



Florida RESTORE Act Center of Excellence Program

CENTERS OF EXCELLENCE GRANTS: STANDARD TERMS & CONDITIONS

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AWARD REQUIREMENTS

FINANCIAL MANAGEMENT

Grantees must be led by a Florida-based (i.e. headquartered and primarily operating in Florida) non-governmental public or private institution of higher education (Principal Investigator from same) or other not-for-profit institution (NGOs). The Florida-based headquarters must primarily operate in Florida in the area of ocean and coastal research, support an established infrastructure capable of receiving and administering a Centers of Excellence grant, and have a history (greater than a year before March 2, 2015) of successful grant management. Non-Governmental Organizations (NGO) with national headquarters elsewhere may utilize their Florida offices that meet these conditions.

The **Grantee's** financial management system capabilities must:

- Permit the preparation of accurate, current, and complete reporting (including sub-awards if applicable), and any additional reports required by any Special Award Conditions;
- Permit the tracing of funds to a level of expenditures adequate to establish that such funds have been used in accordance with all applicable federal, state, and local requirements, including the RESTORE Act, Treasury RESTORE Act regulations, [FLRACEP Rules and Policies](#), and these Award Terms and Conditions;
- Record the source and application of funds for all activities funded by this Award, as well as all sub-awards, authorizations, obligations, unobligated balances, assets, expenditures, program income, and interest earned on federal advances; allow for the comparison of actual expenditures with the amount budgeted; and allow users to tie these records to source documentation such as cancelled checks, paid bills, payroll and attendance records, and sub-award agreements.
- Ensure effective control over, and accountability for, all federal funds, and all property and assets acquired with federal funds, safeguard all assets and ensure that they are used solely for authorized purposes.

RECORDS RETENTION

The **Grantee** must retain all records pertinent to this Award for a period of three (3) years, beginning on a date as described in Federal regulations, [Uniform Administrative Requirements, Cost Principles, and Audit Requirements For Federal Awards](#) (2 C.F.R. § 200.333); for this program, date of submission of the final expenditure report. While electronic storage of records (backed up as appropriate) is preferable, the recipient has the option to store records in hardcopy (paper) format. For the purposes of this section, the term "records" includes but is not limited to:

- Copies of all sub-awards and all documents related to a sub-award, signed Conflict of Interest forms, all Conflict of Interest and other procurement rules governing a particular sub-award, and any bid protests;
- Copies of all sub-awards, including the funding opportunity announcement or equivalent, all applications received, all meeting minutes or other documentation of the evaluation and selection of sub-Grantees, any disclosed Conflicts of Interest regarding a sub-award, and all signed Conflict of Interest forms (if applicable);
- All documentation of site visits, reports, audits, and other monitoring of vendors and sub-wards (if applicable);
- All financial and accounting records, including records of disbursements to vendors and subawards, and documentation of the allowability of Administrative Costs charged to this Award;

- All supporting documentation for the performance outcome and other information reported on the **Grantee's** SF-425s, SF-PPRs, Milestones Forms, and Status of Performance Reports; and
- Any reports, publications, and data sets from any research conducted under this Award.

If any litigation, claim, investigation, or audit relating to this Award or an activity funded with Award funds is started before the expiration of the three (3) year period, the records must be retained until all litigation, claims, investigations, or audit findings involving the records have been resolved and final action taken.

If the **Grantee** is authorized to make sub-awards, the **Grantee** must include in its legal agreement with the sub-Grantee a requirement that they retain all records in compliance with 2 C.F.R. § 200.333.

REPORTING

Grantees are required to submit reports and attend meetings as indicated in **Attachment 3**. These include: quarterly progress reports with financial statements (details below), which are required to justify subsequent quarterly cost-reimbursable payments; participation in quarterly FLRACEP webinars to highlight and share recent accomplishments; and to participate in an annual FLRACEP all-hands meeting, costs to be covered by the Award. The **Grantee's** quarterly reports will include information as described in **Attachment 4**. The **Sponsor** will coordinate with the **Grantee's** PI to fulfill reporting requirements, and the **Sponsor** will maintain records for all Center of Excellence Subagreements, publications, presentations, and reports. These will inform the **Sponsor's** semi-annual reports required by Treasury, and an annual report required by the Gulf Coast Ecosystem Restoration Council. The **Sponsor's** [FLRACEP website](#) will make such information available to the public.

DATA MANAGEMENT

All data and derived data products and metadata must be made publicly available within one (1) year of data acquisition, before publication that relies on the data, or before the end of the Subagreement, whichever is soonest. Data will be archived in a regional or national repository, which will promote integration with other oil spill response and restoration programs, and advancement of knowledge and utility to engineers, researchers, agencies and others.

