



# 2023 COPS Office Tribal Resources Grant Program (TRGP) Resource Guide

## Award Terms, Conditions, and Additional Requirements

This application resource guide describes the award terms and conditions, and additional requirements that applicants should be aware of before applying to COPS Office programs. Table 1 on page 2 indicates the award requirements (including terms and conditions) that are applicable to the program for which you are applying. Please review each section carefully prior to submitting the application to ensure that your agency will be able to comply with all legal and administrative requirements that govern the applicant for acceptance.

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# Award Terms and Conditions

**Table 1. Award terms and conditions**

Key: Y = Yes; N = No

	FY 2023 Program	TRGP-Hire	TRGP-E/T
I.	CTAS Certified Standard Assurances	Y	Y
II.	CTAS Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; Federal Taxes and Assessments; Drug-Free Workplace Requirements; Coordination with Affected Agencies	Y	Y
III.	Disclosure of Lobbying Activities	Y (if applicable)	Y (if applicable)
IV.	Supplementing, Not Supplanting	Y	Y
V.	Procurement and Sole Source Justification	N	Y
VI.	Criminal Intelligence Systems	N	Y
IX.	System for Award Management (SAM) and Universal Identifier Requirements	Y	Y
X.	Federal Funding Accountability and Transparency Act (FFATA)—Reporting Subaward and Executive Compensation	Y	Y
XI.	Contract Provisions	Y	Y
XII.	Prior Approval Planning and Reporting of Conference/Meeting/Training Costs	N	N
XIII.	Curriculum Development	N	N
XIV.	Restriction on Internal Confidentiality Agreements	Y	Y
XV.	Mandatory Disclosure	Y	Y
XVI.	Debarment and Suspension	Y	Y
XVII.	Recipient Integrity and Performance Matters	Y	Y
XVIII.	False Statements	Y	Y
XIX.	Duplicative Funding	Y	Y
XX.	Additional High-Risk Recipient Requirements	Y	Y
XXI.	Modifications	Y	Y
XXII.	Evaluations	Y	Y
XXIII.	Allowable Costs	Y	Y
XXIV.	Local Match	N	N
XXV.	Equal Employment Opportunity Plan	Y	Y
XXVI.	Employment Eligibility	Y	Y
XXVII.	Enhancement of Contractor Protection from Reprisal for Disclosure of Certain Information	Y	Y
XXVIII.	Federal Civil Rights	Y	Y
XXIX.	Conflict of Interest	Y	Y
XXX.	Reports/Performance Goals	Y	Y
XXXI.	Extensions	Y	Y
XXXII.	Computer Network Requirement	Y	Y
XXXIII.	Award Monitoring Activities	Y	Y
XXXIV.	Community Policing	Y	Y
XXXV.	Retention	Y	N
XXXVI.	Contracts and/or MOUs with Other Jurisdictions	Y	Y
XXXVII.	Travel Costs	N	Y
XXXVIII.	State Information Technology Point of Contact	N	Y
XXXIX.	Public Release Information	N	Y
XL.	News Media	Y	Y
XLI.	Paperwork Reduction Act	N	N

FY 2023 Program		TRGP-Hire	TRGP-E/T
XLII.	Copyright	N	N
XLIII.	Human Subjects Research	N	N
XLIV.	Officer Background Investigation	Y	N
XLV.	Career Law Enforcement Officer	Y	N
XLVI.	Domestic Preferences in Procurements	N	Y
XLVII.	Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment	N	Y
XLVIII.	Termination	Y	Y
XLIX.	School Resource Officer (SRO) Training Requirement	Y (if applicable)	N
L.	Award Owner's Manual	Y	Y
LI.	Officer Basic Training	Y	N
LII.	Memorandum of Understanding Requirement — School-based Policing through School Resource Officers Focus Area	Y (if applicable)	N
Authorized Representative Responsibility		Y	Y

As shown in table 1, terms and conditions may apply to TRGP-Hire awards, TRGP-E/T awards, both, or neither. In the following sections, all conditions apply to **all TRGP awards (Hire and E/T)** unless otherwise indicated.

## I. & II. Assurances and Certifications (also refer to the CTAS Certified Standard Assurances and CTAS Certifications Regarding Lobbying, Debarment, Suspension and Other Responsibility Matters, Federal Taxes and Assessments; Drug-Free Workplace Requirements; Coordination with Affected Agencies, in the appendices of this application resource).

Applicants to COPS Office programs are required to accept the standard Assurances and Certifications forms in JustGrants. Accepting these documents assures the COPS Office that you have read and understood and that you accept the terms and conditions as outlined in the Assurances and Certifications. Please read these documents carefully, as acceptance of these documents are treated as material representation of fact upon which reliance will be placed when the U.S. Department of Justice determines to make an award.

## III. Disclosure of Lobbying Activities

The Anti-Lobbying Act (18 U.S.C. § 1913) restricts the use of appropriated funding for lobbying and makes these restrictions enforceable via large civil penalties, between \$10,000 and \$100,000 per each individual restricted occurrence of lobbying activity. These restrictions are in addition to the anti-lobbying restrictions and lobbying disclosure requirements imposed by 31 U.S.C. § 1352.

Indian tribes and tribal organizations are excluded from coverage under 31 U.S.C. § 1352 but only with respect to expenditures for purposes specified in 31 U.S.C. § 1352(a) that are permitted by other federal law. For these purposes, the terms “Indian tribe” and “tribal organization,” respectively, have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 5304).

Although Indian tribes and tribal organizations are excluded from coverage as set forth under 31 U.S.C. § 1352, these entities still must obtain lobbying disclosure documentation and any required certifications from any subrecipients (recipients of a subaward (see “subaward” definition at 2 C.F.R. § 200.1)) or procurement contractors (recipients of a contract (see “contract” definition at 2 C.F.R. § 200.1) and their subcontractors) that would be required to report lobbying activities consistent with 31 U.S.C. § 1352.

In general, under the statutes above and as set out in the Cost Principles at 2 C.F.R. § 200.450, for most organizations, no federally appropriated funding made available under this grant program may be used, either directly or indirectly, to support the enactment, repeal, modification, or adoption of any law, regulation, or policy at any level of government without the express prior written approval of the U.S. Department of Justice. Any violation of this prohibition is subject to a minimum \$10,000 fine for each occurrence.

## **IV. Supplementing, Not Supplanting**

The COPS Office nonsupplanting requirement mandates that award funds not be used to replace state or local funds (or, for tribal recipients, BIA funds) that would, in the absence of federal assistance, be made available for award purposes (hiring, training, purchases, and/or other activities). Instead, award funds must be used to increase the total amount of funds that would otherwise be made available for award purposes. 34 U.S.C. § 10384 (a).

An award recipient may not use COPS Office funds to pay for any item or cost associated with this funding request that the recipient is already obligated to pay. Nonfederal funds allocated to pay for award purposes, may not be reallocated to other purposes or refunded should COPS Office funding be awarded. Nonfederal funds must remain available for and devoted to that purpose, with COPS Office funds supplementing those nonfederal funds. Funding awarded cannot be obligated until after the award start date (unless an exception is authorized in writing by the COPS Office). This means that COPS Office funds cannot be applied to any agency cost incurred prior to the award start date. The possibility of supplanting will be the subject of careful application review, possible pre-award review, and post-award monitoring and audit. Any supplanting of nonfederal funds by COPS Office award funds may be grounds for potential suspension.

If you have questions concerning the nonsupplanting requirement while completing this application, please contact the COPS Office Response Center at 800-421-6770 or [AskCopsRC@usdoj.gov](mailto:AskCopsRC@usdoj.gov) for further information.

