

FINANCIAL ASSISTANCE AWARD
FINANCIAL ASSISTANCE AWARD

ACCOUNTING CODE
ACCOUNTING CODE
** See Attached**
*** See Attached**

RECIPIENT NAME
RECIPIENT NAME
The Board of Trustees of the University of Illinois
The Board of Trustees of the University of Illinois

AWARD NUMBER
AWARD NUMBER
60NANB12D261
60NANB12D261

STREET ADDRESS
STREET ADDRESS
809 Marshfield Ave MB 502 M/C 551
809 Marshfield Ave MB-502-MIC 551

FEDERAL SHARE OF COST
FEDERAL SHARE OF COST
\$333,099.00
\$333,099.00

CITY, STATE ZIP
CITY, STATE ZIP
Chicago, IL 60612-7205
Chicago, IL 60612-7205

RECIPIENT SHARE OF COST
RECIPIENT SHARE OF COST
\$0.00
\$0.00

AWARD PERIOD
AWARD PERIOD
01/01/2013 - 12/31/2017
01/01/2013 - 12/31/2017

TOTAL ESTIMATED COST
TOTAL ESTIMATED COST
\$333,099.00
\$333,099.00

AUTHORITY
AUTHORITY
15 U.S.C. 272 (b)(4)
15 U.S.C. 272 (b)(4)

CFDA NO. AND PROJECT TITLE
CFDA NO. AND PROJECT TITLE:
11.609 Cryptographic Competitions
11.609 Cryptographic Competitions

This Award approved by the Grants Officer is issued in triplicate and constitutes an obligation of Federal funding. By signing the three documents, the Recipient agrees to comply with the Award provisions checked below and attached. Upon acceptance by the Recipient, two signed Award documents shall be returned to the Grants Officer and the third document shall be retained by the Recipient. If not signed and returned without modification by the Recipient within 30 days of receipt, the Grants Officer may unilaterally terminate this Award.

- X Department of Commerce Financial Assistance Standard Terms and Conditions (March 2008)
X Department of Commerce Financial Assistance Standard Terms and Conditions (March 2008)
- X Special Award Conditions
X Special Award Conditions
- X Line Item Budget
X Line Item Budget
- X 15 CFR Part 14, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations
X 15 CFR Part 14, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations
- 15 CFR Part 24, Uniform Administrative Requirements for Grants and Agreements to State and Local Governments
15 CFR Part 24, Uniform Administrative Requirements for Grants and Agreements to State and Local Governments
- X OMB Circular A-21, Cost Principles for Educational Institutions
X OMB Circular A-21, Cost Principles for Educational Institutions
- OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments
OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments
- OMB Circular A-122, Cost Principles for Nonprofit Organizations
OMB Circular A-122, Cost Principles for Nonprofit Organizations
- 48 CFR Part 31, Contract Cost Principles and Procedures
48 CFR Part 31, Contract Cost Principles and Procedures
- X OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations
X OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations
- X Other(s) DoC Research Terms and Conditions (October 2008) (Not attached, please go to http://www.usnist.gov/publications/dec1008_1008.pdf)
X Other(s) DoC Research Terms and Conditions (October 2008) (Not attached, please go to http://www.usnist.gov/publications/dec1008_1008.pdf)

SIGNATURE OF DEPARTMENT OF COMMERCE GRANTS OFFICER
SIGNATURE OF DEPARTMENT OF COMMERCE GRANTS OFFICER
Scott McNichol
Scott McNichol

TITLE
GRANT OFFICER

DATE
9/20/12; io/tz

TYPED NAME AND SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL
Walter K. Krow
Walter K. Krow

TITLE
TITLE

DATE
10/10/12

Walter K. Krow, Comptroller
Walter K. Krow, Comptroller

2012-06231-00-00

Award Number: 60NANB12D261, Amendment Number 0
 Award Number: 60NANB12D261, Amendment Number 0
Federal Program Officer: Kathleen Roberts
 Federal Program Officer: Kathleen Roberts
Requisition Number: 7732269
 Requisition Number: 7732269
Employer Identification Number: 37-6000511
 Employer Identification Number: 37-6000511
Dun and Bradstreet Number: 098987217
 Dun and Bradstreet Number: 098987217
Recipient ID: 1782682
 Recipient ID: 1782682
Requestor ID: 1782682
 Requester ID: 1782682

Award ACCS Information

Bureau	FY	Project #	Organization	Object Class	Obligation Amount
57	2012	7731140-000	30-77-0773-01-00-00-00	41-19-00-00	\$333,099.00

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NIST Grants Specialist:
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NIST
FINANCIAL ASSISTANCE
SPECIAL AWARD CONDITIONS
LABORATORY AWARDS

1. Introduction:

1. Introduction:

The National Institute of Standards and Technology hereby enters into this Grant number 60NANB12D261 with The Board of Trustees of the University of Illinois to support the work described in the Recipient's proposal entitled "Cryptographic competitions" dated June 1, 2012, which is hereby incorporated into this award by reference. Where the terms of this award and the proposal differ, the terms of this award shall prevail.

2. Description of Work:

2. Description of Work:

The proposed work will evaluate the merits of current and future cryptographic primitives. Performance evaluation, specifically evaluation of software performance in a wide variety of CPU's.

3. The Recipient's contact name, title, address and telephone number are:

3. The Recipient's contact name, title, address and telephone number are:

Dr. Mitra Dutta
Interim Vice Chancellor for Research
The Board of Trustees of the University of Illinois
809 Marshfield Ave
MB 502 M/C 551, IL 60612-7205

4. The NIST Award Contact Information:

4. The NIST Award Contact Information:

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Federal Program Officer:

Federal Program Officer:

Kathleen Roberts

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5. Amendment to Department of Commerce Financial Assistance Standard Terms and Conditions, dated March 2008 Section A.02, Award Payments.

- a. The advance method of payment shall be authorized unless otherwise specified in a special award condition.
- b. Payments will be made through electronic funds transfers, using the Department of Treasury's Automated Standard Application for Payment (ASAP) system, and in accordance with the requirements of the Debt Collection Improvement Act of 1996. The following information is required when making withdraws for this award: (1) ASAP account identification (id) = award number found on the cover sheet of this award; (2) Agency Location Code (ALC) = 13060001; and (3) Region Code = 01. Recipients do not need to submit a Request for Advance or Reimbursement (SF-270) for payments relating to this award. All non-ASAP Recipient Organizations must enroll electronically. The ASAP system no longer accepts paper forms for enrollment.
- c. If you are not currently enrolled in the ASAP system, you must provide the Federal Awarding Agency with a Point of Contact name, e-mail address, mailing address, telephone number, and EIN/TIN and DUNS numbers of your organization that are consistent with the information on the Central Contractor Registration (CCR) (www.ccr.gov) in order for the Federal Awarding Agency Enrollment Initiator (EI) to begin the on-line enrollment. For complex organizations with multiple EIN/TIN and DUNS numbers, the EIN/TIN and DUNS numbers MUST be the numbers for the applying organization from the SF-424 application form. Organizations that provide incorrect/inconsistent EIN/TIN and DUNS numbers may experience significant delays in receiving funds. Please confirm that the EIN/TIN and DUNS numbers are consistent with the information on the CCR. If you have questions concerning this requirement, please contact the Grants Specialist responsible for this award. If you have questions on the electronic process step by step instructions, you may contact your responsible Regional Finance Center.
- d. Advances taken through the ASAP shall be limited to the minimum amounts necessary to meet immediate disbursement needs. Advanced funds not disbursed in a timely manner must be promptly returned, via an ASAP credit, to the account from which the advanced funding was withdrawn. Advances shall be for periods not to exceed 30 days.
- e. This award has the following control or withdraw limits set in ASAP:

<u> X </u>	None
<u> </u> X	Agency Review required for all withdrawals (see explanation below)
<u> </u>	Agency Review required for all withdrawals (see explanation below)
<u> </u>	Agency Review required for all withdrawal requests over \$ _____ (See explanation below)
<u> </u>	Maximum Draw Amount Controls (*See explanation below)
	Maximum Draw Amount controls (*See explanation below)
	\$ _____ each month
	\$ _____ each quarter
	\$ _____ each year
	\$ _____ each year

6. Return Payments for Funds Withdrawn through ASAP:

6. Return Payments for Funds Withdrawn through ASAP:

Funds that have been withdrawn through ASAP may be returned to ASAP via the Automated Clearing House (ACH) or via FEDWIRE. The ACH or FEDWIRE transaction can only be done by the Recipient's financial institution. Full or partial amounts of payments received by a Payment Requestor/Recipient Organization may be returned to ASAP. All funds returned to the ASAP system will be credited to the ASAP Suspense Account. The Suspense Account allows the Regional Financial Center to monitor returned items and ensure that funds are properly credited to the correct ASAP account. Returned funds that cannot be identified and classified to an ASAP account will be dishonored and returned to the originating depository financial institution (ODFI).