A data management plan (DMP) is required within 90 days of award notice, and all data sets and metadata identified in the DMP must be archived and in publically accessible repositories that are pre-approved by the **Sponsor**.

SAMPLES AND PERMITS

Protocols for monitoring, sampling, observations, and measurements collection and processing, and related record-keeping must be consistent with guidance documents developed for Natural Resource Damage Assessment under the Oil Pollution Act of 1990 and the Damage Assessment Remediation and Restoration Program, NOAA, August 1996. Principal Investigators are responsible for compliance with local, state or federal requirements related to their research program, including ensuring they have any permits required to conduct their research. Physical samples collected must be stored in a manner that will ensure integrity and future access, for at least as long as records are retained (see Attachment 5 section on *Records Retention*).

The **Grantee**, when relevant and practical, will utilize other appropriately collected and analyzed samples and other relevant data including that generated through internal **Sponsor** studies, EPA and NOAA work and data produced or obtained in connection with natural resource damage assessments undertaken pursuant to the Oil Pollution Act.

INTELLECTUAL PROPERTY

The **Grantee** agrees to promptly disclose all intellectual property generated during the course of this Agreement to the **Sponsor**.

Intellectual property that originates jointly between the **Sponsor** and the **Grantee** shall be jointly owned. Any intellectual property that originates solely with the **Grantee** or its employees shall be the property of the **Grantee**. The **Parties** agree that any intellectual property and/or inventions and technologies of the **Sponsor** and **Grantee** existing prior to the execution of this Subagreement are their own separate property, respectively, and are not affected by this Subagreement. Neither Party shall acquire any claims to or rights in any background intellectual property and/or technologies in existence prior to the execution date of this Subagreement.

The **Grantee** shall grant the **Sponsor** an irrevocable, royalty-free, non-transferable, non-exclusive right and license to use, reproduce, make derivative works, display, and perform publicly any copyrights or copyrighted material (including any computer software and its documentation and/or databases) first developed and delivered under this Subagreement, for non-commercial, academic, or research purposes.

PUBLICATIONS AND SIGNAGE

Work conducted by **Grantees** is expected to result in publications in peer-reviewed (refereed) journals, or equivalent media. Reports and papers should be published in the tradition of academic science, including significant peer review by appropriate independent experts. Publications resulting from this work should be submitted to the **Sponsor** as soon as available.

Any publications (**except** scientific articles or papers appearing in scientific, technical, or professional journals) or signage produced with funds from this Award, or informing the public about the activities funded in whole or in part by this Award, must clearly display the following language: *“This project was paid for [in part] with federal funding from the Department of the Treasury under the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 (RESTORE Act).”* Publications (**except** scientific articles or papers appearing in scientific, technical, or professional journals) produced with funds from this Award must display the following additional language: *“The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of the U.S. Department of the Treasury.”* Publications should reference the following in acknowledgements, *“This work was funded in part by the Florida RESTORE Act Centers of Excellence Research Grants Program, Subagreement No. ____.”*

AUDIT REQUIREMENTS

The **Grantee** is responsible for complying, and ensuring all its sub-Grantees comply, with all audit requirements of OMB Circular A-133 and the Single Audit Act. The requirements of Subpart F of 2 C.F.R. Part 200 supersede the requirements of Circular A-133 for recipient and sub-recipient fiscal years beginning on or after December 26, 2014. Accordingly, the **Grantee** will complete and submit an *Audit Certification and Financial Status Questionnaire (SA Attachment 7)* with their fully certified Subagreement.

The **Grantee** further agrees to provide the **Sponsor** with copies of any independent auditors' reports that present instances of non-compliance with federal laws and regulations, which bear directly on the performance, or administration of this Subagreement. In cases of such non-compliance, the **Grantee** will provide copies of responses to auditors' reports and a plan for corrective action. With advance notice, all records and reports prepared in accordance with the requirements of OMB Circular A-133 shall be

available for inspection by the **Sponsor** during normal business hours.

The **Grantee** shall be responsible for payment of any and all audit exceptions that are identified by the audit agency. Payments to **Grantee** for costs found to be unallowable by such audit shall be refunded directly to the **Sponsor** by the **Grantee**.

In order to make audits, investigations, examinations, excerpts, transcripts, and copies of related documents, Treasury, the Treasury Office of Inspector General, and the Government Accountability Office, with advance notice and during normal business hours, have the right of access to any **Sponsor** or **Grantee** documents, papers or other records, including electronic records that are pertinent to this Subagreement. This right also includes reasonable (with advance notice and during normal business hours) access to the **Grantee's** personnel for the purpose of interview and discussion related to such documents. This right of access shall continue as long as records are required to be retained.