## **V. Procurement and Sole Source Justification — Applicable under TRGP Equipment/ Training**

Recipients who have been awarded funding for the procurement of an item (or group of items) or service in excess of \$250,000 and who plan to seek approval for use of a noncompetitive procurement process must provide a written sole source justification to the COPS Office for approval prior to obligating, expending, or drawing down award funds for that item or service. 2 C.F.R. § 200.325(b)(2).

## **VI. Criminal Intelligence Systems/28 C.F.R. Part 23 compliance — Applicable under TRGP Equipment/Training**

Recipients using TRGP Equipment/Training funds to operate an interjurisdictional criminal intelligence system must comply with operating principles of 28 C.F.R. Part 23. The recipient acknowledges that it has completed, signed, and submitted the Criminal Intelligence System form certifying its compliance with 28 C.F.R. Part 23.

## IX. System for Award Management (SAM) and Universal Identifier Requirements

Unless exempted from this requirement under 2 C.F.R. § 25.110, the recipients must maintain the currency of their information in the SAM until submission of the final financial report required under this award or receipt of the final payment, whichever is later. This requires recipients to review and update the information at least annually after the initial registration and more frequently if required by changes in information or other award term.

To review the System for Award Management and Universal Identifier Award Term, please see the appendices of this application resource.

## X. Federal Funding Accountability and Transparency Act (FFATA) — Reporting Subaward and Executive Compensation Information

The Federal Funding Accountability and Transparency Act of 2006 (FFATA) requires, among other things, that information on federal awards (federal financial assistance and expenditures) be made available to the public via a single, searchable website, which is <https://www.USASpending.gov>.

Applicants should note that all recipients of awards of \$30,000 or more under this solicitation, consistent with FFATA, will be required to report award information on any first-tier subawards totaling \$30,000 or more and, in certain cases, to report information on the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients. If applicable, the FFATA Subaward Reporting System (FSRS), accessible via the internet at <https://www.fsrs.gov>, is the reporting tool recipients under this solicitation will use to capture and report subaward information and any executive compensation data required by FFATA.

The subaward information entered in FSRS will then be displayed on <https://www.USASpending.gov>, associated with the prime award, furthering federal spending transparency.

Each applicant entity must ensure that it has the necessary processes and systems in place to comply with the applicable reporting requirements should it receive funding.

To review the FFATA Reporting Subaward and Executive Compensation Award Term, please see the appendices of this application resource.

## XI. Contract Provision under Federal Award

All contracts made by the recipients under the Federal award must contain the provisions required under 2 C.F.R. part 200, Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards.

For the full text of 2 C.F.R. Appendix II to Part 200, please refer to the appendices of this application resource.

## **XII. Prior Approval, Planning, and Reporting of Conference/Meetings/Training Costs — Not applicable under TRGP**

## **XIII. Curriculum Development — Not applicable under TRGP**

## **XIV. Restrictions on Internal Confidentiality Agreements**

Recipients, subrecipients, or entities that receive a contract or subcontract with any funds under this award, may not require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts the lawful reporting of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information. Annual Appropriation Act.

## **XV. Mandatory Disclosure**

Under 2 C.F.R. § 200.113, recipients and subrecipients are required to timely disclose in writing to the COPS Office or pass-through entity, as applicable, all federal criminal law violations involving fraud, bribery, or gratuity that may potentially affect the awarded federal funding. Recipients agree to report certain civil, criminal, or administrative proceedings in SAM if they received an award with the Term and Condition for Recipient Integrity and Performance Matters as outlined in 2 C.F.R. Part 200, Appendix XII to Part 200. Failure to make required disclosures can result in any of the remedies, including suspension and debarment, described in 2 C.F.R. § 200.339.

## **XVI. Debarment and Suspension**

Recipients agree not to award federal funds under this program to any party which is debarred or suspended from participation in federal assistance programs. 2 C.F.R. Part 180 (Government-wide Debarment and Suspension), and 2 C.F.R. Part 2867 (DOJ-specific requirements).

## **XVII. Recipient Integrity and Performance Matters**

Recipients that receive \$500,000 or more in a federal award, agree to comply with the terms and conditions outlined in 2 C.F.R. Part 200, Appendix XII to part 200 - Term and Condition for Recipient Integrity and Performance Matters.

For the full text, please see the appendices of this application resource.

## **XVIII. False Statements**

False statements or claims made in connection with COPS Office awards may result in fines, imprisonment, or debarment from participating in federal awards or contracts, and/or any other remedy available by law.

## **XIX. Duplicative Funding**

Recipients agree to notify the COPS Office if they receive, from any other source, funding for the same item(s) or service(s) also funded under this award.

## XX. Additional High-Risk Funding Recipient Requirements

Recipients agree to comply with any additional requirements that may be imposed during the award performance period if the awarding agency determines that the recipient is a high-risk recipient (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. § 200.208).

## XXI. Modifications

Award modifications are evaluated on a case-by-case basis in accordance with 2 C.F.R. § 200.308(f). For federal awards in excess of \$250,000, any modification request involving the reallocation of funding between budget categories that exceed or are expected to exceed 10 percent of the total approved budget requires prior written approval by the COPS Office. Regardless of the federal award amount or budget modification percentage, any reallocation of funding is limited to approved budget categories. In addition, any budget modification that changes the scope of the project requires prior written approval by the COPS Office. The COPS Office will not approve any modification request that results in an increase of federal funds.

Occasionally, a change in an agency's fiscal or law enforcement situation necessitates a change in its COPS Office TRGP Hiring and or TRGP Equipment/Training program award. Award modifications under the program are evaluated on a case-by-case basis in accordance with 2 C.F.R. § 200.308(f). For federal awards in excess of \$250,000, any modification request involving the reallocation of funding between budget categories that exceed or are expected to exceed 10 percent (10%) of the total approved budget requires prior written approval by the COPS Office. Regardless of the federal award amount or budget modification percentage, any reallocation of funding is limited to approved budget categories. In addition, any budget modification that changes the scope of the project requires prior written approval by the COPS Office. In addition, please be aware that the COPS Office will not approve any modification request that results in an increase of federal funds.

## XXII. Evaluations

The COPS Office may conduct monitoring or sponsor national evaluations of COPS Office award programs. Recipients agree to cooperate with the monitors and evaluators. 34 U.S.C. § 10385 (b).

## XXIII. Allowable Costs

The funding under the TRGP-Hire award is for the payment of approved costs to meet the most serious needs of law enforcement in tribal communities. The allowable costs approved for your agency's award are limited to those listed in your agency's award package. In accordance with 2 C.F.R. § 200.400(g), the recipient must forgo any profit or management fee. You should carefully review your award package, which contains the final officer salary and fringe benefit categories and amounts for which your agency was approved. Please note that the salary and fringe benefit costs requested in your award application may have been adjusted or removed. Your agency may only be reimbursed for the approved cost categories that are documented and up to the amounts specified in the award package. Your agency may not use TRGP Hiring award funds for any costs that are not identified as allowable. Only actual allowable costs incurred during the award period will be eligible for reimbursement and drawdown. If your agency experiences any cost savings over the course of the award (for example, your award application overestimated the total entry-level officer salary and fringe benefits package), your agency may not use that excess funding to extend the length of the award beyond 60 months. Any funds remaining after your agency has drawn down for the costs of approved salaries and fringe benefits incurred for each awarded position during the 60-month funding period for each awarded position will be deobligated during the closeout process, and should not be spent by your agency. The funding under the TRGP Equipment/Training award is for the payment of approved costs to meet the most serious needs of law enforcement in tribal communities. The allowable costs for which your agency's award has

been approved are limited to those listed in your agency's award package which specifies the exact items that your agency is allowed to fund with your TRGP Equipment/Training award. Your agency may not use TRGP Equipment/Training award funds for any costs that are not identified as allowable in the award package.