It is essential that the Payment Requestor/Recipient Organization provide its financial institution with ASAP account information (ALC, Recipient ID and Account ID) to which the return is to be credited. Additional detailed information can be found at <http://www.fms.treas.gov/asap/pay-return2.pdf>.

7. Interest:

7. Interest:

If the recipient is a state or local government, 15 CFR 24.21 applies. Otherwise, this award is subject to 15 CFR 14.22, requiring recipients of Federal financial assistance to maintain advances of Federal funds in interest bearing accounts.

When submitting interest payments as required under 15 CFR 14.22(d), the complete address for remitting checks for interest earned on Federal advances is Department of Health and Human Services, Payment Management System, P. O. Box 6021, Rockville, MD 20852. Recipients that do not have electronic remittance capability should send a check to this address.

In keeping with Electronic Funds Transfer rules, interest should be remitted to the HHS Payment Management System through an electronic medium such as the FEDWIR Deposit System. Electronic remittances should be in the format and should include any data that are specified by the HHS as being necessary to facilitate direct deposit in HHS' account at the Department of Treasury.

8. **New Financial Reporting Form (SF-425):**

8. New Financial Reporting Form (SF-425):

Deviation to Replace the References to Financial Reporting Forms in the Department of Commerce (DoC) Financial Assistance Standard Term and Condition A.01, entitled "Financial Reports," and B.01, "Performance (Technical Reports) and Use of Approved OMB Form SF-425 as Authorized Under Uniform Administrative Requirements For Financial Reporting."

The references to Financial Reporting Form SF-269 in the DoC Standard Terms & Conditions are hereby replaced with the SF-425, "Federal Financial Report," as required by OMB (73 FR 61175, October 15, 2008). As authorized under 15 CFR, §§ 14.52 and 24.41, the OMB approved SF-425 shall be used in the place of the SF-269 and SF-272 under the uniform administrative requirements and elsewhere under this award where such forms are referenced.

9. **The Department of Commerce Financial Assistance Preaward Notice:**

9. The Department of Commerce Financial Assistance Preaward Notice:

The Recipient shall comply with the requirements found in the Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements, contained in the Federal Register notice of February 11, 2008 (73 FR 7696)

<https://www.federalregister.gov/articles/2008/02/11/E8-2482/departament-of-commerce-pre-award-notification-requirements-for-grants-and-cooperative-agreements>

10. **Federal Funding Opportunity Notice and Federal Register Notice - FY 2012**

10. Federal Funding Opportunity Notice and Federal Register Notice - FY 2012
Measurement, Science and Engineering Research Grants Programs:

The Recipient shall comply with the requirements found in the Department of Commerce, National Institute of Standards and Technology Federal Funding Opportunity Notice No. 2012-MSE-01 dated December 07, 2011.
<http://www.grants.gov/search/search.do?sessionId=0aXXRm7Qc1GJxBvYHDJ8vXRW1JcQd9JJQv6h1ChQKp1Xrzh5hLMi748281696&oppId=133134&mode=VIEW>

11. **Supervision of the Recipient's Staff and Associates and Compliance with NIST Policies on Use of Federal Facilities and Equipment:**

Nothing in this award shall be construed as authorizing the Recipient or its employees, agents, or assigns to act as an agent or assign of NIST, and the Recipient shall exercise all diligence to ensure that no third party constitutes the Recipient as an actual, ostensible or apparent agent of NIST. For purposes of this award, the use of the term "personnel" herein includes all third parties such as contractors, subrecipients, students, fellows, or other participating under the direction of the Recipient's programs. The Recipient acknowledges that it is independent of NIST in the performance of the approved projects, and that the Recipient assumes full and sole responsibility for all benefits and antiprotections of the Recipient's personnel and agents whose services are utilized by the Recipient in the execution of this award.

Accordingly, the Recipient shall control the means and manner of its personnel's activities on

the project, including those conducted on a NIST campus, on Recipient property, and at other locations for the project. The Recipient shall provide directly a salary, stipend, or other funding to the personnel, and shall establish the work schedule and tenure for the personnel. The Recipient is the supervisor of record for the personnel, and shall coordinate with NIST as needed to ensure that the research remains consistent with NIST program objectives. Any staff and affiliates of the Recipient participating in activities on a NIST site shall sign and abide by the terms of the NIST Guest Researcher Agreement.

If this is a Cooperative Agreement, NIST shall collaborate with the Recipient as described in Special Award Condition titled "NIST Participation," and shall coordinate with the Recipient as needed regarding progress on the research. NIST shall have no firing or other terminating authority over the employment or affiliation status of the Recipient's personnel or affiliates. Any issues related to performance or conduct of Recipient personnel will be reported to the Recipient. Any suspension or termination action on this award will comply with 15 CFR Sec. 14.60-.62 and the Department of Commerce Standard Terms and Conditions, B.02, B.05.

In addition, if any work for this project is performed at NIST facilities, the Recipient shall comply with NIST policies regarding the use of Federal facilities and equipment.

12. Individual Background Screenings: (Deviation from DoC Financial Assistance Standard Terms and Conditions, Section F, Dated March 2008)

Notwithstanding the requirements pertaining to Individual Background Screenings set forth in Section F of the Department of Commerce (DOC) Standard Terms and Conditions (March 2008), Individual Background Screenings will be conducted in accordance with the updated guidance contained in Chapter 21 (February 2010) of the DOC Grants and Cooperative Agreements Interim Manual. This guidance may be viewed on line at

<http://www.osec.doc.gov/oam/archive/docs/RevisedChapter21020210.pdf>

Consistent with this guidance, Individual Background Screenings are NOT planned under this award.

13. General Publication Guidelines

- (a) (a) Wherever possible, the results of the research should be published in the open scientific literature in such a way as to be generally available to American Scientific Libraries.
- (b) (b) The Federal Program Officer is responsible for insuring appropriate dissemination of information resulting from a grant/cooperative agreement.
- (c) (c) The Journal of Research of NIST may be used as a medium of publication, but the Principal Investigators are free to choose the place of publication in the best scientific interest.
- (d) (d) In such publications, acknowledgement shall be made of sponsorship by NIST. Normally this is done by a footnote reading, "This work was performed under the

sponsorship of the U.S. Department of Commerce, at National Institute of Standards and Technology, or words to that effect.

14. Reporting Subawards and Executive Compensation

<http://efr.gov/access.gov/cgi/text/text-idx?c=ecf&id=445324a5b509191540773795979396866&req=dj&view=text&code=2:4.11.7.&&idno=2>

a. Reporting of first tier subawards.

1. **Applicability.** Unless you are exempt as provided in paragraph d of this award term, you must report each award that obligates \$25,000 or more of Federal funds that does not include Recovery funds as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5) for a subaward to a entity (see the definition paragraph of this award term).

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

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

iii. For subaward information, report no later than the end of the month following the month in which the obligation was added (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.frs.gov> specify.

b. Reporting of total compensation of recipient executives.

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

ii. the total Federal funding authorized dated ends toward \$25,000 or more;

iii. in the preceding fiscal year, you received—

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) or other Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.322 (a) (subawards); and

(B) \$250,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) or other Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.322 (a) (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's compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

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

i. As part of your registration profile at <http://www.ccr.gov>.

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

c. Reporting of Total Compensation of Subrecipient Executives.

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

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

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

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

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission's 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.

i. To the recipient.

ii. By the end of the month following the month which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year

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



March 2008

DEPARTMENT OF COMMERCE
FINANCIAL ASSISTANCE
STANDARD TERMS AND CONDITIONS

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PREFACE

The recipient and any subrecipients must, in addition to the assurances made as part of the application, comply and require each of its contractors and subcontractors employed in the completion of the project to comply with all applicable statutes, regulations, executive orders (EOs), Office of Management and Budget (OMB) circulars, terms and conditions, and approved applications.

This award is subject to the laws and regulations of the United States. Any inconsistency or conflict in terms and conditions specified in the award will be resolved according to the following order of precedence: public laws, regulations, applicable notices published in the Federal Register, EOs, OMB circulars, Department of Commerce (DOC) Financial Assistance Standard Terms and Conditions, agency standard award conditions (if any), and special award conditions. Special award conditions may amend or take precedence over DOC standard terms and conditions, on a case-by-case basis, when allowed by the DOC standard term and condition.

Some of the DOC terms and conditions herein contain, by reference or substance, a summary of the pertinent statutes, or regulations published in the Federal Register or Code of Federal Regulations (CFR), EOs, OMB circulars or the assurances (Forms SF-424B, 424D). To the extent that it is a summary, such provision is not in derogation of, or an amendment to, any such statute, regulation, EO, or OMB circular.