The **Grantee** must include in its legal agreements with sub-Grantees required to complete the approved work plan, a requirement that the sub-Grantee make available to Treasury, the Treasury Office of Inspector General, and the Government Accountability Office any documents, papers or other records, including electronic records, of the sub-Grantee, which are pertinent to the sub-Grantee's award, in order to make audits, investigations, examinations, excerpts, transcripts, and copies of such documents. This right also includes timely and reasonable access to the sub-Grantee's personnel for the purpose of interview and discussion related to such documents. This right of access shall continue as long as records are required to be retained (see Records Retention Section above).

The Treasury, the Treasury Office of Inspector General, and Government Accountability Office also shall have the right during normal business hours to conduct onsite and offsite physical visits to the **Sponsor, Grantee,** and sub-Grantees corresponding to the duration of their records retention obligation for this Subagreement.

DISPUTE RESOLUTION

If a dispute arises between the **Parties** relating to the existence, negotiation, validity, formation, interpretation, breach, performance or application of this Subagreement, the **Parties** shall use the following non-binding procedure in good faith prior to either **Party** pursuing judicial remedies:

- Negotiation. Each **Party** shall notify the other Party of the dispute in accordance with Notice requirements in this Subagreement. The **Parties** shall use good faith efforts to resolve such dispute within thirty (30) days after delivery of such notice, which good faith efforts shall include at least one in-person meeting between representatives of each Party having decision-making authority. All discussions under this section shall be confidential and shall be treated as compromise and settlement negotiations for purposes of applicable rules of evidence.
- Mediation. If the designated representatives are unable to resolve the dispute via Negotiation within the period specified above, either **Party** may provide the other **Party** with notice requesting mediation. The **Parties** shall mutually agree to a mediator. The mediator may not testify for either **Party** in any later proceeding relating to the dispute. No formal recording or transcript shall be made of the mediation proceeding. Each **Party** shall bear its own costs of mediation.
- Litigation. If the **Parties** are unable to resolve the dispute via mediation, to the extent permitted by Florida state law, either **Party** may initiate litigation upon thirty (30) days' notice to the other **Party**, provided that such notice is no sooner than sixty (60) days of having received notice requesting mediation. Notwithstanding this Section, either **Party** shall have the right, without waiving any right or remedy available to such **Party** under this Subagreement or otherwise, to seek and obtain at any time from any court of competent jurisdiction any injunctive, interim or provisional relief that is

necessary or desirable to protect the rights or property of such **Party**.

PRIOR APPROVALS

The **Grantee** must obtain prior written approval from the **Sponsor** whenever any of the following actions is anticipated:

- A change in the work plan of the activity, project, or program (even if there is no associated budget revision requiring prior written approval);
- A need to extend the period of performance; no-cost extension requests must be made no less than thirty (30) days prior to the end of the period of performance;
- The transfer of funds among direct cost categories or programs, functions, and activities if this Award exceeds the Simplified Acquisition Threshold (defined at 2 C.F.R. § 200.88) and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by the **Sponsor**;
- Unless described in the application and funded in this Subagreement, the sub-awarding, or transferring out of any work under this Subagreement (this provision does not apply to the acquisition of supplies, material, equipment or general support services);
- If the approved budget includes funds for both construction and non- construction, any transfer between the non-construction and construction activities; and
- The inclusion of costs that require prior approval in accordance with 2 C.F.R. Part 200, Subpart E— Cost Principles.
- Assignment or transfer of this Subagreement; any attempted assignment or transfer without prior approval shall be null and void.

AMENDMENTS

The terms of this Subagreement may be amended with written approval of both Parties. Amendments must be requested in writing, and must include justification. The **Sponsor** reserves the right to amend the terms, if required by state or federal law or regulation, provided that the **Grantee** shall have the right to terminate the Subagreement, if the **Grantee** does not agree with any such unilaterally amended term.

NONDISCLOSURE OF CONFIDENTIAL INFORMATION

In the event that Confidential Information is exchanged between the Parties, a separate process and non-disclosure agreement will be implemented.

PROVISIONS HELD INVALID

If any one or more of the provisions contained in this Subagreement shall be held to be invalid, illegal or unenforceable for any reason, such invalidity, illegality or unenforceability shall not affect any other provision hereof and this Subagreement shall be construed as if such provision had never been contained herein.