## **XXIV. Local Match — Not applicable under TRGP**

## **XXV. Equal Employment Opportunity Plan**

Recipients agree to comply with the federal regulations pertaining to the development and implementation of an Equal Employment Opportunity Plan 28 C.F.R. Part 42 subpart E.

## **XXVI. Employment Eligibility**

Recipients agree to complete and keep on file, as appropriate, the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form (I-9). This form is to be used by recipients of federal funds to verify that persons are eligible to work in the United States. See Immigration Reform and Control Act of 1986 (IRCA), Public Law 99-603.

## **XXVII. Enhancement of Contractor Protection from Reprisal for Disclosure of Certain Information**

Recipients agree not to discharge, demote, or otherwise discriminate against an employee as reprisal for the employee disclosing information that he/she reasonably believes is evidence of gross mismanagement of a federal contract or award, a gross waste of federal funds, an abuse of authority relating to a federal contract or award, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or award. Recipients also agree to provide to their employees in writing (in the predominant native language of the workforce) of the rights and remedies provided in 41 U.S.C. § 4712. Please see the appendices of this application resource for a full text of the statute.

## **XXVIII. Federal Civil Rights**

The Applicant understands that the federal statutes and regulations applicable to the award (if any) made by the Department based on the application specifically include statutes and regulations pertaining to civil rights and nondiscrimination, and, in addition—

- a. the Applicant understands that the applicable statutes pertaining to civil rights will include section 601 of the Civil Rights Act of 1964 (42 U.S.C. § 2000d); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); section 901 of the Education Amendments of 1972 (20 U.S.C. § 1681); and section 303 of the Age Discrimination Act of 1975 (42 U.S.C. § 6102);
- b. the Applicant understands that the applicable statutes pertaining to nondiscrimination may include section 809(c) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. § 10228(c)); section 1407(e) of the Victims of Crime Act of 1984 (34 U.S.C. § 20110(e)); section 299A(b) of the Juvenile Justice and Delinquency Prevention Act of 2002 (34 U.S.C. § 11182(b)); and that the grant condition set out at section 40002(b)(13) of the Violence Against Women Act (34 U.S.C. § 12291(b)(13)), which will apply to all awards made by the Office on Violence Against Women, also may apply to an award made otherwise;



- c. the Applicant understands that it must require any subrecipient to comply with all such applicable statutes (and associated regulations); and
- d. on behalf of the Applicant, I make the specific assurances set out in 28 C.F.R. §§ 42.105 and 42.204.

The Applicant also understands that (in addition to any applicable program-specific regulations and to applicable federal regulations that pertain to civil rights and nondiscrimination) the federal regulations applicable to the award (if any) made by the Department based on the application may include, but are not limited to, 2 C.F.R. Part 2800 (the DOJ “Part 200 Uniform Requirements”) and 28 C.F.R. Parts 22 (confidentiality - research and statistical information), 23 (criminal intelligence systems), 38 (regarding faith-based or religious organizations participating in federal financial assistance programs), and 46 (human subjects protection).

## XXIX. Conflict of Interest

Recipients must disclose in writing to the COPS Office or pass-through entity, as applicable, any potential conflict of interest affecting the awarded federal funding in accordance with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. § 200.112.

## XXX. Reports/Performance Goals

Recipients are responsible for submitting semi-annual programmatic progress reports that describe project activities during the reporting period and quarterly Federal Financial Reports using Standard Form 425 (SF-425). 2 C.F.R. § 200.328; and 2 C.F.R. § 200.329. The progress report is used to track recipient’s progress toward implementing community policing strategies and to collect data to gauge the effectiveness of increasing your agency’s community policing capacity through COPS Office funding. The Federal Financial Report is used to track the expenditures of the recipient’s award funds on a cumulative basis throughout the life of the award.

## XXXI. Extensions

Recipients may request an extension of the award period to receive additional time to implement your award program. Such extensions do not provide additional funding. Only recipients that can provide a reasonable justification for delays will be granted no-cost extensions. Reasonable justifications may include change in administration, staff turnover of key award/award-funded personnel, training delays, hiring and recruitment delays or other circumstances that interrupt the award period of performance. Extension requests must be received prior to the end date of the award. **2 C.F.R. §§ 200.308(e)(2) and 200.309.**

## XXXII. Computer Network Requirement

The recipient understands and agrees that no award funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography. Nothing in this requirement limits the use of funds necessary for any federal, state, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities. Annual Appropriation Act.

## XXXIII. Award Monitoring Activities

Federal law requires that recipients receiving federal funding from the COPS Office must be monitored to ensure compliance with their award conditions and other applicable statutes and regulations. The COPS Office is also interested in tracking the progress of our programs and the advancement of community policing.

Both aspects of award implementation—compliance and programmatic benefits—are part of the monitoring process coordinated by the U.S. Department of Justice. Award monitoring activities conducted by the COPS Office include site visits, office-based grant reviews, alleged noncompliance reviews, financial and programmatic reporting, and audit resolution. As a COPS Office award recipient, you agree to cooperate with and respond to any requests for information pertaining to your award. This includes all financial records, such as general accounting ledgers and all supporting documents. All information pertinent to the implementation of the award is subject to agency review throughout the life of the award, during the close-out process and for three-years after the submission of the final expenditure report. 34 U.S.C. § 10385(a) and 2 C.F.R. §§ 200.334 & 200.337.

## **XXXIV. Community Policing**

Community policing activities to be initiated or enhanced by recipients were identified and described in their award application. Recipients develop a community policing plan for the award with specific reference to a crime or disorder problem and the following elements of community policing: a) problem solving—a recipient’s plan to assess and respond to the problem identified; b) community partnerships and support, including related governmental and community initiatives that complement a recipient’s proposed use of funding; and c) organizational transformation—how a recipient will use the funds to reorient its mission to community policing or enhance its involvement in and commitment to community policing. Throughout the award period recipients are required to implement the community policing plan they set forth in the award application. 34 U.S.C. § 10382 (c)(10).

## **XXXV. Retention — Applicable under TRGP-Hire**

Recipients commit to retain all sworn officer positions funded under the award with state and/or local funds for a minimum of 12 months following the conclusion of 60 months of federal funding for each position, over and above the number of locally-funded sworn officer positions that would have existed in the absence of the award. Recipients cannot satisfy the retention requirement by using COPS Office-funded positions to fill locally funded vacancies resulting from attrition. 34 U.S.C. § 10382 (c)(8).

## **XXXVI. Contracts with Other Jurisdictions**

Sworn law enforcement officer positions awarded must be used for law enforcement activities or services that benefit your agency and the population that it serves. The items funded under the TRGP Hiring award cannot be utilized by other agencies unless the items benefit the population that your agency serves. Your agency may use items funded under the TRGP Hiring award to assist other law enforcement agencies under a resource sharing, mutual aid, or other agreement to address multi-jurisdictional issues as described in the agreement.

Equipment, technology, training, vehicles, and/or civilian positions awarded must be used for law enforcement activities or services that benefit your agency and the population that it serves. The items funded under the TRGP Equipment/Training award cannot be utilized by other agencies unless the items benefit the population that your agency serves. Your agency may use items funded under the TRGP Equipment/Training award to assist other law enforcement agencies under a resource sharing, mutual aid, or other agreement to address multi-jurisdictional issues as described in the agreement.

## **XXXVII. Travel Costs — Applicable under TRGP-E/T**

Travel costs for transportation, lodging and subsistence, and related items are allowable under the TRGP Equipment/Training Program with prior approval from the COPS Office. Payment for allowable travel costs will be in accordance with 2 C.F.R. § 200.475.