A. FINANCIAL REQUIREMENTS

.01 Financial Reports

- a. The recipient shall submit a "Financial Status Report" (SF-269) on a semi-annual basis for the periods ending March 31 and September 30, or any portion thereof, unless otherwise specified in a special award condition. Reports are due no later than 30 days following the end of each reporting period. A final SF-269 shall be submitted within 90 days after the expiration date of the award.
- b. The reports must be submitted to the Grants Officer in hard copy (no more than an original and two copies), or electronically when specified in the special award conditions.

.02 Award Payments

- a. The advance method of payment shall be authorized unless otherwise specified in a special award condition. The Grants Officer determines the appropriate method of payment. Payments will be made through electronic funds transfers directly to the

recipient's bank account and in accordance with the requirements of the Debt Collection Improvement Act of 1996 and the Cash Management Improvement Act. The DOC Award Number must be included on all payment related correspondence, information, and forms.

b.b. When the "Request for Advance or Reimbursement" (SF-270) is used to request payment, the recipient shall submit the request no more frequently than monthly, and advances shall be approved for periods to cover only expenses anticipated over the next 30 days. When the SF-270 is used, the recipient must complete the SF-3881, "A/C N Vendor Miscellaneous Payment Enrollment Form" and return it to the Grants Officer.

c.c. Unless otherwise provided for in the award terms, payments under this award will be made using the Department of Treasury's Automated Standard Application for Payment (ASAP) system. Under the ASAP system, payments are made through pre-authorized electronic funds transfers in accordance with the requirements of the Debt Collection Improvement Act of 1996. In order to receive payments under ASAP, recipients are required to enroll with the Department of Treasury Financial Management Service Regional Financial Centers, which allows them to use the on-line and voice response system (RYR) method of withdrawing funds from their ASAP established accounts. The following information will be required to make withdrawals under ASAP: (1) ASAP account number, the award number found on the cover sheet of the award; (2) Agency Location Code (ALC) +30306000 and Region Code; recipients enrolled in the ASAP system do not need to submit a "Request for Advance or Reimbursement" (SF-270) for payments relating to their award. Awards paid under the ASAP system will contain a special award condition, clause or provision describing the requirements and any controls or withdrawal limits set in the ASAP system.

d.d. Advances shall be limited to the minimum amount necessary to meet immediate disbursement needs but in case of cash advances do not exceed the amount of cash required for 30-day period. Advances fund disbursement initiated manually and any applicable interest must be promptly returned to DOC. If recipient demonstrates an unwillingness or inability to establish procedures which will minimize the time lags between the transfer of funds and disbursement, the recipient may be required to qualify for the advance method of payment, the Grants Officer may change the method of payment to reimbursement only.

003 Federal and Non-Federal Sharing

a. a. Awards which include Federal and Non-Federal sharing on a corporate budget consisting of shared allowable costs if actual allowable costs are less than the total approved budget. The Federal and Non-Federal shares shall be calculated by applying the approved Federal and Non-Federal share ratios to allowable costs. If actual allowable costs are greater than the approved budget, the Federal

share shall not exceed the total Federal dollar amount authorized by the award.
share shall not exceed the total Federal dollar amount authorized by the award.

- b. The non-Federal share, whether in cash or in-kind, is expected to be paid out at the same general rate as the Federal share. Exceptions to this requirement may be granted by the Grants Officer based on sufficient documentation demonstrating previously determined plans for, or later commitment of, cash or in-kind contributions. In any case, the recipient must meet its cost share commitment over the life of the award.

.04 Budget Changes and Transfer of Funds Among Categories

- a. Requests for budget changes to the approved estimated budget in accordance with the provision noted below must be submitted to the Grants Officer who shall make the final determination on such requests and notify the recipient in writing.
- b. Transfers of funds by the recipient among direct cost categories are permitted for awards in which the Federal share of the project is \$100,000 or less. For awards in which the Federal share of the project exceeds \$100,000, transfers of funds among direct cost categories must be approved in writing by the Grants Officer when the cumulative amount of such direct cost transfers exceed 10 percent of the total Federal and non-Federal funds authorized by the Grants Officer. The 10 percent threshold applies to the total Federal and non-Federal funds authorized by the Grants Officer at the time of the transfer request. This is the accumulated amount of Federal funding obligated to date by the Grants Officer along with any non-Federal share. The same criteria apply to the cumulative amount of transfer of funds among programs, functions, and activities. Transfers will not be permitted if such transfers would cause any Federal appropriation, or part thereof, to be used for purposes other than those intended. This transfer authority does not authorize the recipient to create new budget categories within an approved budget unless the Grants Officer has provided prior approval. In addition, this does not prohibit the recipient from requesting Grants Officer approval for revisions to the budget.
- c. The recipient is not authorized at any time to transfer amounts budgeted for direct costs to the indirect costs line item or vice versa, without written prior approval of the Grants Officer.

.05 Indirect Costs

- a. Indirect costs will not be allowable charges against the award unless specifically included as a cost item in the approved budget incorporated into the award. (The term "indirect cost" has been replaced with the term "facilities and administrative costs" under OMB Circular A-21, "Cost Principles for Educational Institutions.")
- b. Excess indirect costs may not be used to offset unallowable direct costs.

c.c. If the recipient has not previously established an indirect cost rate with a Federal agency, the negotiation and approval of a rate is subject to the procedures in the applicable cost principles and the following subparagraphs:

I.1. (a) State, Local, and Indian Tribal Governments; Educational Institutions; and Non-Profit Organizations (Non-Commercial Organizations)

For the above listed organizations, cognizant federal agency is generally defined as the agency that provides the largest dollar amount of direct federal funding. For these organizations for which DDCG is cognizant or has oversight DDCG or its designee will either negotiate a fixed rate with carry forward provisions for the recipient, or in some instances, will limit its review to evaluating the procedures described in the recipient's cost allocation methodology plan. Indirect cost rates and cost allocation methodology reviews are subject to future audits to determine actual indirect costs.

(b) Commercial Organizations

For commercial organizations, cognizant federal agency is defined as the agency that provides the largest dollar amount of negotiated contracts, including options. If the only federal funds received by a commercial organization are DDCG award funds, the DDCG becomes the cognizant federal agency for the purpose of indirect cost negotiations. For those organizations for which DDCG is cognizant, DDCG or its designee will negotiate a fixed rate with carry forward provisions for the recipient. Fixed rate means an indirect cost rate which has the same characteristics as a pre-determined rate, except that the difference between the estimated costs and the actual costs of the period covered by the rate is carried forward as an adjustment to the rate computation of the subsequent period.

DDCG or its designee will negotiate indirect cost rates using the post principles of 48 CFR Part 31.601 contracts. Cost Principles and Procedures" For guidance on how to put indirect cost plan together go to:

<http://www.dodg.gov/sas/qm/programs/cos/costdeterminationguide/main.htm>

2.2. Within 90 days of the award start date the recipient shall submit to the address listed below documentation (indirect cost proposal, cost allocation plan, etc.) necessary to perform the review. The recipient shall provide the Contract Officer with copy of the transmittal letter.

Office of Acquisition Management
U.S. Department of Commerce
14th Street and Constitution Avenue, N.W., Room 6412
Washington, DC 20230

3. The recipient can use the fixed rate proposed in the indirect cost plan until such time as the DOC provides a response to the submitted plan. Actual indirect costs must be calculated annually and adjustments made through the carryforward provision used in calculating next year's rate. This calculation of actual indirect costs and the carryforward provision is subject to audit. Indirect cost rate proposals must be submitted annually. Organizations that have previously established indirect cost rates must submit a new indirect cost proposal to the cognizant agency within six months after the close of each of the recipients' fiscal years.
- d. When DOC is not the oversight or cognizant Federal agency, the recipient shall provide the Grants Officer with a copy of a negotiated rate agreement or a copy of the transmittal letter submitted to the cognizant or oversight Federal agency requesting a negotiated rate agreement.
 - e. If the recipient fails to submit the required documentation to DOC within 90 days of the award start date, the Grants Officer may amend the award to preclude the recovery of any indirect costs under the award. If the DOC, oversight, or cognizant Federal agency determines there is a finding of good and sufficient cause to excuse the recipient's delay in submitting the documentation, an extension of the 90-day due date may be approved by the Grants Officer.
 - f. Regardless of any approved indirect cost rate applicable to the award, the maximum dollar amount of allocable indirect costs for which DOC will reimburse the recipient shall be the lesser of:
 1. The line item amount for the Federal share of indirect costs contained in the approved budget of the award; or
 2. The Federal share of the total allocable indirect costs of the award based on the indirect cost rate approved by a cognizant or oversight Federal agency and current at the time the cost was incurred, provided the rate is approved on or before the award end date.