FORCE MAJEURE

The Parties shall not be responsible for any failure to perform due to the occurrence of any events beyond their reasonable control which render their performance impossible, including, but not limited to: environmental accidents and toxic spills, acts of God; biological or nuclear incidents; casualties; hurricanes; earthquakes; fires; floods; emergency acts of government, orders or restrictions; local, national, or state declared emergency; power failure and power outages; acts of terrorism; strike;

shortages of sufficient transportation, fuel and necessary research materials; and war. A Party whose performance is affected by any such event shall give written notice thereof to the other Party as soon as possible after the occurrence of such event. Such notice will identify the obligations of such Party that are affected and the expected duration of the inability to perform. The affected obligations of such Party will be suspended during the actual period of inability to perform. The affected Party will use reasonable efforts to remove the cause of its inability to perform as soon as practicable, and will resume performance whenever such cause is removed. The failure for any reason to have sufficient funds shall not be considered a force majeure with respect to any payment obligation.

COUNTERPARTS

The Parties may execute this Subagreement in any manner of counterparts, each of which is an original, but all of which together constitute one and the same instrument. The Parties may deliver their signatures to this Subagreement by facsimile transmission or email in portable document format or other electronic imaging, and such delivery shall have the same effect as delivery of original signatures.

ORDER OF PRECEDENCE

In the event of any inconsistent or incompatible provisions, the order of precedence is: federal regulations (see Legislative Mandates section for specific regulations), state of Florida regulations, this signed Subagreement, FLRACEP Rules and Policies (<http://www.fio.usf.edu/research/restore-act?download=83:fl-centers-of-excellence-research-grants-program-rules-and-policies>), and the RFP # FLCERGP-2015-01 (<http://fio.marine.usf.edu/documents/rfp-flcergp-2015/RFP-flcergp-2015-01.pdf>).

EARLY TERMINATION

This Subagreement may be canceled by the **Sponsor** without prior notice for refusal by the **Grantee** to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes that are made or received by the **Grantee** in conjunction with this Subagreement.

This Subagreement may be canceled by either **Party** upon no less than thirty (30) day notice, with or without cause; notice shall be delivered by certified mail, return receipt requested, or in person with proof of delivery. All notices shall be given to the appropriate contacts provided for in the Notices Section of this Subagreement. In case of cancellation, only the percent of satisfactory progress actually achieved to the date of cancellation will be due and payable to the **Grantee**, as well as any non-cancellable obligations.

In the event that **Grantee's** Principal Investigator becomes unable or unwilling to continue the activities hereunder, and a mutually acceptable substitute is not available, the **Sponsor** shall have the option to cancel this Subagreement.

PROGRAMMATIC, LEGISLATIVE AND REGULATORY REQUIREMENTS

PROGRAM POLICIES

All **Grantees** and participants on Center of Excellence grants conducting activities financed, directly or indirectly, wholly or in part, by the FLRACEP are subject to and must comply with the terms of the [FLRACEP Rules and Policies](#) and [RFP # FLRACEP-2016-01](#).

The RESTORE Act requirements include activities that promote coordination among the various programs funded by any settlement or litigation penalties expended via the Act. FIO will serve this coordination role for the FLRACEP Centers of Excellence grants. Functions include but are not limited to:

representing the FLRACEP Centers on the NOAA RESTORE Act Science Program's Advisory Working Group; and compiling and preparing an annual report for the Gulf Coast Ecosystem Restoration Council (per Treasury Rulemaking for the RESTORE Act, 31 CFR Part 34, Section 34.706).

LEGISLATIVE MANDATES

The **Grantee** and its sub-Grantees must comply with all federal statutes, federal regulations, executive orders (EOs), Office of Management and Budget (OMB) circulars, Standard Terms and Conditions, Program-Specific Terms and Conditions, and any Special Award Conditions of the **Sponsor's** federal financial assistance, the Prime Award, as applicable, in addition to the certifications and assurances required at the time of application.

Treasury's [RESTORE Act Standard Terms and Conditions](#) apply to **Sponsor** and **Grantee** activities and contain, by reference or substance, a summary of pertinent federal statutes, federal regulations published in the Federal Register (Fed. Reg.) or Code of Federal Regulations (C.F.R.), EOs, or OMB circulars. In particular, the Standard Terms and Conditions incorporate many of the provisions contained in OMB's Uniform Guidance for Grants and Cooperative Agreements (2 C.F.R. Part 200), which supersedes former OMB Circular A-102 (the former grants management common rule), OMB Circular A-133 (single audit requirements), and all former OMB circulars containing the cost principles for grants and cooperative agreements. To the extent that it is a summary, such a provision is not in derogation of, or an amendment to, any such statute, regulation, EO, or OMB circular. Unless a definition is provided here, definitions can be found in the RESTORE Act (Public Law No. 112-141 (July 6, 2012)), Treasury's RESTORE Act regulations (79 Fed. Reg. 48039 (Aug. 15, 2014) and 79 Fed. Reg. 61236 (Oct. 10, 2014), codified at 31 C.F.R. Part 34)), and/or 2 C.F.R. Part 200.

