOE reserves the right to impose additional requirements, as needed, including (i) change your payment method; or (ii) institute payment controls.

d. Failure of the Recipient to comply with this term may be considered a material noncompliance of this financial assistance award by the Contracting Officer.

## **PERFORMANCE OF WORK IN UNITED STATES**

The Recipient agrees that at least []% of the direct labor cost for the project (including subrecipient labor) shall be incurred in the United States, unless the Recipient can demonstrate to the satisfaction of the Department of Energy that the United States economic interest will be better served through a greater percentage of the work being performed outside the United States.

## **FFRDC ADVANCE UNDERSTANDING**

The recipient shall obtain prior written approval from the Contracting Officer having cognizance over the National Laboratory Management and Operating Contract, for use, under this award, of any equipment, facility, or personnel at the National Laboratory. The recipient will be subject to all conditions established by that DOE Contracting Officer.

## **NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) REQUIREMENTS**

You are restricted from taking any action using Federal funds, which would have an adverse effect on the environment or limit the choice of reasonable alternatives prior to DOE/NNSA providing either a NEPA clearance or a final NEPA decision regarding this project. Prohibited actions include: []. This restriction does not preclude you from: [].

If you move forward with activities that are not authorized for federal funding by the DOE Contracting Officer in advance of the final NEPA decision, you are doing so at risk of not receiving federal funding and such costs may not be recognized as allowable cost share.

If this award includes construction activities, you must submit an environmental evaluation report/evaluation notification form addressing NEPA issues prior to DOE/NNSA initiating the NEPA process.

## **DECONTAMINATION AND/OR DECOMMISSIONING (D &D) COSTS**

Notwithstanding any other terms of this Agreement, the Government shall not be responsible for or have any obligation to the recipient for (i) Decontamination and/or Decommissioning (D&D) of any of the recipient's facilities, or (ii) any costs which may be incurred by the recipient in connection with the D&D of any of its facilities due to the performance of the work under this Agreement, whether said work was performed prior to or subsequent to the effective date of this Agreement.

## **HISTORIC PRESERVATION**

Prior to the expenditure of Federal funds to alter any structure or site, the Recipient is required to comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA), consistent with DOE's 2009 letter of delegation of authority regarding the NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. In order to fulfill the requirements of Section 106, the recipient must contact the State Historic Preservation Officer (SHPO), and, if applicable, the Tribal Historic Preservation Officer (THPO), to coordinate the Section 106 review outlined in 36 CFR Part 800. SHPO

contact information is available at the following link: <http://www.ncshpo.org/find/index.htm>. THPO contact information is available at the following link: <http://www.nathpo.org/map.html>.

Section 110(k) of the NHPA applies to DOE funded activities. Recipients shall avoid taking any action that results in an adverse effect to historic properties pending compliance with Section 106.

Recipients should be aware that the DOE Contracting Officer will consider the recipient in compliance with Section 106 of the NHPA only after the Recipient has submitted adequate background documentation to the SHPO/THPO for its review, and the SHPO/THPO has provided written concurrence to the Recipient that it does not object to its Section 106 finding or determination. Recipient shall provide a copy of this concurrence to the Contracting Officer.

## **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 obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph 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.**

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 award is \$25,000 or more;

ii. in the preceding fiscal year, you received;

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

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

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

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

- i. As part of your registration profile at <http://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 subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if;

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

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

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

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

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

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

d. Exemptions

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

- i. Subawards,
- and
- ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

1. Entity means all of the following, as defined in 2 CFR part 25:

- i. A Governmental organization, which is a State, local government, or Indian tribe;
- ii. A foreign public entity;
- iii. A domestic or foreign nonprofit organization;
- iv. A domestic or foreign for-profit organization;
- v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

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

3. 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 Sec. \_\_.210 of the attachment to OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations).
- iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. Subrecipient means an entity 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.

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

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.

## **SYSTEM FOR AWARD MANAGEMENT AND UNIVERSAL IDENTIFIER REQUIREMENTS**

A. Requirement for System for Award Management (SAM) Unless exempted from this requirement under 2 CFR 25.110, the prime recipient must remain registered and maintain current information in SAM for the entire period of performance of the award. This includes providing information on the prime recipient's immediate and highest level owner and subsidiaries, as well as on all of its predecessors that have been awarded a Federal contract or Federal financial assistance agreements within the last three years, if applicable, until the prime recipient submits the final financial report required under this award or receives the final payment, whichever is later. This requires the prime recipient to review its information in SAM at least annually after the initial registration, and to update its information as soon as there are changes. Reviews and updates may be required more frequently due to changes in recipient information or as required by another award term.