.06 Incurring Costs of Obligating Federal Funds Beyond the Expiration Date

- a. The recipient shall not incur costs or obligate funds for any purpose pertaining to the operation of the project, program, or activities beyond the expiration date stipulated in the award. The only costs which are authorized for a period of up to 90 days following the award expiration date are those strictly associated with closeout activities. Closeout activities are normally limited to the preparation of final progress, financial, and required project audit reports unless otherwise approved in writing by the Grants Officer.
- b. Unless otherwise authorized in 45 CFR § 14.226(c)(2) or a special award condition,

any extension of the award period can only be authorized by the Grants Officer in writing. Verbal or written assurances of funding from other than the Grants Officer shall not constitute authority to obligate funds for programmatic activities beyond the expiration date.

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

.007 Tax Refunds

Refunds of FICA/FUTA taxes received by the recipient during or after the award period must be refunded or credited to DOC where benefits were financed with Federal funds included in the award. The recipient agrees to contact the Grants Officer immediately upon receipt of these refunds. The recipient further agrees to fund portions of FICA/FUTA taxes determined to belong to the Federal Government including funds received after the award end date.

BB. PROGRAMMATIC REQUIREMENTS

.00 Performance (Technical) Reports

- a.a. The recipient shall submit performance (technical) reports in triplicate (one original and two copies) or electronically by the Federal Program Office as specified in the special award conditions in the same frequency as the Financial Status Report (SF-2689) unless otherwise authorized by the Grants Officer.
- b.b. Unless otherwise specified in the award provisions, performance (technical) reports shall contain information as prescribed in the applicable administrative requirements incorporated into the award.

.001 Unsatisfactory Performance

Failure to perform the work in accordance with the terms of the award and maintain at least satisfactory performance during or even at a later evaluation may result in designation of the recipient as high risk and assignment of special award conditions or further actions as specified in the standard term and conditions entitled "Non-Compliance With Award Provisions."

.03 Programmatic Changes
.03 Programmatic Changes

The recipient shall report programmatic changes to the Grants Officer, and shall request prior approvals in accordance with 15 CFR § 14.25 or 15 CFR § 24.30 .

.04 Other Federal Awards with Similar Programmatic Activities
.04 Other Federal Awards with Similar Programmatic Activities

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

.05 Non-Compliance With Award Provisions
.05 Non-Compliance With Award Provisions

Failure to comply with any or all of the provisions of the award may have a negative impact on future funding by DOC and may be considered grounds for any or all of the following actions: establishment of an account receivable, withholding payments under any DOC awards to the recipient, changing the method of payment from advance to reimbursement only, or the imposition of other special award conditions, suspension of any DOC active awards, and termination of any DOC active awards .

.06 Prohibition Against Assignment by the Recipient
.06 Prohibition Against Assignment by the Recipient

The recipient shall not transfer, pledge, mortgage, or otherwise assign the award, or any interest therein, or any claim arising thereunder, to any party or parties, banks, trust companies, or other financing or financial institutions without the express written approval of the Grants Officer.

.07 Disclaimer Provisions
.07 Disclaimer Provisions

- a. The United States expressly disclaims any and all responsibility or liability to the recipient or third persons for the actions of the recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any subaward or subcontract under this award.
- b. The acceptance of this award by the recipient does not in any way constitute an agency relationship between the United States and the recipient.

C. NON-DISCRIMINATION REQUIREMENTS

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

.01 Statutory Provisions

- a. Title VII of the Civil Rights Act of 1964 (42 USC § 2000e-2000e-9) and DOC implementing regulations published at CFR Part 201 prohibit discrimination on the grounds of race, color, national origin under programs or activities receiving Federal financial assistance;
- b. Title IX of the Education Amendments of 1972 (20 USC § 1681-1688) prohibiting discrimination on the basis of sex under Federally assisted education programs or activities;
- c. Section 504 of the Rehabilitation Act of 1973 as amended (29 USC § 794) and DOC implementing regulations published at CFR Part 201 prohibit discrimination on the basis of handicap under any program or activity receiving benefits from Federal assistance;
- d. The Age Discrimination Act of 1975 as amended (42 USC § 6101-6109) and DOC implementing regulations published at CFR Part 201 prohibit discrimination on the basis of age in programs or activities receiving Federal financial assistance;
- e. The Americans with Disabilities Act of 1990 (42 USC § 12101-12117) prohibiting discrimination on the basis of disability in programs, activities, and services provided or made available by state and local governments instrumentalities or agencies there to, as well as public or private entities that provide public transportation;
- f. Any other applicable non-discrimination law(s).

.02 Other Provisions

- a. Parts II and III of EO 11346 (30 FR 12319-12319, 1965), as amended by EO 11375 (32 FR 14303, 1967) and 12086 (43 FR 46545-46547, 1978), require Federally assisted construction contracts to include the non-discrimination provisions of §§ 202 and 203 of that EO and Department of Labor regulations implementing EO 11346 (41 CFR § 60.160(h), 1991).

- b. EO 13166 (August 11, 2000), "Improving Access to Services for Persons With Limited English Proficiency," and DOC policy guidance issued on March 24, 2003 (68 FR 14180) to Federal financial assistance recipients on the Title VI prohibition against national origin discrimination affecting Limited English Proficient (LEP) persons.

.03 Title VII Exemption for Religious Organizations

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

D. AUDITS

Under the Inspector General Act of 1978, as amended, 5 USC App. 3, § 1 *et seq.*, an audit of the award may be conducted at any time. The Inspector General of the DOC or any of his or her duly authorized representatives, shall have access to any pertinent books, documents, papers and records of the recipient, whether written, printed, recorded, produced or reproduced by any electronic, mechanical, magnetic or other process or medium, in order to make audits, inspections, excerpts, transcripts or other examinations as authorized by law. When the OIG requires a program audit on a DOC award, the OIG will usually make the arrangements to audit the award, whether the audit is performed by OIG personnel, an independent accountant under contract with DOC, or any other federal, state or local audit entity.

.01 Organization Wide, Program Specific, and Project Audits

- a. Organization wide or program specific audits shall be performed in accordance with the Single Audit Act Amendments of 1996, as implemented by OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations." Recipients that are subject to the provisions of OMB Circular A-133 and that expend \$500,000 or more in a year in federal awards shall have an audit conducted for that year in accordance with the requirements contained in OMB Circular A-133. A copy of the audit shall be submitted to the Bureau of the Census, which has been designated by

OMB as a central clearinghouse. The address is:

Federal Audit Clearinghouse
Bureau of the Census
1200 L Street
Jeffersonville, IN 47132

b. b. Unless otherwise specified in the terms and conditions of the award in accordance with 5 CFR § 41.2626(c) and (d) for profit hospitals, commercial entities, and other organizations not required to follow the audit provisions of OMB Circular 33-133 shall have an audit performed when the federal share amount awarded is \$500,000 or more over the duration of the project period. An audit is required at least once every two years using the following schedule for audit report submission.

1. 1. For awards less than 24 months, an audit is required within 90 days from the project expiration date, including the close-out period for the award.
2. 2. For 2-, 3- or 5-year awards, an audit is required within 90 days after the end of the first year and within 90 days from the project expiration date including the close-out period for the award.
3. 3. For 4-, 6- or 5-year awards, an audit is required within 90 days after the end of the first year and ninth year, and within 90 days from the project expiration date including the close-out period for the award.

c. c. Some DDC programs have specific audit guidelines that will be incorporated into the award. When DDC does not have a program specific audit guideline available for the program, the audit will follow the requirements for program specific audit as described in OMB Circular 33, § 3.2.3. The recipient may include a line item in the budget for the cost of the audit. A copy of the program specific audit shall be submitted to the Grants Office and the OIG at the following address:

Office of Inspector General
U.S. Department of Commerce
Atlanta Regional Office of Audits
404 West Peachtree Street, N.W. Suite 2742
Atlanta, GA 30308

.02 Audit Resolution Process

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

whenever audit results are disputed,
whenever audit results are disputed.