This Award is subject but not limited to the following specific federal regulations and requirements:

- Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, Subparts A through E, and any Treasury regulations incorporating these requirements. Subpart F will apply to audits of the recipient's fiscal years beginning on or after December 26, 2014. Until then, the recipient must comply with OMB Circular A-133.
- Treasury's RESTORE Act regulations, 31 C.F.R. Part 34.
- Government-wide Debarment and Suspension, 31 C.F.R. Part 19.
- Government-wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20 e.
- New Restrictions on Lobbying, 31 C.F.R. Part 21.
- Reporting Sub-award and Executive Compensation Information, 2 C.F.R. Part 170.
- Award Term for Trafficking in Persons, 2 C.F.R. Part 175.
- Section 202, Executive Order 11246, as amended by Executive Order 11375, and regulations published by the U.S. Department of Labor implementing Section 503 of the Rehabilitation Act of 1973, Public Law 93-112, as amended, which are incorporated herein by reference.

ENVIRONMENTAL COMPLIANCE

Grantees are responsible for compliance with local, state or federal requirements related to their research program, including ensuring they have any permits required to conduct their research. Treasury's RESTORE Act Environmental Checklist (**SA Attachment 6**) identifies environmental laws that may apply to the eligible activities, which the **Sponsor** must answer and will require **Grantees** to also answer.

PROHIBITED AND RESTRICTED ACTIVITIES

CRIMINAL

In accordance with F.S. 287.133(2)(a), a **Grantee**, person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime, may not submit in bids or proposals, may not be awarded or perform work or transact business with any public entity in excess of the threshold amount provided in F.S.287.017 for category Two for a period of thirty-six (36) months from the date placed on the list.

The Program Fraud Civil Remedies Act (31 U.S.C. §§ 3801-3812), provides for the imposition of civil penalties against persons who knowingly makes false, fictitious, or fraudulent claims to the federal government for money (including money representing grants, loans or other benefits).

False Statements (18 U.S.C. §1001) provides that whoever knowingly makes or knowingly presents any materially false, fictitious, or fraudulent statements to the United States shall be subject to imprisonment of not more than five (5) years. False Claims (18 U.S.C. § 287) provides that whoever knowingly makes or knowingly presents a false, fictitious, or fraudulent claim against or to the United States shall be subject to imprisonment of not more than five (5) years and shall be subject to a fine in the amount provided in 18 U.S.C. § 287. The False Claims Act (31 U.S.C. 3729 et seq.), provides that suits under this act can be brought by the federal government, or a person on behalf of the federal government, for false claims under federal assistance programs.

Copeland “Anti-Kickback” Act (18 U.S.C. § 874 and 40 U.S.C. § 276c), prohibits a person or organization engaged in a federally supported project from enticing an employee working on the project from giving up a part of his compensation under an employment contract. The Copeland “Anti-Kickback” Act also applies to contractors and sub-Grantees pursuant to 40 U.S.C. § 3145.

The Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7104(g)), as amended, and the implementing regulations at 2 C.F.R. Part 175, authorizes termination of financial assistance provided to a private entity, without penalty to the federal government, if the **Grantee** or sub-Grantee engages in certain activities related to trafficking in persons. These provisions are presented in [Treasury’s RESTORE Act Standard Terms and Conditions](#). (p. 25).

NON-DISCRIMINATION

No person in the United States shall, on the ground of race, color, national origin, handicap, age, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity receiving federal financial assistance. The **Grantee** is required to comply with all non-discrimination requirements summarized in this Section, and to ensure that all sub-awards contain these nondiscrimination requirements. See related provisions and exemptions in the [Treasury’s RESTORE Act Standard Terms and Conditions](#). (p. 19).

DEBARMENT AND SUSPENSION STATUS

Grantees authorized to enter into sub-awards to accomplish all or a portion of the approved work plan must verify that neither a proposed sub-**Grantee** (if the award is expected to equal or exceed \$25,000), nor its principals, appear on the federal government’s *Excluded Parties List* (accessible at <http://www.sam.gov>) prior to executing an sub-award with that entity. **Grantees** may not enter into a sub-award with an entity that appears on the Excluded Parties List. The **Grantee** must also ensure that any Sub-awards with sub-Grantees require that entity to also verify that none of their sub-Grantees (for sub-awards expected to equal or exceed \$25,000), nor principals that these entities engage to accomplish the work plan, if applicable, do not appear on the federal government’s Excluded Parties List.