## XXXVIII. State Information Technology Point of Contact

Recipients agree to ensure that the appropriate State Information Technology Point of Contact receives written notification regarding any information sharing or technology project funded by a COPS Office award. This is to facilitate communication among local and state governmental entities regarding various information technology projects being conducted with these award funds. In addition, recipients agree to maintain an administrative file documenting the meeting of this requirement. For a list of State Information Technology Points of Contact, go to <https://it.ojp.gov/default.aspx?area=policyAndPractice&page=1046>.

## XXXIX. Public Release Information — Applicable under TRGP-E/T

The recipient agrees to submit one copy of all reports and proposed publications resulting from this award ninety (90) days prior to public release. Any publications (written, curricula, visual, sound, or websites) or computer programs, whether or not published at government expense, shall contain the following statement:

"This project was supported, in whole or in part, by federal award number [YYYY-XX-XXXX] awarded to [Entity] by the U.S. Department of Justice, Office of Community Oriented Policing Services. The opinions contained herein are those of the author(s) or contributor(s) and do not necessarily represent the official position or policies of the U.S. Department of Justice. References to specific individuals, agencies, companies, products, or services should not be considered an endorsement by the author(s), contributor(s), or the U.S. Department of Justice. Rather, the references are illustrations to supplement discussion of the issues.

The Internet references cited in this publication were valid as of the date of publication. Given that URLs and websites are in constant flux, neither the author(s) nor the COPS Office can vouch for their current validity."

## XL. News Media

Recipients agree to comply with the COPS Office policy on contact with the news media. The policy establishes the COPS Office Communications Division as the principal point of contact for the news media for issues relevant to the COPS Office and/or parameters of the award. Recipients agree to refer all media inquiries on these topics directly to the COPS Office Communications Division at 202.514.9079.

## XLI. Paperwork Reduction Act — Not applicable under TRGP

## XLII. Copyright — Not applicable under TRGP

## XLIII. Human Subjects Research — Not applicable under TRGP

## XLIV. Officer Background Investigation — Applicable under TRGP-Hire

Recipients agree to ensure that each officer(s) hired with TRGP funding will be subject to a background investigation, notify the COPS Office upon completion of the background investigation for each officer hired under the TRGP award, and cooperate with the COPS Office and provide updates on the status of background investigations upon request. 2 C.F.R. § 200.208

If the COPS Office determines that TRGP funds are being used to pay the salary and fringe benefits of an officer who has not undergone a background investigation, the COPS Office may temporarily suspend grant funds in accordance with 2 C.F.R. §200.339 until the agency can demonstrate the background investigation has been completed.

## **XLV. Career Law Enforcement Officer — Applicable under TRGP-Hire**

Officer hiring funds may only be used to pay entry-level salaries and fringe benefits for full-time “career law enforcement officers” for 60 months. The COPS Office’s statute defines a “career law enforcement officer” as “a person hired on a permanent basis who is authorized by law or by a State or local public agency to engage in or supervise the prevention, detection, or investigation of violations of criminal laws.” 34 U.S.C. §10389(1). A recipient agency may use officer hiring funds to pay the salary and benefits of recruits while in academy training to become “career law enforcement officers” if it is the standard practice of the agency to do so with locally funded recruits. The State of Alaska, and any Indian tribe or tribal organization in that State, may also use officer hiring funds for a “village public safety officer” defined as “an individual employed as a village public safety officer under the program established by the State pursuant to Alaska Statute 18.65.670.” Tribal Law and Order Act of 2010, Pub. L. 111-211, title II, § 247 (a)(2).

## **XLVI. Domestic Preferences for Procurements — Applicable under TRGP-E/T**

Recipient agrees that it, and its subrecipients, to the greatest extent practicable, will provide a preference for the purchase, acquisition, or use of goods, products, and materials produced in, and services offered in, the United States. 2. C.F.R. § 200.322 and Executive Order 14005, Ensuring the Future is Made in All of America by All of America’s Worker, January 25, 2021.

## **XLVII. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment — Applicable under TRGP-E/T**

Recipient agrees that it, and its subrecipients, will not use award funds to extend, renew, or enter into any contract to procure or obtain any covered telecommunication and video surveillance services or equipment as described in 2 CFR §200.216. Covered services and equipment include telecommunications or video surveillance services or equipment produced or provided by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); or an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of China. The use of award funds on covered telecommunications or video surveillance services or equipment are unallowable. 2 C.F.R. § § 200.216 & 471. See also Section 889 of the John S. McCain National Defense Authorization Act of Fiscal Year 2019, Public Law 115-232.

## **XLVIII. Termination**

The award may be terminated, in whole or in part, to the extent such termination is authorized by law for the reasons set forth in 2. C.F.R. § 200.340 including, but not limited to, failure to comply with award terms and conditions or when the award no longer effectuates program goals or agency priorities.

## XLIX. School Resource Officer (SRO) Training Requirement (for School Resource Officers only) — Applicable under TRGP-Hire

COPS Office–funded SRO(s) are required to complete an SRO 40-hour basic training course from any of a list of COPS Office approved provider(s). Training must be completed no later than nine months after the date shown on the award congratulatory letter or six months from the SRO hire date, whichever comes first. If a COPS Office–funded SRO leaves the recipient agency after completing the training, the recipient agrees to pay for the new SRO who is assigned to backfill this position to attend the 40-hour basic training course. The new SRO must complete the training no later than nine months after being placed in the school. If the officer has completed the 40-hour basic training within the last 12 months prior to the award date, the condition has been fulfilled. Any gap longer than 12 months will require the officers to retake the course. The agency must coordinate with the training provider if they want funds to cover registration and travel costs.

## L. Award Owner’s Manual

If awarded funding, the recipient agrees to comply with the terms and conditions in the Award Owner's Manual; DOJ Grants Financial Guide; COPS Office statute (34 U.S.C. § 10381, et seq.); 2 C.F.R. Part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards); 48 C.F.R. Part 31 (Contract Cost Principles and Procedures) as applicable; the Cooperative Agreement as applicable; representations made in the application; and all other applicable requirements.

## LI. Officer Basic Training — Applicable under TRGP-Hire

Basic law enforcement training is required for all career law enforcement officer positions or village public safety officers funded under TRGP-Hire to promote officer safety, effectiveness, and professionalism.

You must ensure that each officer funded under the award completes basic law enforcement training within one year of the officer being hired. Basic training may be conducted at a Bureau of Indian Affairs (BIA), state, or local academy as determined by the recipient.

**Please keep your grant program specialist updated on the status of the officer’s training completion and submit the required programmatic progress reporting.**

## LII. Memorandum of Understanding Requirement (for School Resource Officers only) — Applicable under TRGP-Hire

Recipients using award funding to hire and/or deploy School Resource Officers into schools understand and agree to the following:

- Your agency must submit a signed Memorandum of Understanding (MOU) between the law enforcement agency and the school partner(s) to the COPS Office before obligating or drawing down funds under this award. The MOU must be submitted to the COPS Office within 90 days of the date shown on the award letter.
- Your agency’s MOU must contain the following information:
  - The purpose of the MOU
  - Clearly defined roles and responsibilities of the school district and the law enforcement agency, focusing officers’ roles on safety
  - Information sharing

- Supervision responsibility and chain of command for the SRO
- Signatures

Note: Please refer to the MOU Fact Sheet for a detailed explanation of the requirements under each of the bullets. Your agency's implementation of the TRGP-Hire award without submission and acceptance of the required MOU may result in expenditures not being reimbursed by the COPS Office and/or award de-obligation.