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

If authorized to make subawards under this award, the prime recipient:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward until the entity has provided its unique entity identifier to the prime recipient.

2. Must not make a subaward to an entity unless the entity has provided its unique entity identifier to the prime recipient. Subrecipients are not required to obtain an active SAM registration, but must obtain a unique entity identifier.

### **C. Definitions**

For purposes of this term:

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

2. Unique Entity Identifier means the identifier assigned by SAM to uniquely identify business entities.

3. Entity includes non-Federal entities as defined at 2 CFR 200.1 and also includes all of the following for purposes of this part:

- a. A foreign organization;
- b. A foreign public entity;
- c. A domestic for-profit organization; and
- d. A Federal agency.

4. Subaward has the meaning given in 2 CFR 200.1.

5. Subrecipient has the meaning given in 2 CFR 200.1.

#### **FINAL INCURRED COST AUDIT (DECEMBER 2014)**

In accordance with 2 CFR Part 200 as amended by 2 CFR Part 910, DOE reserves the right to initiate a final incurred cost audit on this award. If the audit has not been performed or completed prior to the closeout of the award, DOE retains the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

#### **INDEMNITY**

The Recipient shall indemnify the Government and its officers, agents, or employees for any and all liability, including litigation expenses and attorneys' fees, arising from suits, actions, or claims of any character for death, bodily injury, or loss of or damage to property or to the environment, resulting from the project, except to the extent that such liability results from the direct fault or negligence of Government officers, agents or employees, or to the extent such liability may be covered by applicable allowable costs provisions.

#### **ADVANCE PATENT WAIVER**

DOE is preparing a Class Waiver of Patent Rights for technology developed under DOE funded awards relating to DOE's [enter Program Title] under Funding Opportunity Announcement [insert FOA number]. If the class waiver is granted and the Recipient elects to participate in it, DOE will modify this award to incorporate the patent waiver terms and conditions. These patent waiver terms and conditions will be in effect retroactive to the signing of this award.

#### **HUMAN SUBJECTS (DECEMBER 2014)**

The research to be performed under this award will involve the use of human subjects. Research involving human subjects conducted with DOE funding is subject to the requirements 10 CFR Part 745, Protection of Human Subjects, and 45 CFR Part 46, Protection of Human Subjects. In Particular, no research activity



involving human subjects shall be conducted with DOE funding without 1) a registration and a Federal Wide Assurance accepted by the Office of Human Research Protection (OHRP) in the Department of Health and Human Services and 2) certification that the research has been reviewed and approved by an Institutional Review Board (IRB) provided for in the assurance and will be subject to continuing review by the IRB, in accordance with 10 CFR Section 745.103. The recipient shall provide the assurance number identified in item 1 and the certification identified in item 2 to DOE prior to initiation of any research involving human subjects as defined in 10 CFR Section 745.102. Violation of these requirements is a material violation of the terms and conditions of the award, and subject to DOE enforcement, up to and including termination, in accordance with 10 CFR Section 745.123. The recipient shall apply this provision to subrecipients in accordance with 10 CFR Section 745.101.

## **ANIMAL WELFARE**

Any recipient performing research on vertebrate animals shall comply with the Laboratory Animal Welfare Act of 1966, as amended (7 U.S.C. 2131 et. seq.) and the regulations promulgated thereunder by the Secretary of Agriculture (9 CFR Subchapter A, Parts 1, 2, 3, and 4) pertaining to the care, handling, and treatment of vertebrate animals held or used for research, teaching, or other activities supported by Federal awards. The recipient is expected to ensure that the guidelines described in the Department of Health and Human Services (DHHS) Publication No. (NIH) 86-23, Guide for the Care and Use of Laboratory Animals, (or succeeding revised editions) are followed and to comply with the U.S. Government Principles for the Utilization and Care of Vertebrate Animals Used in Testing, Research, and Training, (included as an Appendix to the NIH Guide).

Prior to initiation of any research under this grant involving vertebrate animals, the recipient shall provide the Institutional Animal Care and Use Committee (IACUC) approval date and the Animal Welfare Assurance Number to DOE.