The **Grantee** must include a term or condition in all lower tier covered transactions (sub-awards described in 31 C.F.R. Part 19, subpart B) that the sub-award is subject to [31 C.F.R. Part 19, Government-wide Debarment And Suspension \(Non-procurement\)](#).

DRUG FREE WORKPLACE

The **Grantee** must comply with the provisions of the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Sec. 5153, as amended by Public Law 105-85, Div. A, Title VIII, Sec. 809, as codified at 41 U.S.C. § 8102), and Treasury implementing regulations at 31 C.F.R. Part 20, which require that the **Grantee** take steps to provide a drug-free workplace.

POLITICAL ACTIVITIES

The funds provided under this Subagreement may not be expended for the purpose of lobbying the Florida Legislature or a State of Florida agency. The **Grantee** must comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.

The **Grantee** must comply with the provisions of 31 U.S.C. § 1352, and regulations at 31 C.F.R. Part 21. These provisions generally prohibit the use of federal funds for lobbying the Executive or Legislative Branches of the federal government in connection with this Award, and require the disclosure of the use of non-federal funds for lobbying.

The **Grantee** receiving in excess of \$100,000 in federal funding must submit a completed Form SF-LLL, "Disclosure of Lobbying Activities," regarding the use of non-federal funds for lobbying. The Form SF-LLL must be submitted to the **Sponsor** within thirty (30) days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed.

The **Grantee** must include a statement in all sub-awards exceeding \$100,000 in federal funds, that the sub-award is subject to 31 U.S.C § 1352. The **Grantee** must further require the sub-Grantee to submit a completed "Disclosure of Lobbying Activities" (Form SF-LLL) regarding the use of non-federal funds for lobbying. The Form SF-LLL must be submitted from sub-Grantee to **Grantee** within fifteen (15) days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed. The **Grantee** must submit Forms SF-LLL, including those received from sub-Grantee, to the **Sponsor** within thirty (30) days following the end of the same period.

RESEARCH MISCONDUCT

All activities must be carried out under professional standards of responsible conduct in research (e.g., as defined by the best practices outlined and described in the U.S. National Academy of Sciences "[On Being a Scientist: A Guide to Responsible Conduct in Research, Third Edition](#)" (2009), National Academies Press).

Treasury adopts, and applies to awards for research, the Federal Policy on Research Misconduct (Federal Policy) issued by the EO of the President's Office of Science and Technology Policy on December 6, 2000 (65 Fed. Reg. 76260 (2000)). As provided for in the Federal Policy, research misconduct refers to the fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest errors or differences of opinion. **Grantees** that conduct research funded by Treasury must foster an atmosphere conducive to the responsible conduct of sponsored research by safeguarding against and resolving allegations of research misconduct. **Grantees** also have the primary responsibility to prevent, detect, and investigate

allegations of research misconduct and, for this purpose, may rely on their internal policies and procedures, as appropriate, to do so. Award funds expended on an activity that is determined to be invalid or unreliable because of research misconduct may result in appropriate enforcement action under the Award, up to and including Award termination and possible suspension or debarment. Treasury requires that any allegation that contains sufficient information to proceed with an inquiry be submitted to the **Sponsor**, which will notify the Treasury of such allegations. Once the **Grantee** has investigated the allegation, it will submit its findings to the **Sponsor** to be retained and forwarded to Treasury. Treasury may accept the **Grantee's** findings or proceed with its own investigation; Treasury shall inform the **Sponsor** and **Grantee** of the Treasury's final determination.

PROCUREMENT

The **Grantee** must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

When the **Grantee** makes a sub-award for the purpose of completing the sub-award work plan, the **Grantee** must require the sub-Grantee to comply with the requirements contained in this Section.

Requirements applicable to **Grantees** that are states: When executing procurement actions under this Award, the **Grantee** must follow the same policies and procedures it uses for procurements from its non-federal funds. The **Grantee** must ensure that every purchase order or other contract contains any clauses required by federal statutes and EOs and their implementing regulations, including all of the provisions listed in Appendix II to 2 C.F.R. Part 200—Contract Provisions for Non-Federal Entity Contracts under Federal Awards, as well as any other provisions required by law or regulations.