## Additional National and Administrative Requirements

The following section describes the additional requirements applicants should be aware of before applying to COPS Office programs. Please review each section carefully. The submission of the application assures the COPS Office that your agency will comply with all legal and administrative requirements that govern the award.

### False Claim Act

Under the False Claim Act, any credible evidence that a person has submitted a false claim or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving COPS Office funds may be referred to the Office of Inspector General (OIG). The OIG may be contacted at [oig.hotline@usdoj.gov](mailto:oig.hotline@usdoj.gov), or 800-869-4499.

### Remedies for noncompliance

Under 2 C.F.R. § 200.339, if recipient fails to comply with award terms and conditions, the Federal awarding agency may impose additional condition or take one or more of the following actions, as appropriate in the circumstances:

- (a) Temporarily withhold cash payments pending correction of the deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.
- (b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
- (c) Wholly or partly suspend or terminate the Federal award.
- (d) Initiate suspension or debarment proceedings as authorized under 2 CFR part 180 and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).
- (e) Withhold further Federal awards for the project or program.
- (f) Take other remedies that may be legally available.

Prior to imposing sanctions, the COPS Office will provide reasonable notice to the recipient of its intent to impose sanctions and will attempt to resolve the problem informally. Appeal procedures will follow those in the U.S. Department of Justice regulations in 28 C.F.R. Part 18.

Awards terminated due to noncompliance with the federal statutes, regulations, or award terms and conditions will be reported to the integrity and performance system accessible through SAM (currently FAPIIS).

False statements or claims made in connection with COPS Office awards may result in fines, imprisonment, debarment from participating in federal awards or contracts, and any other remedy available by law.

Please be advised that recipients may not use COPS Office funding for the same item or service also funded by another U.S. Department of Justice award.

## Financial management and system of internal controls

Award recipients must, as set out in the Uniform Guidance at 2 C.F.R. 200.303:

- (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the recipient is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States and the “Internal Control Integrated Framework,” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- (b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.
- (c) Evaluate and monitor the recipient’s compliance with statutes, regulations, and the terms and conditions of Federal awards.
- (d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
- (e) Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency designates as sensitive or the recipient considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

## Audit requirement

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200, Subpart F - Audit Requirements, available at <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200/subpart-F>, establish the requirements for organizational audits that apply to COPS Office recipients. Recipients must arrange for the required organization-wide (not award-by-award) audit in accordance with the requirements of Subpart F.

## Civil Rights

All recipients are required to comply with nondiscrimination requirements contained in various federal laws. A memorandum addressing federal civil rights statutes and regulations from the Office for Civil Rights, Office of Justice Programs will be included in the award package for recipients. All applicants should consult the Assurances form to understand the applicable legal and administrative requirements.

Please be advised that a hold may be placed on this application if it is deemed that the applicant agency is not in compliance with federal civil rights law and/or is not cooperating with an ongoing federal civil rights investigation.

## Freedom of Information Act and Privacy Act (5 U.S.C. § 552 and 5 U.S.C. § 552a)

All applications submitted to the COPS Office (including all attachments to applications) are subject to the federal Freedom of Information Act (FOIA) and to the Privacy Act. By law, DOJ may withhold information that is responsive to a request if DOJ determines that the responsive information is protected from disclosure under the Privacy Act or falls within the scope of one or more of the nine statutory exemptions under FOIA. DOJ cannot agree in advance of a request pursuant to the FOIA not to release some or all portions of an application/award file.



In its review of records that are responsive to a FOIA request, the COPS Office will withhold information in those records that plainly falls within the scope of the Privacy Act or one of the statutory exemptions under FOIA. (Some examples include certain types of information in budgets, and names and contact information for project staff other than certain key personnel.) In appropriate circumstances, the COPS Office will request the views of the applicant/recipient that submitted a responsive document.

## Section 508 of the Rehabilitation Act

If you are an applicant using assistive technology and you encounter difficulty when applying please contact: **COPS Office Response Center U.S. Department of Justice, COPS Office [AskCopsRC@usdoj.gov](mailto:AskCopsRC@usdoj.gov)**

The department is committed to ensuring equal access to all applicants and will assist any applicant who may experience difficulties with assistive technology when applying for awards using the COPS Office online system.

# Appendices

## Appendix A. CTAS Certified Standard Assurances

OMB APPROVAL NUMBER 1121-0140

On behalf of the applicant and in support of this application for a grant or cooperative agreement, I certify under penalty of perjury to the U.S. Department of Justice (DOJ) that all of the following are true and correct:

1. I have the authority to make the following representations on behalf of myself and the applicant. I understand that these representations will be relied upon as material in any DOJ decision to make an award to the applicant based on its application.
2. I certify that the applicant has the legal authority to apply for the federal assistance sought by the application, and that it has the institutional, managerial, and financial capability (including funds sufficient to pay any required nonfederal share of project costs) to plan, manage, and complete the project described in the application properly.
3. I assure that, throughout the period of performance for the award (if any) made by DOJ based on the application—
  - A. the applicant will comply with all award requirements and all federal statutes and regulations applicable to the award;
  - B. the applicant will require all subrecipients to comply with all applicable award requirements and all applicable federal statutes and regulations; and
  - C. the applicant will maintain safeguards to address and prevent any organizational conflict of interest, and also to prohibit employees from using their positions in any manner that poses, or appears to pose, a personal or financial conflict of interest.
4. The applicant understands that the federal statutes and regulations applicable to the award (if any) made by DOJ based on the application specifically include statutes and regulations pertaining to civil rights and nondiscrimination and, in addition—
  - A. the applicant understands that the applicable statutes pertaining to civil rights will include section 601 of the Civil Rights Act of 1964 (42 U.S.C. § 2000d); section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794); section 901 of the Education Amendments of 1972 (20 U.S.C. § 1681); and section 303 of the Age Discrimination Act of 1975 (42 U.S.C. § 6102);
  - B. the applicant understands that the applicable statutes pertaining to nondiscrimination may include section 809(c) of Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. § 10228(c)); section 1407(e) of the Victims of Crime Act of 1984 (34 U.S.C. § 20110(e)); section 299A(b) of the Juvenile Justice and Delinquency Prevention Act of 2002 (34 U.S.C. § 11182(b)); and that the provision specifying a grant condition at section 40002(b)(13) of the Violence Against Women Act (34 U.S.C. § 12291(b)(13)), which will apply to all awards made by the Office on Violence Against Women, also may apply to an award made otherwise under this solicitation;
  - C. the applicant understands that it must require any subrecipient to comply with all such applicable statutes (and associated regulations); and
  - D. on behalf of the applicant, I make the specific assurances set out in 28 C.F.R. §§ 42.105 and 42.204.

5. The applicant also understands that (in addition to any applicable program-specific regulations and to applicable federal regulations that pertain to civil rights and nondiscrimination) the federal regulations applicable to the award (if any) made by DOJ based on the application may include, but are not limited to, 2 CFR Part 2800 (the DOJ "Part 200 Uniform Requirements") and 28 C.F.R. Parts 22 (confidentiality—research and statistical information), 23 (criminal intelligence systems), 38 (regarding faith-based or religious organizations participating in federal financial assistance programs), and 46 (human subjects protection).
6. I assure that the applicant will assist DOJ as necessary (and will require subrecipients and contractors to assist as necessary) with DOJ's compliance with section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. § 306108), the Archeological and Historical Preservation Act of 1974 (54 U.S.C. §§ 312501–312508), the National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321–4335), and 28 C.F.R. Parts 61 (NEPA) and 63 (floodplains and wetlands).
7. I assure that the applicant will give DOJ and the Government Accountability Office, through any authorized representative, access to, and opportunity to examine, all paper or electronic records related to the award (if any) made by DOJ based on the application.
8. I assure that, if the applicant is a governmental entity, with respect to the award (if any) made by DOJ based on the application—
  - A. it will comply with the requirements of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601–4655), which govern the treatment of persons displaced as a result of federal and federally-assisted programs; and
  - B. it will comply with requirements of 5 U.S.C. §§ 1501–1508 and 7324–7328, which limit certain political activities of state or local government employees whose principal employment is in connection with an activity financed in whole or in part by federal assistance.
9. If the applicant applies for and receives an Office of Community Oriented Policing Services (COPS Office) award, I assure that as required by 34 U.S.C. § 10382(c)(11), it will, to the extent practicable and consistent with applicable law—including, but not limited to, the Indian Self-Determination and Education Assistance Act—seek, recruit, and hire qualified members of racial and ethnic minority groups and qualified women in order to further effective law enforcement by increasing their ranks within the sworn positions in the agency.