## **ANIMAL WELFARE (FOREIGN ENTITY)**

Any recipient performing research on vertebrate animals shall comply with the Laboratory Animal Welfare Act of 1966, as amended (7 U.S.C. 2131 et. seq.) and the regulations promulgated thereunder by the Secretary of Agriculture (9 CFR Subchapter A, Parts 1, 2, 3, and 4) pertaining to the care, handling, and treatment of vertebrate animals held or used for research, teaching, or other activities supported by Federal awards. The recipient is expected to ensure that the guidelines described in the Department of Health and Human Services (DHHS) Publication No. (NIH) 86-23, 'Guide for the Care and Use of Laboratory Animals', (or succeeding revised editions) are followed and to comply with the 'U.S. Government Principles for the Utilization and Care of Vertebrate Animals Used in Testing, Research, and Training' (included as an Appendix to the NIH Guide).

Prior to initiation of any research under this grant involving vertebrate animals, the recipient shall provide a completed 'Statement of Compliance with Standards for Humane Care and Use of Laboratory Animals by Foreign Institutions Conducting Animal Research Outside the United States to DOE'.

## **FINANCIAL COMMITMENT/FUNDING PLAN**

Not later than [ ] months after the effective date of the award:

a. The Recipient shall provide to DOE an updated total project cost estimate along with evidence of firm commitments for the full private sector share of the project cost. Such evidence may include executed loans, bond financing agreements, state or local grants, and third party contribution agreements. For each non-

governmental source of cost-sharing, the Recipient shall provide audited financial statements for the most recent two years.

b. If firm commitments for the full private sector share of the project cost have not been secured, Recipient shall provide evidence of firm commitments made to date, as set forth in paragraph a, and a detailed Funding Plan in accordance with the requirements set forth below:

1. The Funding Plan will demonstrate a reasonable plan to obtain the balance of funding for the private sector share of the project cost. The Funding Plan must identify all anticipated sources of the private sector cost-share such as bank loans, bond offerings, state or local grants, and equity contributions.
2. The Recipient shall provide a full description of any limitations, conditions or other factors that could affect the availability of funding. If third party financing will be a source of project funds, the Recipient shall discuss the timing, conditionality and terms and conditions of such financing.
3. Audited financial statements for the most recent two fiscal years shall be provided for each non-governmental source of funds. If a source does not have audited financial statements, that source should provide equivalent financial statements prepared by the party, in accordance with Generally Accepted Accounting Principles, and certified as to accuracy and completeness by the Chief Financial Officer of the party providing the statements.
4. The Recipient shall obtain and provide a commitment letter from each source, signed by an officer of the corporation or other entity that is authorized to commit the funding to the proposed project. The amount of funds to be provided, the timing of the funding, and any contingencies, should be specified. Commitment letters should identify the type of proposed cost sharing (e.g., cash, services, and/or property) to be contributed.
5. If in-kind contributions of property or services are proposed, the Recipient shall provide support for their valuation and explain how the valuation was determined.
6. If the project will be financed on a non-recourse basis, the Recipient shall provide a working financial model (in MS Excel 2003 or 2007) that provides projections of the project including an income statement, balance sheet, cash flow statement, and sources and uses of funds statement, all on an annual basis with appropriate supporting schedules. The financial projections should be developed in this financial model, commencing with the initial project development phase and extending through the period of operations needed to obtain funding. The model should be provided in electronic form including cell formulas so that review of the model assumptions and sensitivity calculations may be facilitated. The recipient shall provide a description and explanation for each of the financial, economic, and operating assumptions for the project. The assumptions should be consistent with and supported by the information provided in the project cost estimate.

In the event, DOE determines that the information provided by Recipient is inadequate to assure the availability of full funding for the private sector share of the project cost, DOE reserves the right, at DOE's discretion, to: (1) stop payment, (2) renegotiate the project scope and/or payment schedule, or (3) after Recipient is provided 30 days advance written notice and opportunity to cure, declare the grant terminated by mutual agreement. Should DOE declare the grant terminated, the Recipient shall be entitled to payment of DOE's share of allowable project cost incurred prior to the date of termination plus the reasonable cost of terminating contracts. DOE's maximum liability for project cost in the event of termination is [enter amount of max liability].

## **SUBAWARDS TO DOE NATIONAL LABORATORIES**

For the purposes of the subaward(s) to [], the recipient shall use the Department's Work for Others program and the terms and conditions established for that program.

### **LOBBYING RESTRICTIONS (MARCH 2012)**

By accepting funds under this award, you agree that none of the funds obligated on the award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

### **CORPORATE FELONY CONVICTION AND FEDERAL TAX LIABILITY ASSURANCES (MARCH 2014)**

By entering into this agreement, the undersigned attests that [] has not been convicted of a felony criminal violation under Federal law in the 24 months preceding the date of signature.