Requirements applicable to **Grantees** that are not states: The **Grantee** must follow all procurement requirements set forth in 2 C.F.R. §§ 200.318, 200.319, 200.320, 200.321, 200.323, and 200.324. In addition, all sub-awards executed by the **Grantee** to accomplish the approved work plan must contain any clauses required by federal statutes and EOs and their implementing regulations, including all of the provisions listed in Appendix II to 2 C.F.R. Part 200—Contract Provisions for Non-Federal Entity Contracts under Federal Awards.

The **Grantee** or its sub-**Grantee** must not sub-award any part of the approved project to any agency or employee of Treasury and/or other federal department, agency, or instrumentality without the prior written approval of the **Sponsor**. The **Sponsor** will forward the request to Treasury, which will forward it to Treasury's Office of General Counsel for review before making a decision. Treasury will notify the **Sponsor** in writing of the final determination.

HUMAN SUBJECTS

Federal policy defines a human subject as a living individual about whom an investigator conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information. Research means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.

No research involving human subjects is permitted under this Subagreement unless expressly

authorized by a Special Award Condition, or otherwise by written Notice from the **Sponsor**. The **Grantee** bears full responsibility for the proper and safe performance of research involving the use of human subjects under this Subagreement. If human subjects are used, their rights and welfare will be protected under 45 CFR Part 46, "Protection of Human Subjects," and the **Grantee** will send a copy of the related Internal Review Board approval to the **Sponsor**.

The **Grantee** must maintain appropriate policies and procedures for the protection of human subjects. No work involving human subjects may be undertaken, conducted, or costs incurred and/or charged for human subjects' research, until the appropriate documentation is approved in writing by the **Sponsor**. This documentation may include:

- Documentation establishing approval of the project by an institutional review board (IRB) approved for federal-wide use under Department of Health and Human Services guidelines;
- Documentation to support an exemption for the project;
- Documentation to support deferral for an exemption or IRB review; or
- Documentation of IRB approval of any modification to a prior approved protocol or to an informed consent form.

CARE AND USE OF LIVE VERTEBRATE ANIMALS

The **Grantee** bears full responsibility for the proper and safe performance of research involving the use of vertebrate animals under this Subagreement. **Grantees** must comply with the Laboratory Animal Welfare Act of 1966 (Public Law 89-544), as amended, (7 U.S.C. §§ 2131 et seq.) (animal acquisition, transport, care, handling, and use in projects), and implementing regulations, 9 C.F.R. Parts 1, 2, and 3; the Endangered Species Act (16 U.S.C. §§ 1531 et seq.); Marine Mammal Protection Act (16 U.S.C. §§ 1361 et seq.) (taking possession, transport, purchase, sale, export or import of wildlife and plants); the Nonindigenous Aquatic Nuisance Prevention and Control Act (16 U.S.C. §§ 4701 et seq.) (ensure preventive measures are taken or that probable harm of using species is minimal if there is an escape or release); and all other applicable statutes pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by federal financial assistance. If any vertebrate animals are used, the **Grantee** will send a copy of current IACUC approval to the **Sponsor**.

FOREIGN TRAVEL

The **Grantee** may not use funds from this Award for travel outside of the United States unless the **Sponsor** provides prior written approval.

The **Grantee** must comply with the provisions of the Fly America Act (49 U.S.C. § 40118). The implementing regulations of the Fly America Act are found at 41 C.F.R. §§ 301-10.131 through 301-10.143. The Fly America Act requires that federal travelers and others performing U.S. Government-financed air travel must use U.S. flag air carriers, to the extent that service by such carriers is available. Foreign air carriers may be used only in specific instances, such as when a U.S. flag air carrier is unavailable, or use of U.S. flag air carrier service will not accomplish the agency's mission. One exception to the requirement to fly U.S. flag carriers is transportation provided under a bilateral or multilateral air transport agreement, to which the United States Government and the government of a foreign country are parties, and which the Department of Transportation has determined meets the requirements of the Fly America Act pursuant to 49 U.S.C. § 40118(b). The United States Government has entered into bilateral/multilateral "Open Skies Agreements" (U.S. Government Procured Transportation) that allow federal funded transportation services for travel and cargo movements to use foreign air carriers under certain circumstances. There are multiple "Open Skies Agreements" currently in effect. For more

information about the current bilateral and multilateral agreements, visit the GSA website (<http://www.gsa.gov/portal/content/103191>). Information on the Open Skies agreements (U.S. Government Procured Transportation) and other specific country agreements may be accessed via the Department of State's website (<http://www.state.gov/e/eeb/tra/>).