- b. In accordance with the *Federal Register* notice dated January 27, 1989 (54 FR 4053),
 - b. In accordance with the *Federal Register* notice dated January 27, 1989 (54 FR 4053); a recipient whose award is audited has the following opportunities to dispute the proposed disallowance of costs and the establishment of a debt:
 1. Unless the Inspector General determines otherwise, the recipient has 30 days from the date of the transmittal of the draft audit report to submit written comments and documentary evidence.
 1. Unless the Inspector General determines otherwise, the recipient has 30 days from the date of the transmittal of the draft audit report to submit written comments and documentary evidence.
 2. The recipient has 30 days from the date of the transmittal of the final audit report to submit written comments and documentary evidence. There will be no extension of this deadline.
 2. The recipient has 30 days from the date of the transmittal of the final audit report to submit written comments and documentary evidence. There will be no extension of this deadline.
 3. The DOC shall review the documentary evidence submitted by the recipient and shall notify the recipient of the results in an Audit Resolution Determination Letter. The recipient has 30 days from the date of receipt of the Audit Resolution Determination Letter to submit a written appeal. There will be no extension of this deadline. The appeal is the last opportunity for the recipient to submit written comments and documentary evidence that dispute the validity of the audit resolution determination.
 3. The DOC shall review the documentary evidence submitted by the recipient and shall notify the recipient of the results in an Audit Resolution Determination Letter. The recipient has 30 days from the date of receipt of the Audit Resolution Determination Letter to submit a written appeal. There will be no extension of this deadline. The appeal is the last opportunity for the recipient to submit written comments and documentary evidence that dispute the validity of the audit resolution determination.
 4. An appeal of the Audit Resolution Determination does not prevent the establishment of the audit-related debt nor does it prevent the accrual of interest on the debt. If the Audit Resolution Determination is overruled or modified on appeal, appropriate corrective action will be taken retroactively. An appeal will stay the offset of funds owed by the auditee against funds due to the auditee.
 4. An appeal of the Audit Resolution Determination does not prevent the establishment of the audit-related debt nor does it prevent the accrual of interest on the debt. If the Audit Resolution Determination is overruled or modified on appeal, appropriate corrective action will be taken retroactively. An appeal will stay the offset of funds owed by the auditee against funds due to the auditee.
 5. The DOC shall review the recipient's appeal and notify the recipient of the results in an Appeal Determination Letter. After the opportunity to appeal has expired or after the appeal determination has been rendered, DOC will not accept any further documentary evidence from the recipient. No other administrative appeals are available in DOC.
 5. The DOC shall review the recipient's appeal and notify the recipient of the results in an Appeal Determination Letter. After the opportunity to appeal has expired or after the appeal determination has been rendered, DOC will not accept any further documentary evidence from the recipient. No other administrative appeals are available in DOC.

E. DEBTS

.01 Payment of Debts Owed the Federal Government

Any debts determined to be owed the Federal Government shall be paid promptly by the recipient. In accordance with 45 CFR § 214.4, a debt will be considered delinquent if it is not paid within 15 days of the due date, or if there is no due date, within 30 days of the billing date. Failure to pay a debt by the due date, or if there is no due date, within 30 days of the billing date, shall result in the imposition of late payment charges as noted

below. In addition, failure to pay the debt or establish a repayment agreement by the due date, or if there is no due date, within 30 days of the billing date, will also result in the referral of the debt for collection action, including referral to the Treasury Offset Program, 31 C.F.R. § 205.28, and may result in OIG taking further action as specified in the standard term and condition entitled "Non-Compliance With Award Provisions". Funds for payment of a debt must not come from other Federally sponsored programs. Verification that other Federal funds have not been used will be made, during on-site visits and audits.

. 02 Late Payment Charges

- a.a. A interest charge shall be assessed on the delinquent debt as established by the Debt Collection Act (31 U.S.C. 3707 *et seq.*), as amended. The minimum annual interest rate to be assessed is the Department of the Treasury's Current Value of Funds Rate. This rate is published in the *Federal Register* by the Department of the Treasury. The assessed rate shall remain fixed for the duration of the indebtedness.
- b.b. A penalty charge shall be assessed on any portion of a debt that is delinquent for more than 90 days, although the charge will accrue and be assessed from the date the debt became delinquent.
- c.c. A administrative charge shall be assessed to cover processing and handling the amount due.

. 03 Barring Delinquent Federal Debtors From Obtaining Federal Loans or Loan Insurance Guarantees

Pursuant to 31 U.S.C. § 3722(b), unless waived by DODIG, this prohibition extends to extend financial assistance in the form of a loan, a loan guarantee, a loan insurance or a person delinquent on a material debt owed to a Federal agency. This prohibition does not apply to disaster loans.

. 04 Effect of Judgment Lien on Eligibility For Federal Grants, Loans, or Programs

Pursuant to 28 U.S.C. § 3202(e), unless waived by DODIG, a debtor who has a judgment lien against the debt or property for a debt to the United States shall not be eligible to receive any grant, loan, or which is insured, guaranteed, or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied.

F. INDIVIDUAL BACKGROUND SCREENING
F. INDIVIDUAL BACKGROUND SCREENING

An individual background screening will be performed by the OIG on key individuals of organizational units associated with the application at the beginning of the award and at three year intervals thereafter for the life of the award unless (1) the proposed award amount is \$100,000 or less; (2) applicants are accredited colleges and universities; (3) applicants are units of a State or local government; (4) applicants are economic development districts designated by EDA, including those entities whose designations are pending, and councils of governments; or (5) the key individual(s) is/are elected officials of State and local governments who are serving in capacities other than their elected capacities when applying for assistance. In addition, if there is a change in the status of the organization and/or key individuals, or the program officer, OIG, or Grants Officer believes there is good reason to conduct a review sooner, a background screening may be required more frequently. Individual background screenings are intended to reveal if any key individuals associated with the applicant have been convicted, or are presently facing criminal charges (e.g., fraud, theft, perjury), or other matters which significantly reflect on the applicant's business integrity, responsibility, or financial integrity. Key individuals of non-exempt organizations associated with this award shall complete Form CD-346, "Applicant for Funding Assistance." An original signature is required. The form is to be submitted to the Grants Specialist named in the award document within 30 days of receipt of this award.

.01 Results of Individual Background Screening

DOC reserves the right to take any of the actions described in section F.02 if any of the following occurs as a result of the individual background screening:

- a. A key individual fails to submit the required Form CD-346, "Applicant for Funding Assistance" within 30 days of receipt of this award;
- b. A key individual makes a false statement or omits a material fact on the Form CD-346;
- c. The individual background screening reveals significant adverse findings that reflect on the business integrity or responsibility of the recipient and/or key individual.

.02 Action(s) Taken as a Result of Individual Background Screening

If any situation noted in F.01 occurs, DOC, at its discretion, may take one or more of the following actions:

- a. Consider suspension/termination of an award immediately for cause;
- b. Require the removal of any key individual from association with management and/or implementation of the award and require Grants Officer approval of personnel

replacements;

- c. Require the recipient to make other changes as appropriate; and/or
- d. Designate the recipient as high risk and amend the award to assign special award conditions as appropriate, including making changes with respect to the method of payment and/or financial reporting requirements.

G. GOVERNMENT WIDE DEBARMENT AND SUSPENSION (NONPROFIT)

The recipient shall comply with the provisions of Subpart 2 of CFR Part 1326, "Government Wide Debarment and Suspension (Nonprofit)" (published in the Federal Register on December 20, 2006, 71 FR 73573), which generally prohibits entities that have been debarred or suspended from participating in Federal nonprocurement transactions either through primary or derivative covered transactions.

H. DRUG-FREE WORKPLACE

The recipient shall comply with the provisions of the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title V, Sec. 915) as amended by Pub. Law 105-85, Div. A, Title VIII, Sec. 809, as codified at 45 C.F.R. 702 and DOC implementing regulations published at 15 CFR Part 29, "Government Wide Requirements for Drug-Free Workplace (Financial Assistance)" (published in the Federal Register on November 26, 2003, 68 FR 66534), which require that the recipient take steps to provide a drug-free workplace.

I. LOBBYING RESTRICTIONS

.01 Statutory Provisions

The recipient shall comply with the provisions of 31 U.S.C. 1352 and DOC implementing regulations published at 15 CFR Part 28, "New Restrictions on Lobbying." These provisions generally prohibit the use of Federal funds for lobbying the Executive or Legislative Branches of the Federal government in connection with the award, and require the disclosure of the use of non-Federal funds for lobbying.

.02 Disclosure of Lobbying Activities

The recipient receiving in excess of \$100,000 in Federal funding shall submit a

completed Form SF-LLL, "Disclosure of Lobbying Activities," regarding the use of non-Federal funds for lobbying. The Form SF-LLL shall be submitted within 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 recipient must submit the Forms SF-LLL, including those received from subrecipients, contractors, and subcontractors, to the Grants Officer.

J. CODES OF CONDUCT AND SUBAWARD, CONTRACT, AND SUBCONTRACT PROVISIONS

.01 Code of Conduct for Recipients

Pursuant to the certification in SF-424B, paragraph 3, the recipient must maintain written standards of conduct to establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain in the administration of this award.