The undersigned further attests that [] does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

For purposes of these assurances, the following definitions apply:

A Corporation includes any entity that has filed articles of incorporation in any of the 50 states, the District of Columbia, or the various territories of the United States [but not foreign corporations]. It includes both for-profit and non-profit organizations.

### **NONDISCLOSURE AND CONFIDENTIALITY AGREEMENTS ASSURANCES (JUNE 2015)**

(1) By entering into this agreement, the undersigned attests that [] does not and will not require its employees or contractors to sign internal nondisclosure or confidentiality agreements or statements prohibiting or otherwise restricting its employees or contractors from lawfully reporting waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(2) The undersigned further attests that [] does not and will not use any Federal funds to implement or enforce any nondisclosure and/or confidentiality policy, form, or agreement it uses unless it contains the following provisions:

a. "These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling."

b. The limitation above shall not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

c. Notwithstanding provision listed in paragraph (a), a nondisclosure or confidentiality policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure or confidentiality forms shall also make it clear that they do not bar disclosures to Congress, or to an authorized official of an executive agency or the Department of Justice, that are essential to reporting a substantial violation of law.

## **DATA MANAGEMENT PLAN (SEPT 2015)**

(a) (1) Not later than 90 days after the effective date of the award the Recipient must provide the Contracting Officer with a Data Management Plan. A Data Management Plan (“DMP”) explains how data generated in the course of the research or work performed under an assistance award will be shared and preserved or, when justified, explains why data sharing or preservation is not possible or scientifically appropriate.

(2) In the event the Recipient fails to submit the DMP within 90 days after award or DOE determines that the information provided by the Recipient in its DMP does not meet the requirements in section (b), DOE may take one or more of the actions identified in 2 CFR 200.388, including, but not limited to, temporarily withholding payments to the Recipient pending correction of the deficiency, or wholly or partially suspending or terminating the Federal award.

### **(b) DMP Requirements**

In order for a DMP to be considered acceptable, the DMP must address the following:

(1) At a minimum, the DMP must describe how data sharing and preservation will enable validation of the results from the proposed work, or how results could be validated if data are not shared or preserved.

(2) The DMP must provide a plan for making all research data displayed in publications resulting from the proposed work digitally accessible at the time of publication. This includes data that are displayed in charts, figures, images, etc. In addition, the underlying digital research data used to generate the displayed data should be made as accessible as possible in accordance with the principles stated above. This requirement could be met by including the data as supplementary information to the published article, or through other means. The published article should indicate how these data can be accessed.

(3) The DMP should consult and reference available information about data management resources to be used in the course of the proposed research work. In particular, a DMP that explicitly or implicitly commits data management resources at a facility beyond what is conventionally made available to approved users should be accompanied by written approval from that facility. In determining the resources available for data management at DOE User Facilities, researchers should consult the published description of data management resources and practices at that facility and reference it in the DMP. Information about other DOE facilities can be found in the additional guidance from the sponsoring program.

(4) The DMP must protect confidentiality, personal privacy, Personally Identifiable Information, and U.S. national, homeland, and economic security; recognize proprietary interests, business confidential information,

and intellectual property rights; avoid significant negative impact on innovation, and U.S. competitiveness; and otherwise be consistent with all laws (e.g., export control laws), and DOE regulations, orders, and policies.

#### (c) Data Determination for a DMP

The Principal Investigator should determine which data should be the subject of the DMP and, in the DMP, propose which data should be shared and/or preserved in accordance with the DMP Requirements noted above.

For data that will be generated through the course of the proposed research/work, the Principal Investigator should indicate what types of data should be protected from immediate public disclosure by DOE (referred to as “protected data”) and what types of data that DOE should be able to release immediately. Similarly, for data developed outside of the proposed research work at private expense that will be used in the course of the proposed research work, the Principal Investigator should indicate whether that type of data will be subject to public release or kept confidential (referred to as “limited rights data”). Any use of limited rights data or labeling of data as “protected data” must be consistent with the DMP Requirements noted above.

#### (d) Suggested Elements for a DMP

The following list of elements for a DMP provides suggestions regarding the data management planning process and the structure of the DMP:

(1) Data Types and Sources: A brief, high-level description of the data to be generated or used through the course of the proposed research work and which of these are considered digital research data necessary to validate the research findings or results.

(2) Content and Format: A statement of plans for data and metadata content and format including, where applicable, a description of documentation plans, annotation of relevant software, and the rationale for the selection of appropriate standards. Existing, accepted community standards should be used where possible. Where community standards are missing or inadequate, the DMP could propose alternate strategies for facilitating sharing, and should advise the sponsoring program of any need to develop or generalize standards.