If a foreign air carrier is anticipated to be used for any portion of travel funded under this Award, the recipient must receive prior approval from the **Sponsor**. When requesting such approval, the **Grantee** must provide a justification in accordance with guidance provided by 41 C.F.R. § 301-10.142, which requires the **Grantee** to provide the following information: name; dates of travel; origin and destination of travel; detailed itinerary of travel; name of the air carrier and flight number for each leg of the trip; and a statement explaining why the **Grantee** meets one of the exceptions to the regulations. If the use of a foreign air carrier is pursuant to a bilateral agreement, the **Grantee** must provide the **Sponsor** with a copy of the agreement or a citation to the official agreement available on the General Services Administration website. Treasury shall make the final determination and notify the **Sponsor** in writing. Failure to adhere to the provisions of the Fly America Act will result in the **Grantee** not being reimbursed for any transportation costs for which the **Grantee** improperly used a foreign air carrier.

EXPORT CONTROL

In performing this Award, either **Party** may gain access to items subject to export control (export-controlled items) under the Export Administration Regulations (EAR) issued by the Department of Commerce (DOC). Both **Parties** are responsible for compliance with all applicable laws and regulations regarding export-controlled items, including the EAR's deemed exports and re-exports provisions. Both **Parties** shall establish and maintain effective export compliance procedures throughout performance of the Award. At a minimum, these export compliance procedures must include adequate controls of physical, verbal, visual, and electronic access to export-controlled items, including by foreign nationals. Related definitions include:

- Export-controlled items. Items (commodities, software, or technology), that are subject to the EAR (15 C.F.R. §§ 730-774), implemented by the DOC's Bureau of Industry and Security. These are generally known as "dual-use" items, items with a military and commercial application.
- Deemed Export/Re-export. The EAR defines a deemed export as a release of export-controlled items (specifically, technology or source code) to a foreign national in the U.S. Such release is "deemed" to be an export to the home country of the foreign national. 15 C.F.R. § 734.2(b)(2)(ii). A release may take the form of visual inspection, oral exchange of information, or the application abroad of knowledge or technical experience acquired in the United States. If such a release occurs abroad, it is considered a deemed re-export to the foreign national's home country. Licenses from DOC may be required for deemed exports or re-exports.

Both **Parties'** responsibilities include:

- Controlling access to all export-controlled items that it possesses or that comes into its possession in performance of this Award, to ensure that access to, or release of, such items are restricted, or licensed, as required by applicable federal statutes, Executive Orders, and/or regulations, including the EAR.
- Obtaining any necessary licenses, including licenses required under the EAR for deemed exports or deemed re-exports with respect to foreign nations access to export-controlled items.
- Complying with this Section will not satisfy any legal obligations that the **Parties** may have regarding items that may be subject to export controls administered by other agencies such as the

Department of State, which has jurisdiction over exports of munitions items subject to the International Traffic in Arms Regulations (ITAR) (22 C.F.R. §§ 120-130), including releases of such items to foreign nationals.

- Complying with all U.S. export control laws and regulations, including but not limited to the International Traffic in Arms Regulations (ITAR), 22 CFR Parts 120 through 130, and the Export Administration Regulations (EAR), 15 CFR Parts 730 through 799, and all embargoes and/or other restrictions imposed by the Treasury Department's Office of Foreign Asset Controls (OFAC).
- Should either **Party** intend to distribute export controlled technical data or software to the other **Party**, then the distributing **Party** must provide the receiving **Party's** Export Control Officer with the appropriate export control designation for such technical data (e.g., ECCN or Munitions List Category) in advance. The receiving **Party** reserves the right to elect not to receive such export controlled technical data. Approval from the receiving Party's Export Control Officer is required prior to acceptance of export controlled technical data.

The **Grantee** shall include this Section in all lower tier transactions (sub-awards) under this Subagreement that may involve access to export-controlled items. Nothing in the Terms and Conditions of this section is intended to change, supersede, or waive the requirements of applicable federal statutes, Executive Orders, and/or regulations.

ENCOURAGED FEDERAL POLICIES

The **Grantee** is encouraged to the greatest extent practicable:

- To purchase American-made equipment and products with funding provided under this Award and related sub-awards.
- To encourage its employees and sub-Grantees to enforce on-the-job seat belt policies and programs when operating company-owned, rented or personally owned vehicles, pursuant to EO 13043.
- To include meaningful participation of Minority Serving Institutions (MSIs). Institutions eligible to be considered MSIs are [listed on the US Department of Education website](#). Pursuant to EOs 13555, 13270, and 13532, Treasury is strongly committed to the initiative and broadening the participation of MSIs in its financial assistance programs. Treasury's goals include achieving full participation of MSIs in order to advance the development of human potential, strengthen the nation's capacity to provide high-quality education, and increase opportunities for MSIs to participate in and benefit from federal financial assistance programs.