.02 Applicability of Award Provisions to Subrecipients

- a. The recipient shall require all subrecipients, including lower tier subrecipients, under the award to comply with the provisions of the award, including applicable cost principles, administrative, and audit requirements.
- b. A recipient is responsible for subrecipient monitoring, including the following:
 - 1. Award Identification: At the time of the award, identifying to the subrecipient the Federal award information (e.g., CFDA title and number, award name, name of Federal agency) and applicable compliance requirements.
 - 2. During the Award Monitoring: Monitoring the subrecipient's use of Federal awards through reporting, site visits, regular contact, or other means to provide reasonable assurance that the subrecipient administers Federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved.
 - 3. Subrecipient Audits: Ensuring that subrecipients expending \$500,000 or more in Federal awards during the subrecipient's fiscal year have met the audit requirements of OMB Circular A-133, and that the required audits are completed within 9 months of the end of the subrecipient's audit period. In addition, the recipient is required to issue a management decision on audit findings within 6 months after receipt of the subrecipient's audit report, and ensuring that the subrecipient takes timely and appropriate corrective action on all audit findings.

In cases of continued inability or unwillingness of a subrecipient to have the required audits the pass-through entity shall take appropriate action using sanctions.

03 Competition and Codes of Conduct for Subawards

- a. All subawards will be made in a manner to provide to the maximum extent practicable open and free competition. The recipient must be alert to organizational conflicts of interest as well as other practices among subrecipients that may restrict or eliminate competition or the order to ensure objective subrecipient performance and eliminate unfair competitive advantage. Subrecipients that develop draft work requirements, statements of work, or requests for proposals shall be excluded from competing for such subawards.
- b. The recipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of subawards. No employee, officer, or agent shall participate in the selection, award, or administration of a subaward supported by Federal funds if he or she has an apparent conflict of interest would be involved. Such a conflict of interest arises when the employee, officer, or agent, any member of his or her immediate family, or his or her partner or organization in which he or she serves as an officer or employee, is or has been involved in any of the parties mentioned in this section has a financial interest or other interest in the organization or the award or the subaward or the employees, and agents of the recipient shall be prohibited from accepting anything of monetary value from a subrecipient. However, the recipient may accept a subaward for situations in which the financial interest is not substantial if the gift is an isolated item of minimal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the recipient.
- c. A financial interest may include employment, stock ownership, a creditor or debtor relationship, prospective employment with the organization selected to be selected for a subaward, or appearance of impairment of objectivity that could result from an organizational conflict of interest, because of other activities or relationships with other persons or entities, a person is liable to be potentially liable to render impartial assistance or advice. It could also result from financial gain to the individual, such as benefit to reputation or prestige in a professional field.

04 Applicability of Provisions to Subawards, Contracts, and Subcontracts

- a. The recipient shall include the following notice in each request for applications or bids:

Applicants/bidders for a lower tier covered transaction (except procurement contracts for goods and services under \$25,000 not requiring the consent of a

DOC official) are subject to 2 CFR Part 1326, Subpart C "Governmentwide Debarment and Suspension (Nonprocurement)." In addition, applicants/bidders for a lower tier covered transaction for a subaward, contract, or subcontract greater than \$100,000 of Federal funds at any tier are subject to 15 CFR Part 28, "New Restrictions on Lobbying." Applicants/bidders should familiarize themselves with these provisions, including the certification requirement. Therefore, applications for a lower tier covered transaction must include a Form CD-512, "Certification Regarding Lobbying--Lower Tier Covered Transactions," completed without modification.

- b. The recipient shall include a term or condition in all lower tier covered transactions (subawards, contracts, and subcontracts), that the award is subject to Subpart C of 2 CFR Part 1326, "Governmentwide Debarment and Suspension (Nonprocurement)."
- c. The recipient shall include a statement in all lower tier covered transactions (subawards, contracts, and subcontracts) exceeding \$100,000 in Federal funds, that the subaward, contract, or subcontract is subject to 31 U.S.C. § 1352, as implemented at 15 CFR Part 28, "New Restrictions on Lobbying." The recipient shall further require the subrecipient, contractor, or subcontractor to submit a completed "Disclosure of Lobbying Activities" (Form SF-LLL) regarding the use of non-Federal funds for lobbying. The Form SF-LLL shall be submitted within 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 Form SF-LLL shall be submitted from tier to tier until received by the recipient. The recipient must submit all disclosure forms received, including those that report lobbying activity on its own behalf, to the Grants Officer within 30 days following the end of the calendar quarter.

.05 Minority Owned Business Enterprise

DOC encourages recipients to utilize minority and women-owned firms and enterprises in contracts under financial assistance awards. The Minority Business Development Agency will assist recipients in matching qualified minority-owned enterprises with contract opportunities. For further information contact:

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

.06 Standards and Contract to Federal Agency

- a. The recipient, subrecipient, contractor, and/or subcontractor shall not sub-grant or subcontract any part of the approved project to any agency or employee of DOC and/or other Federal department, agency, or instrumentality, without the prior written approval of the Grants Officer.
- b. Requests for approval of such action must be submitted to the Federal Program Office which shall review and make recommendation to the Grants Officer. The Grants Officer shall make the final determination and will notify the recipient in writing of the final determination.

K. REAL PROPERTY

.01 Standards

The recipient shall comply with the property management standards stipulated in the applicable uniform administrative requirements.

.02 Real Property

The recipient shall execute a security interest or other statement of the Federal Interest in real property acquired or improved with Federal funds, acceptable in form and substance to the DOC, which statement must be perfected and placed of record in accordance with local law, with continuances filed as appropriate. The recipient must provide the DOC with a written statement from a licensed attorney in the jurisdiction where the property is located certifying that the Federal Interest has been protected, as required under the award and in accordance with local law. The attorney's statement, along with a copy of the instrument reflecting the recordation of the Federal Interest, shall be returned to the Grants Officer. The recipient may not dispose of, modify the use of, or change the terms of the real property title, or other interest in the project site and facilities without permission and instructions from the Grants Officer. No funds under this award shall be released until the recipient has complied with this provision, unless other arrangements satisfactory to the DOC are made.

L. ENVIRONMENTAL REQUIREMENTS

Environmental impacts must be considered by Federal decision makers in their decisions whether or not to (1) approve a proposal for Federal assistance; (2) approve the proposal with mitigation; or (3) approve a different proposal/grant having less adverse environmental impacts. Federal environmental laws require that the funding agency initiate a planning process with an early consideration of potential environmental impacts that projects funded with Federal assistance may have on the environment. The recipient and subrecipients must comply with all environmental standards, to include those prescribed under the following statutes and Executive Orders, and shall identify to the awarding agency any impact the award may have on the environment. In some cases, award funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable the DOC to make an assessment on any impacts that a project may have on the environment.

.01 The National Environmental Policy Act of 1969 (42 U.S.C. §§ 4321-4327)

The National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) implementing regulations (40 CFR parts 1500 through 1508) require that an environmental analysis be completed for all major Federal actions significantly affecting the environment. NEPA applies to the actions of Federal agencies and may include a Federal agency's decision to fund non-Federal projects under grants and cooperative agreements. Recipients of Federal assistance are required to identify to the awarding agency any impact an award will have on the quality of the human environment, and assist the agency to comply with the National Environmental Policy Act. Recipients may also be requested to assist NOAA in drafting of an environmental assessment, if the Department determines an assessment is required, when the award activities remain subject to Federal authority and control. If additional information is required during the period of the award, funds can be withheld by the Grants Officer under a special award condition requiring the recipient to submit additional environmental compliance information sufficient to enable the Department to make an assessment on any impacts that a project may have on the environment.

.02 Floodplain Management, EO 11988 and Protection of Wetlands, EO 11990, May 24, 1977

Recipients must identify proposed actions in Federally defined floodplains and wetlands to enable the agency to make a determination whether there is an alternative to minimize any potential harm.

.03 Clean Air Act, Clean Water Act and EPCRA 11738

Recipients must comply with the provisions of the Clean Air Act (42 U.S.C. §§ 1701 et seq.), Clean Water Act (33 U.S.C. §§ 1251 et seq.) and EPCRA (24 U.S.C. §§ 1191 et seq.) and shall not use a facility on EPA's List of Violating Facilities in performing any award that is exempt under 40 CFR § 15.5, and shall notify the Program Office in writing if it intends to use a facility that is on the EPA List of Violating Facilities or knows that the facility has been recommended to be placed on the List.

.04 The Flood Disaster Protection Act of 1973 (42 U.S.C. § 4002 et seq.)

Flood insurance, when available, is required for Federally assisted construction or acquisition in flood-prone areas.

.05 The Endangered Species Act of 1973, as amended, (16 U.S.C. § 1531 et seq.)

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

.06 The Coastal Zone Management Act as amended, (16 U.S.C. § 1451 et seq.)