I acknowledge that a materially false, fictitious, or fraudulent statement (or concealment or omission of a material fact) in this certification, or in the application that it supports, may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 34 U.S.C. §§ 10271–10273), and also may subject me and the applicant to civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. §§ 3729–3730 and 3801–3812). I also acknowledge that DOJ awards, including certifications provided in connection with such awards, are subject to review by DOJ, including by the COPS Office, the Office of Justice Programs, or the Office on Violence Against Women, and by DOJ's Office of the Inspector General. I and the applicant acknowledge that elections or other selections of new officials—that is, changes in authorized representatives such as a chief executive officer authorized to bind or otherwise act on behalf of the applicant—will not relieve the applicant of its obligations under any grant or cooperative agreement if funded.

## Appendix B. Certifications Regarding Lobbying; Debarment, Suspension, and Other Responsibility Matters; Federal Taxes and Assessments; Drug-Free Workplace Requirements; Coordination with Affected Agencies

Although the U.S. Department of Justice (DOJ) has made every effort to simplify the application process, federal law requires that an applicant must provide with its application a certification as to certain matters in order to be eligible to receive a federal grant or cooperative agreement. Applicants are expected to read carefully the certification requirements as set forth below—and any cited statute, regulation, or other material—before determining whether a certification properly may be made. (As an example, the applicant should first determine whether any condition legally required to be met has been met, such that an applicant’s certification as to the condition would be verifiably accurate and true.)

Any certification that the applicant submits must be executed by an official who is both familiar with the requirements of the certification and authorized to make the certification on behalf of the applicant.

Elections or other selections of new officials—that is, changes in authorized representatives, such as a chief executive officer authorized to bind or otherwise act on behalf of the applicant—will not relieve the applicant of its obligations under any grant or cooperative agreement if funded.

Where the applicant is unable to make a certification or provide an assurance set out in this form, the applicant may still apply but is to attach an explanation to this application regarding the particular certification that cannot be made or assurance that cannot be provided. The DOJ may not be able to make an award to an applicant that is unable to make certifications or provide assurances required by law as a condition of eligibility for a DOJ federal award.

The DOJ will treat the applicant’s certifications, upon their submission with the application, as representations of fact upon which the DOJ will rely in making any determination with respect to the application or in making any decision to award a federal grant or cooperative agreement to the applicant.

False statements or claims made in connection with DOJ grants (including cooperative agreements) may result in fines, imprisonment, debarment from participating in federal grants or contracts, or any other remedy available by law.

### 1. Lobbying

As a general matter, 18 U.S.C. § 1913 prohibits lobbying with federally appropriated funds, except where expressly authorized by law. In addition, under 31 U.S.C. § 1352, applicants (and recipients) are prohibited from using federal appropriations to influence certain federal transactions, specifically including federal grant and cooperative agreement actions. Indian tribes and tribal organizations are excluded from coverage under 31 U.S.C. § 1352 but only with respect to expenditures for purposes specified in 31 U.S.C. § 1352(a) that are permitted by other federal law. For these purposes, the terms “Indian tribe” and “tribal organization,” respectively, have the meaning provided in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 5304). Although Indian tribes and tribal organizations are excluded from coverage as set forth under 31 U.S.C. § 1352, these entities still must obtain lobbying disclosure documentation and any

required certifications from any subgrantees (recipients of a subaward (see “subaward” definition at 2 C.F.R. § 200.92)) or procurement contractors (recipients of a contract (see “contract” definition at 2 C.F.R. § 200.22) and their subcontractors) that would be required to report lobbying activities consistent with 31 U.S.C. § 1352.

As required by 31 U.S.C. § 1352 and implemented at 28 C.F.R. Part 69, the applicant certifies and assures (to the extent applicable) the following:

- A. No federal appropriated funds have been paid or will be paid by or on behalf of the applicant to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the making of any federal grant; the entering into of any cooperative agreement; or the extension, continuation, renewal, amendment, or modification of any federal grant or cooperative agreement.
  - B. If the applicant’s request for federal funds is in excess of \$100,000 and any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal grant or cooperative agreement, the applicant shall complete and submit Standard Form - LLL, “Disclosure of Lobbying Activities” in accordance with its (and any DOJ awarding agency’s) instructions.
  - C. The applicant shall require that the language of this certification be included in the award documents for all subgrants and procurement contracts (and their subcontracts) funded with federal award funds and shall ensure that any certifications or lobbying disclosures required of recipients of such subgrants and procurement contracts (or their subcontractors) are made and filed in accordance with 31 U.S.C. § 1352.
2. Debarment, Suspension, and Other Responsibility Matters (Direct Recipient)
- Pursuant to DOJ regulations on nonprocurement debarment and suspension implemented at 2 C.F.R. Part 2867 and other requirements for prospective participants in a primary tier “covered transaction” as defined at 2 C.F.R. § 2867.20(a), the applicant certifies that it and its principals for this covered transaction (that is, for the grant(s) or cooperative agreement(s) for which this application is being submitted)
- A. are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of federal benefits by a state or federal court, or voluntarily excluded from covered transactions by any federal department or agency;
  - B. have not within a three-year period preceding this application been convicted of a felony criminal violation under any federal law or been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, tribal, or local) or private agreement or transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion or receiving stolen property, making false claims, or obstruction of justice or commission of any offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;
  - C. are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, tribal, or local) with commission of any of the offenses enumerated in paragraph (B) of this certification;
  - D. have not within a three-year period preceding this application had one or more public transactions (federal, state, tribal, or local) terminated for cause or default.

Where the applicant is unable to certify to any of the statements in this certification, it shall attach an explanation to this application. Where the applicant or any of its principals was convicted, within a three-year period preceding this application, of a felony criminal violation under any federal law, the applicant also must disclose such felony criminal conviction in writing to DOJ (for OJP Applicants, to OJP at [Ojpcompliancereporting@usdoj.gov](mailto:Ojpcompliancereporting@usdoj.gov); for OVW Applicants, to OVW at [OVW.GFMD@usdoj.gov](mailto:OVW.GFMD@usdoj.gov); or for COPS Office Applicants, to the COPS Office at [AskCOPSRC@usdoj.gov](mailto:AskCOPSRC@usdoj.gov)), unless such disclosure has already been made.

**3. Mandatory Disclosure**

Pursuant to 2 CFR Part 2800, the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards by the U.S. Department of Justice, and as set out at 2 C.F.R. § 200.113, the applicant certifies and assures that it

- A. has not violated any federal criminal law involving fraud, bribery, or gratuity that may potentially affect the federal grant or cooperative agreement;
- B. shall timely disclose in writing to the federal awarding agency or pass-through entity, as applicable, any violation of federal criminal law involving fraud, bribery, or gratuity that may potentially affect the federal grant or cooperative agreement;
- C. shall require that the language of this certification be included in the award documents for all subawards (as the term “Subaward” is defined at 2 C.F.R. § 200.92) and shall require that all subrecipients certify and disclose accordingly.