(3) Sharing and Preservation: A description of the plans for data sharing and preservation. This should include, when appropriate: the anticipated means for sharing and the rationale for any restrictions on who may access the data and under what conditions; a timeline for sharing and preservation that addresses both the minimum length of time the data will be available and any anticipated delay to data access after research findings are published; any special requirements for data sharing, for example, proprietary software needed to access or interpret data, applicable policies, provisions, and licenses for re-use and re-distribution, and for the production of derivatives, including guidance for how data and data products should be cited; any resources and capabilities (equipment, connections, systems, software, expertise, etc.) requested in the research proposal that are needed to meet the stated goals for sharing and preservation (this could reference the relevant section of the associated research proposal and budget request); and whether/where the data will be preserved after direct project funding ends and any plans for the transfer of responsibilities for sharing and preservation.

(4) Protection: A statement of plans, where appropriate and necessary, to protect confidentiality, personal privacy, Personally Identifiable Information, and U.S. national, homeland, and economic security; recognize proprietary interests, business confidential information, and intellectual property rights; and avoid significant negative impact on innovation, and U.S. competitiveness.

(5) Rationale: A discussion of the rationale or justification for the proposed data management plan including, for example, the potential impact of the data within the immediate field and in other fields, and any broader societal impact.

#### (e) Additional Guidance

In determining which data should be shared and preserved, researchers must consider the data needed to validate research findings as described in the DMP Requirements, and are encouraged to consider the potential benefits of their data to their own fields of research, fields other than their own, and society at large.

DMPs should reflect relevant standards and community best practices and make use of community accepted repositories whenever practicable.

Costs associated with the project description/scope of work and resources articulated in a DMP may be included in the proposed research budget as permitted by the applicable cost principles.

To improve the discoverability of and attribution for datasets created and used in the course of research, DOE encourages the citation of publicly available datasets within the reference section of publications, and the identification of datasets with persistent identifiers such as Digital Object Identifiers (DOIs). In most cases, DOE can provide DOIs free of charge for data resulting from DOE-funded research through its Office of Scientific and Technical Information (OSTI) DataID Service.

#### (f) Definitions

**Data Preservation:** Data preservation means providing for the usability of data beyond the lifetime of the research activity that generated them.

**Data Sharing:** Data sharing means making data available to people other than those who have generated them. Examples of data sharing range from bilateral communications with colleagues, to providing free, unrestricted access to anyone through, for example, a web-based platform.

**Digital Research Data:** The term digital data encompasses a wide variety of information stored in digital form including: experimental, observational, and simulation data; codes, software and algorithms; text; numeric information; images; video; audio; and associated metadata. It also encompasses information in a variety of different forms including raw, processed, and analyzed data, published and archived data.

**Research Data:** The recorded factual material commonly accepted in the scientific community as necessary to validate research findings, but not any of the following: preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This 'recorded' material excludes physical objects (e.g., laboratory samples). Research data also do not include:

(A) Trade secrets, commercial information, materials necessary to be held confidential by a researcher until they are published, or similar information which is protected under law; and

(B) Personnel and medical information and similar information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, such as information that could be used to identify a particular person in a research study.”

Validate: In the context of DMPs, validate means to support, corroborate, verify, or otherwise determine the legitimacy of the research findings. Validation of research findings could be accomplished by reproducing the original experiment or analyses; comparing and contrasting the results against those of a new experiment or analyses; or by some other means.

## **REPORTING OF MATTERS RELATED TO RECIPIENT INTEGRITY AND PERFORMANCE (DECEMBER 2015)**

### **a. 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.

### **b. Proceedings About Which You Must Report**

Submit the information required about each proceeding that:

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

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

3. 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.

#### c. 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.

#### d. Reporting Frequency

During any period of time 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.

#### e. Definitions

For purposes of this award term and condition:

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

2. 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.

3. 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.

**IMPLEMENTATION OF EXECUTIVE ORDER 14173, ENDING ILLEGAL DISCRIMINATION AND RESTORING MERIT BASED OPPORTUNITY (DECEMBER 2025)**



It is the policy of the United States to protect the civil rights of all Americans and to promote individual initiative, excellence, and hard work. All recipients must comply in all respects with all applicable federal anti-discrimination laws. Compliance with such Federal laws is material to DOE's payment decisions for purposes of section 3729(b)(4) of title 31, United States Code. By requesting a drawdown or reimbursement of funds under this award the recipient certifies that it does not operate programs promoting diversity, equity, and inclusion that violate any applicable federal anti-discrimination laws.