Funded projects must be consistent with coastal state approved damage prevention program for the coastal zone.

.07 The Coastal Barrier Resources Act (16 U.S.C. § 6501 et seq.)

Restrictions are placed on Federal Funding for actions within the Coastal Barrier System.

.08 The Wild and Scenic Rivers Act as amended (16 U.S.C. §§ 1271 et seq.)

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

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

This Act precludes Federal assistance for any project that the EPA determines may contaminate a sole source aquifer so as to threaten public health.

.10 The Resource Conservation and Recovery Act of 1976, as amended, (42 U.S.C. §§ 6901 et seq.)
10 The Resource Conservation and Recovery Act of 1976, as amended, (42 U.S.C. §§ 6901 et seq.)

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

.11 The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and the Superfund Amendments and Reauthorization Act of 1986, and the Community Environmental Response Facilitation Act of 1992, as amended, (42 U.S.C. §§ 9601 et seq.)
11 The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and the Superfund Amendments and Reauthorization Act of 1986, and the Community Environmental Response Facilitation Act of 1992, as amended, (42 U.S.C. §§ 9601 et seq.)

These requirements address responsibilities of hazardous substance releases, threatened releases and environmental cleanup. There is also a requirement to impose reporting and community involvement requirements to ensure disclosure of the release or disposal of regulated substances and cleanup of hazards.

.12 Environmental Justice in Minority Populations and Low Income Populations, EO 12898, February 11, 1994.
12 Environmental Justice in Minority Populations and Low Income Populations, EO 12898, February 11, 1994.

This order identified and addresses adverse human health or environmental effects of programs, policies and activities on low income and minority populations.

M. MISCELLANEOUS REQUIREMENTS

.01 Criminal and Prohibited Activities

- a. The Program Fraud Civil Remedies Act (31 U.S.C. §§ 3801-3812), provides for the imposition of civil penalties against persons who make false, fictitious, or fraudulent claims to the Federal government for money (including money representing grants, loans or other benefits).
- b. False statements (18 U.S.C. §§ 287 and 1001) provides that whoever makes or

presenting a false, fictitious, or fraudulent statement, representation, or claim against the United States shall be subject to imprisonment of not more than five years and shall be subject to a fine in the amount provided by 18 U.S.C. § 287.

- c. c False Claims Act (31 U.S.C. § 3729) provides that suits under this act can be brought by the government or a person on behalf of the government for false claims under federal assistance programs.
- d. d Copeland Anti-Kickback Act (18 U.S.C. § 874 and 49 U.S.C. § 2827) prohibits a person or organization engaged in a federally supported project from entering an employee working on the project for giving part of his compensation under an employment contract.

.02 Foreign Travel

- a. a The recipient shall comply with the provisions of the Fly America Act (49 USC § 40101) and the implementing regulations of the Fly America Act and 49 CFR §§ 301.101 through 301.143.
- b. b The Fly America Act requires that Federal travelers and other persons using U.S. Government-financed foreign travel use U.S. flag airlines, to the extent that service by such carriers is available for air carriers may be used only in specific instances, such as when a U.S. flag air carrier is unavailable, of U.S. flag air carrier service will accomplish the agency's mission.
- c. c Use of foreign air carrier may also be used if bilateral agreements permit such travel pursuant to 49 USC § 40101(b)(5) DOT is not aware of any bilateral agreements which meet these requirements. Therefore, it is the responsibility of the recipient to provide the Grants Office with a copy of applicable bilateral agreement in use of a foreign carrier under bilateral agreement is anticipated.
- d. d If a foreign carrier is anticipated for any part of foreign travel, the recipient must receive prior approval from the Grants Office. When requesting such approval, the recipient must provide justification in accordance with guidance provided by 49 CFR § 301.143, which requires the recipient provide the Grants Office with the following: name, dates of travel, origin and destination of travel; detailed itinerary of travel, name of the air carrier and flight number for each leg of the trip; and a statement explaining why the recipient needs the exception to the regulations. If the use of a foreign air carrier is pursuant to a bilateral agreement, the recipient must provide the Grants Office with a copy of the agreement. The Grants Office shall make the final determination and notify the recipient in writing. Failure to adhere to the provisions of the Fly America Act will result in the recipient not being reimbursed for any transportation costs for which the recipient improperly used a foreign air carrier.

.03 American-Made Equipment and Products

Recipients are hereby notified that they are encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this award.

.04 Intellectual Property Rights

- a. **Inventions.** The rights to any invention made by a recipient under a DOC financial assistance award are determined by the Bayh-Dole Act, Pub. L. 96-517, as amended, and codified in 35 U.S.C. § 200 et seq., except as otherwise required by law. The specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards are described in more detail in 37 CFR Part 401 and in particular, in the standard patent rights clause in 37 CFR § 401.14, which is hereby incorporated by reference into this award.

1-1. Ownership.

- (a) **Recipient.** The recipient has the right to own any invention it makes (conceived or first actually reduced to practice) or made by its employees. The recipient may not assign its rights to a third party without the permission of DOC unless it is to a patent management organization (i.e., a university's Research Foundation.) The recipient's ownership rights are subject to the Government's nonexclusive paid-up license and other rights.
- (b) **Department.** If the recipient elects not to own or does not elect rights or file a patent application within the time limits set forth in the standard patent rights clause, DOC may request an assignment of all rights, which is normally subject to a limited royalty free nonexclusive revocable license for the recipient. DOC owns any invention made solely by its employees but may license the recipient in accordance with the procedures in 37 CFR Part 404.
- (c) **Inventor/Employee.** If neither the recipient nor the Department is interested in owning an invention by a recipient employee, the recipient, with the written concurrence of DOC, may allow the inventor/employee to own the invention subject to certain restrictions as described in 37 CFR § 401.99.
- (d) **Joint inventions.** Inventions made jointly by a recipient and a DOC employee will be owned jointly by the recipient and DOC. However, DOC may transfer its rights to the recipient as authorized by 35 U.S.C. § 202(c) and 37 CFR §§ 404.10 if the recipient is willing to patent and license the invention usually in exchange for a share of "net" royalties based on the number of inventions (e.g., 50-50 if there is one recipient and DOC employee). The agreement will be prepared by DOC and may include other provisions, such as a royalty free license to the Government and certain other entities 35 U.S.C. § 202(d) also

authorizes the recipient to transfer its rights to the Government which can agree to share royalties similarly as described above.

22. **Responsibilities - Edison.** The recipient has responsibilities and duties set forth in the standard patent rights clause, which are not described below. The recipient is expected to comply with all the requirements of the standard patent rights clause and 37 CFR Part 401. Recipients of DOC financial assistance awards are required to submit their disclosures and elections electronically using the Interagency Edison extramural invention reporting system (Edison) at www.Edison.gov. Recipients may obtain a waiver of this electronic submission requirement by providing to DOC compelling reasons for allowing the submission of paper copies of reports related to inventions.

bb. **Patent Notification Procedures.**

Pursuant to E.O. 12889, DOC is required to notify the owner of any valid patent covering technology whenever DOC or its financial assistance recipients, without making a patent search, knows (has demonstrable reasonable grounds to know) that technology covered by a valid United States patent has been or will be used without a license from the owner. To ensure proper notification, if the recipient uses or has used patented technology under law and without a license or permission from the owner, the recipient must notify the Grants Officer.

However, this notice does not necessarily mean that the Government authorizes and consents to any copyright or patent infringement occurring under the financial assistance.

cc. **Data, Databases, and Software.**

The rights to any work product purchased under a DOC federal financial assistance award are determined by 37 CFR § 424.44 and 37 CFR § 1.36.36. Such work may include data, databases, or software. The recipient owns any work product purchased under a DOC federal financial assistance award subject to DOC's right to obtain, reproduce, publish or otherwise use the work or authorize others to receive, reproduce, publish or otherwise use the data for Government purposes.

dd. **Copyright.**

The recipient may copyright any work product under a DOC federal financial assistance award subject to DOC's right to reproduce and create a right to reproduce, publish or otherwise use the work or authorize others to do so for Government purposes. Works jointly authored by DOC recipient employees may be copyrighted by the recipient or by the recipient and the Government under 17 U.S.C. § 105. Works produced by the Government are copyrightable in

the United States. On occasion, DOC may ask the recipient to transfer to DOC its copyright in a particular work when DOC is undertaking the primary dissemination of the work. Ownership of copyright by the Government through assignment is permitted by 17 U.S.C. § 1095.

.05 Increasing Seat Belt Use in the United States

Pursuant to EO 13043, recipients should encourage employers and contractors to enforce on-the-job seat belt policies and programs when operating company-owned, rented or personally-owned vehicles.