**4. Federal Taxes and Assessments**

- A. If applicable, an applicant who requests an award in excess of \$5,000,000 certifies that, to the best of its knowledge and belief, the applicant has filed all federal tax returns required during the three years preceding the certification; has not been convicted of a criminal offense under the Internal Revenue Code of 1986; and has not, more than 90 days prior to certification, been notified of any unpaid federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default or the assessment is the subject of a nonfrivolous administrative or judicial proceeding.
- B. If the applicant is a corporation, the applicant certifies that either (1) the corporation 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 or (2) the corporation has provided written notice of such unpaid tax liability (or liabilities) to the DOJ awarding agency (for disclosure to OJP, in writing to OJP at [OJPcompliancereporting@usdoj.gov](mailto:OJPcompliancereporting@usdoj.gov); for disclosure to OVW, in writing to OVW at [OVW.GFMD@usdoj.gov](mailto:OVW.GFMD@usdoj.gov); for disclosure to the COPS Office, in writing to the COPS Office at [AskCOPSRC@usdoj.gov](mailto:AskCOPSRC@usdoj.gov)), and, after such disclosure, the applicant has received a specific written determination from the DOJ awarding agency that neither suspension nor debarment of the applicant is necessary to protect the interests of the Government in this case.

5. Drug-Free Workplace

As required by the Drug-Free Workplace Act of 1988 (41 U.S.C. § 8103) and implemented at 28 CFR Part 83 for recipients (other than individuals), as defined at 28 C.F.R. § 83.660—

- A. The applicant certifies and assures that it will provide or will continue to provide a drug-free workplace by
- (a) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the applicant's (and, if funded, the recipient's) workplace and specifying the actions that will be taken against employees for violation of such prohibition;
  - (b) establishing an ongoing drug-free awareness program to inform employees about
    - (1) the dangers of drug abuse in the workplace;
    - (2) the grantee's policy of maintaining a drug-free workplace;
    - (3) any available drug counseling, rehabilitation and employee assistance programs; and
    - (4) the penalties that may be imposed upon employees for drug-abuse violations occurring in the workplace;
  - (c) making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (i);
  - (d) notifying the employee in the statement required by paragraph (i) that, as a condition of employment under the grant, the employee will
    - (1) abide by the terms of the statement; and
    - (2) notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
  - (e) notifying the agency in writing within 10 calendar days after receiving notice under subparagraph (iv)(b) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title of any such convicted employee, to the following agencies, as applicable:
    - For COPS Office awards: COPS Office, 145 N Street, NE, Washington, DC, 20530
    - For OJP awards: Office of Justice Programs, ATTN: Control Desk, 810 7th Street, NW, Washington, DC, 20531
    - For OVW awards: U.S. Department of Justice, Office on Violence Against Women (OVW), 145 N Street, NE, Washington, DC, 20530Notice shall include the identification number(s) (that is, the DOJ awarding agency-assigned grant or cooperative agreement number) of each affected grant;
  - (f) taking one of the following actions within 30 calendar days of receiving notice under subparagraph (iv)(b) with respect to any employee who is so convicted:
    - (1) Taking appropriate personnel action against such employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended
    - (2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, tribal, or local health, law enforcement, or other appropriate agency;
  - (g) making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (i), (ii), (iii), (iv), (v), and (vi).

B. The applicant further certifies and assures that it will identify all known workplaces under each DOJ award in accordance with the provisions at 28 C.F.R. § 83.230.

6. Coordination

The Public Safety Partnership and Community Policing Act of 1994, as this Act specifies at 34 U.S.C. § 10382(c)(5), requires applicants to certify that there has been appropriate coordination with all agencies that may be affected by the applicant's grant proposal if approved. Affected agencies may include, among others, Offices of the United States Attorneys; state, local, or tribal prosecutors; or correctional agencies. The applicant certifies that there has been appropriate coordination with all affected agencies.

As the duly authorized representative of the applicant, I certify that (a) I am familiar with the requirements of these certifications and am authorized to make these certifications and provide these assurances and that (b) any statements or representations of fact contained herein have an adequate factual basis (as determined through inquiry, wherever appropriate) and are true and accurate to the best of my knowledge.



## Appendix C. 2 C.F.R. Part 200, Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a

half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.323.

(K) See §200.216.

(L) See §200.322.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014; 85 FR 49577, Aug. 13, 2020]

## Appendix D. 2 C. F. R. Part 200, Appendix XII to Part 200—Award Term and Condition for Recipient Integrity and Performance Matters

### A. Reporting of Matters Related to Recipient Integrity and Performance

#### *1. General Reporting Requirement*

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

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

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b. Reached its final disposition during the most recent five-year period; and
- c. Is one of the following:
  - (1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
  - (2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
  - (3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
  - (4) Any other criminal, civil, or administrative proceeding if:
    - (i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
    - (ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
    - (iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

### *3. Reporting Procedures*

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

### *4. Reporting Frequency*

During any period 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.

### *5. Definitions*

For purposes of this award term and condition:

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

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

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

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

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

B. [Reserved]

[80 FR 43310, July 22, 2015, as amended at 85 FR 49582, Aug. 13, 2020]

## Appendix E. 41 U.S.C. § 4712 - Enhancement of contractor protection from reprisal for disclosure of certain information

### **(a) Prohibition of reprisals.--**

**(1) In general.**--An employee of a contractor, subcontractor, grantee, or subgrantee or personal services contractor may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (2) information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.

**(2) Persons and bodies covered.**--The persons and bodies described in this paragraph are the persons and bodies as follows:

**(A)** A Member of Congress or a representative of a committee of Congress.

**(B)** An Inspector General.

**(C)** The Government Accountability Office.

**(D)** A Federal employee responsible for contract or grant oversight or management at the relevant agency.

**(E)** An authorized official of the Department of Justice or other law enforcement agency.

**(F)** A court or grand jury.

**(G)** A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

**(3) Rules of construction.**--For the purposes of paragraph (1)--

**(A)** an employee who initiates or provides evidence of contractor, subcontractor, or grantee misconduct in any judicial or administrative proceeding relating to waste, fraud, or abuse on a Federal contract or grant shall be deemed to have made a disclosure covered by such paragraph; and

**(B)** a reprisal described in paragraph (1) is prohibited even if it is undertaken at the request of an executive branch official, unless the request takes the form of a non-discretionary directive and is within the authority of the executive branch official making the request.

### **(b) Investigation of complaints.--**

**(1) Submission of complaint.**--A person who believes that the person has been subjected to a reprisal prohibited by subsection (a) may submit a complaint to the Inspector General of the executive agency involved. Unless the Inspector General determines that the complaint is frivolous, fails to allege a violation of the prohibition in subsection (a), or has previously been addressed in another Federal or State judicial or administrative proceeding

initiated by the complainant, the Inspector General shall investigate the complaint and, upon completion of such investigation, submit a report of the findings of the investigation to the person, the contractor or grantee concerned, and the head of the agency.

**(2) Inspector General action.--**

**(A) Determination or submission of report on findings.--**Except as provided under subparagraph (B), the Inspector General shall make a determination that a complaint is frivolous, fails to allege a violation of the prohibition in subsection (a), or has previously been addressed in another Federal or State judicial or administrative proceeding initiated by the complainant or submit a report under paragraph (1) within 180 days after receiving the complaint.

**(B) Extension of time.--**If the Inspector General is unable to complete an investigation in time to submit a report within the 180-day period specified in subparagraph (A) and the person submitting the complaint agrees to an extension of time, the Inspector General shall submit a report under paragraph (1) within such additional period of time, up to 180 days, as shall be agreed upon between the Inspector General and the person submitting the complaint.