.06 Research Involving Human Subjects

- a. All proposed research involving human subjects must be conducted in accordance with 15 CFR Part 27, "Protection of Human Subjects. No research involving human subjects is permitted under this award unless expressly authorized by Special Award Condition, or otherwise in writing by the Grants Officer.
- b. 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.
- e. DOC regulations, 15 CFR Part 27, require that recipients maintain appropriate policies and procedures for the protection of human subjects. In the event it becomes evident that human subjects may be involved in this project, the recipient shall submit appropriate documentation to the Federal Program Officer for approval by the appropriate DOC officials. This documentation may include:
 1. 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, see 15 CFR § 27.103;
 2. Documentation to support an exemption for the project under 15 CFR § 27.101(b);
 3. Documentation to support deferral for an exemption or IRB review under 15 CFR § 27.118;
 4. Documentation of IRB approval of any modification to a prior approved protocol or to an informed consent form.
- d. 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 Grant Office. Notwithstanding this prohibition, work may be initiated or costs incurred and/or charged to the project for protocol or instrument development related to human subjects research.

.07 Federal Employee Expenses

Federal agencies are generally barred from accepting funds from a recipient to pay transportation, travel, or other expenses for any Federal employee, unless specifically approved in the terms of the award. Use of award funds (Federal or non-Federal) for the recipient's provision of in-kind goods or services for the purposes of transportation, travel, or any other expenses for any Federal employee may raise appropriation augmentation issues. In addition, DOC policy prohibits the acceptance of gifts, including travel payments for Federal employees, from recipients or applicants regardless of the source.

.08 Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects.

Pursuant to EO 13202, "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects," unless the project is exempted under section 5(c) of the order, bid specifications, project agreements, or other controlling documents for construction contracts awarded by recipients of grants or cooperative agreements, on those of any construction manager acting on their behalf, shall not:

- a. include any requirement or prohibition on bidders, offerors, contractors, or subcontractors about entering into or adhering to agreements with one or more labor organizations on the same or related construction project(s); or
- b. otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction project(s).

.09 Minority Serving Institutions (MSIs) Initiative

Pursuant to EOs 13266, 13230, and 13270, DOC is strongly committed to broadening the participation of MSIs in its financial assistance programs. DOC'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. DOC encourages all applicants and recipients to include meaningful participation of MSIs. Institutions eligible to be considered MSIs are listed on the Department of Education website.

.10 Research Misconduct

Scientific or research misconduct refers to the fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. It does not include honest errors or differences of opinion. The recipient organization has the primary responsibility to investigate allegations and provide reports to the Federal Government. Funds expended on an activity that is determined to be invalid or unreliable because of scientific misconduct may result in a disallowance of costs for which the institution may be liable for repayment to the awarding agency. The Office of Science and Technology Policy at the White House published in the *Federal Register* on December 6, 2000, a final policy that addressed research misconduct. The policy was developed by the National Science and Technology Council (65 FR 76205). The DOC requires that any allegation be submitted to the Grants Officer, who will also notify the OIG of such allegation. Generally, the recipient organization shall investigate the allegation and submit its findings to the Grants Officer. The DOC may accept the recipient's findings or proceed with its own investigation. The Grants Officer shall inform the recipient of the DOC's final determination.

.11 Publications, Videos and Acknowledgment of Sponsorship

Publication of the results or findings of a research project in appropriate professional journals and production of video or other media is encouraged as an important method of recording and reporting scientific information. It is also a constructive means to expand access to federally funded research. The recipient is required to submit a copy to the funding agency and when releasing information related to a funded project include a statement that the project or effort undertaken was or is sponsored by DOC. The recipient is also responsible for assuring that every publication of material (including Internet sites and videos) based on or developed under an award, except scientific articles or papers appearing in scientific, technical or professional journals, contains the following disclaimer: "This [report/video] was prepared by [recipient name] under award [number] from [name of operating unit], U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of the [name of operating unit] or the U.S. Department of Commerce." This also applies to videos produced under DOC financial assistance awards.

.12 Care and Use of Live Vertebrate Animals

Recipients must comply with the Laboratory Animal Welfare Act of 1966 (Public Law

89-544) as amended (U.S.C. §§ 2131 *et seq.*) (animal acquisition, transport, care, handling, and use in projects); and implementing regulations CFR Parts 1, 2, and 3; the Endangered Species Act (U.S.C. §§ 1531 *et seq.*); Marine Mammal Protection Act (16 U.S.C. §§ 1361 *et seq.*) (taking possession, transport, purchase, sale, export, import of wildlife and plants); The Nonindigenous Aquatic Nuisance Prevention and Control Act (16 U.S.C. §§ 1701 *et seq.*) (ensuring preventive measures are taken for that probable harm of fusing species in minimal if there is an escape or release); and other applicable state laws pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by Federal financial assistance. No research involving vertebrate animals is permitted under DOD financial assistance award unless authorized by the Grants Officer.

. 13 Homeland Security Presidential Directive 12

If the performance of a grant award requires recipient organization personnel to have unsupervised physical access to a Federally controlled facility for more than 90 days or access to a Federal information system such personnel must undergo the personal identity verification check process. In the case of foreign nationals the DOD will conduct check with U.S. Citizenship and Immigration Services (USCIS) Verification Division, a component of the Department of Homeland Security (DHS), to ensure the individual is in a lawful immigration status and that they are eligible for employment within the USA. Any items or services delivered under financial assistance award shall comply with the Department of Commerce personal identity verification procedures that implement Homeland Security Presidential Directive, FIPS 201 and OMB Memorandum 05-04. The recipient shall insert this clause in all subawards or contracts when the subaward recipient is required to have physical access to a Federally controlled facility or access to a Federal information system.

. 14 Compliance with the Department of Commerce Bureau of Industry and Security Export Administration Regulations

- a. This clause applies to the extent that the financial assistance award involves access to export controlled information technology.
- b. In performing this financial assistance award, the recipient may gain access to export controlled information technology. The recipient is responsible for compliance with all applicable laws and regulations regarding export controlled information and technology including direct exports. The recipient shall establish and maintain through the performance of the financial assistance award effective export compliance procedures and DOD facilities. At a minimum the export compliance procedures must include adequate controls of physical, verbal, visual and electronic access to export controlled information technology.

c. Definitions

11. Deemed Export. The Export Administration Regulations (EAR) define a deemed export as any release of technology or source code subject to the EAR to a foreign national, both in the United States and abroad. Such release is "deemed" to be an export to the home country of the foreign national. 15 CFR § 734.8(b)(2)(ii).
22. Export controlled information and technology. Export controlled information and technology subject to the EAR (15 CFR §§ 730-774), implemented by the DOC Bureau of Industry and Security, or the International Traffic in Arms Regulations (ITAR) (22 CFR §§ 120-130), implemented by the Department of State, respectively. This includes, but is not limited to, dual-use items, defense articles and any related assistance, services, software, or technical data as defined in the EAR and ITAR.

dd. The recipient shall control access to all export-controlled information and technology that it possesses or that comes into its possession for performance of this financial assistance award, to ensure that access is restricted, controlled, and used as required by applicable Federal laws, Executive Orders, and/or regulations.

ee. Nothing in the terms of this financial assistance award is intended to change, supersede, or waive the requirements of applicable Federal laws, Executive Orders or regulations.

ff. The recipient shall include this clause, including this paragraph (f), in all lower tier transactions (subawards, contracts, and subcontracts) under this financial assistance award that may involve access to export-controlled information and technology.

15 The Trafficking Victims Protection Act of 2000 (20 U.S.C. § 7144(g)) as amended, and the implementing regulations at 28 CFR Part 75.75.

This Act authorizes termination of financial assistance provided to a private entity, without penalty to the Federal Government, if the recipient or subrecipient engages in certain activities related to trafficking persons.

16 The Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109-282).

This Act requires that the Federal government establish a single searchable awards website by January 2008 to enable the public to see Federal Federal funds for grant and contract awards and is responsible for subaward and subcontract data required on the website by January 2009. Funding data prior to October 1, 2006 must be reported by Federal agencies and the recipient and participating organizations.

Data elements will include:

Data elements will include:

Name of entity receiving award;
Name of entity receiving award;

Award amount;
Award amount;

**Transaction type, funding agency, Catalog of Federal Domestic Assistance
Number, and descriptive award title;**
Transaction type, funding agency, Catalog of Federal Domestic Assistance
Number, and descriptive award title;

**Location of: entity, primary location of performance
(City/State/Congressional District/Country); and**
Location of: entity, primary location of performance
(City/State/Congressional District/Country); and

Unique identifier of entity.
Unique identifier of entity.

**The data will be required within 30 days of an award. The DOC will be implementing
this Act, which will require recipients and subrecipients to report the required data.**
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this Act, which will require recipients and subrecipients to report the required data.