**(3) Prohibition on disclosure.--**The Inspector General may not respond to any inquiry or disclose any information from or about any person alleging the reprisal, except to the extent that such response or disclosure is--

**(A)** made with the consent of the person alleging the reprisal;

**(B)** made in accordance with the provisions of section 552a of title 5 or as required by any other applicable Federal law; or

**(C)** necessary to conduct an investigation of the alleged reprisal.

**(4) Time limitation.--**A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.

**(c) Remedy and enforcement authority.--**

**(1) In general.--**Not later than 30 days after receiving an Inspector General report pursuant to subsection (b), the head of the executive agency concerned shall determine whether there is sufficient basis to conclude that the contractor or grantee concerned has subjected the complainant to a reprisal prohibited by subsection (a) and shall either issue an order denying relief or shall take one or more of the following actions:

**(A)** Order the contractor or grantee to take affirmative action to abate the reprisal.

**(B)** Order the contractor or grantee to reinstate the person to the position that the person held before the reprisal, together with compensatory damages (including back pay), employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.

**(C)** Order the contractor or grantee to pay the complainant an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the complainant for, or in connection with, bringing the complaint regarding the reprisal, as determined by the head of the executive agency.

**(2) Exhaustion of remedies.**--If the head of an executive agency issues an order denying relief under paragraph (1) or has not issued an order within 210 days after the submission of a complaint under subsection (b), or in the case of an extension of time under paragraph (b)(2)(B), not later than 30 days after the expiration of the extension of time, and there is no showing that such delay is due to the bad faith of the complainant, the complainant shall be deemed to have exhausted all administrative remedies with respect to the complaint, and the complainant may bring a de novo action at law or equity against the contractor or grantee to seek compensatory damages and other relief available under this section in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy. Such an action shall, at the request of either party to the action, be tried by the court with a jury. An action under this paragraph may not be brought more than two years after the date on which remedies are deemed to have been exhausted.

**(3) Admissibility of evidence.**--An Inspector General determination and an agency head order denying relief under paragraph (2) shall be admissible in evidence in any de novo action at law or equity brought pursuant to this subsection.

**(4) Enforcement of orders.**--Whenever a person fails to comply with an order issued under paragraph (1), the head of the executive agency concerned shall file an action for enforcement of such order in the United States district court for a district in which the reprisal was found to have occurred. In any action brought under this paragraph, the court may grant appropriate relief, including injunctive relief, compensatory and exemplary damages, and attorney fees and costs. The person upon whose behalf an order was issued may also file such an action or join in an action filed by the head of the executive agency.

**(5) Judicial review.**--Any person adversely affected or aggrieved by an order issued under paragraph (1) may obtain review of the order's conformance with this subsection, and any regulations issued to carry out this section, in the United States court of appeals for a circuit in which the reprisal is alleged in the order to have occurred. No petition seeking such review may be filed more than 60 days after issuance of the order by the head of the executive agency. Review shall conform to chapter 7 of title 5. Filing such an appeal shall not act to stay the enforcement of the order of the head of an executive agency, unless a stay is specifically entered by the court.

**(6) Burdens of proof.**--The legal burdens of proof specified in **section 1221(e) of title 5** shall be controlling for the purposes of any investigation conducted by an Inspector General, decision by the head of an executive agency, or judicial or administrative proceeding to determine whether discrimination prohibited under this section has occurred.

**(7) Rights and remedies not waivable.**--The rights and remedies provided for in this section may not be waived by any agreement, policy, form, or condition of employment.

**(d) Notification of employees.**--The head of each executive agency shall ensure that contractors, subcontractors, and grantees of the agency inform their employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

**(e) Construction.**--Nothing in this section may be construed to authorize the discharge of, demotion of, or discrimination against an employee for a disclosure other than a disclosure protected by subsection (a) or to modify or derogate from a right or remedy otherwise available to the employee.

**(f) Exceptions.**--**(1)** This section shall not apply to any element of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (**50 U.S.C. 401a(4)**).

(2) This section shall not apply to any disclosure made by an employee of a contractor, subcontractor, or grantee of an element of the intelligence community if such disclosure--

(A) relates to an activity of an element of the intelligence community; or

(B) was discovered during contract, subcontract, or grantee services provided to an element of the intelligence community.

(g) **Definitions.**--In this section:

(1) The term “abuse of authority” means an arbitrary and capricious exercise of authority that is inconsistent with the mission of the executive agency concerned or the successful performance of a contract or grant of such agency.

(2) The term “Inspector General” means an Inspector General appointed under the Inspector General Act of 1978 and any Inspector General that receives funding from, or has oversight over contracts or grants awarded for or on behalf of, the executive agency concerned.

(h) **Construction.**--Nothing in this section, or the amendments made by this section, shall be construed to provide any rights to disclose classified information not otherwise provided by law.

[(i) [Added Pub. L. 112–239, div. A, title VIII, §828(a)(1), Jan. 2, 2013, 126 Stat. 1837; amended Pub. L. 113–66, div. A, title X, §1091(e), Dec. 26, 2013, 127 Stat. 876; Pub. L. 114–261, §1(a)(2), (3)(A), Dec. 14, 2016, 130 Stat. 1362; Pub. L. 116–260, div. U, title VIII, §801, Dec. 27, 2020, 134 Stat. 2297.]



## Appendix F. Intergovernmental Review Process, Points of Contact by State

Executive Order 12372 requires applicants from state and local units of government or other organizations or individuals providing service within a state to submit a copy of the application to the state single point of contact (SPOC), if one exists and if this program has been selected for review by the state. Before the application due date, you must contact your state SPOC to find out if this program has been selected for review and comply with the state's process under Executive Order 12372. The Catalog of Federal Domestic Assistance reference for this program is number 16.710, "Public Safety and Community Policing Grants."

A current list of state SPOCs is available at <https://www.whitehouse.gov/omb/office-federal-financial-management/>. States that are not listed have chosen not to participate in the intergovernmental review process and therefore do not have an SPOC.

## Appendix G. Federal Funding Accountability and Transparency Act (FFATA)—Reporting Subaward and Executive Compensation Award Term

2 C.F.R. Part 170, Appendix A to Part 170—Award term

### I. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION

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

*Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds \$30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).

#### 2. *Where and when to report.*

i. The non-Federal entity or Federal agency must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.

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

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

#### b. *Reporting total compensation of recipient executives for non-Federal entities.*

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

i. The total Federal funding authorized to date under this Federal award equals or exceeds \$30,000 as defined in 2 CFR 170.320;

ii. in the preceding fiscal year, you received—

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 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 <https://www.sam.gov>.

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

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

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

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

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 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. Federal Agency means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).

2. Non-Federal *entity* means all of the following, as defined in 2 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; and,

iv. A domestic or foreign for-profit organization

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

4. *Subaward:*

i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.331).

iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

5. *Subrecipient* means a non-Federal entity or Federal agency that:

i. Receives a subaward from you (the recipient) under this award; and

ii. Is accountable to you for the use of the Federal funds provided by the subaward.

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

[85 FR 49526, Aug. 13, 2020]

## Appendix H. System for Award Management (SAM) and Universal Identifier Award Term

2 C.F.R. Part 200, Appendix A to Part 25—Award Term

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

#### *A. Requirement for System for Award Management*

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

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

If you are authorized to make subawards under this Federal award, you:

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

#### *C. Definitions*

For purposes of this term:

1. *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 domestic or foreign for-profit organization; and
- e. 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.

[85 FR 49525, Aug. 13, 2020]