



PUERTO RICO

**PORTS
AUTHORITY**

GOVERNMENT OF PUERTO RICO

REQUEST FOR QUALIFICATIONS

**ENVIRONMENTAL SERVICES FOR EMISSIONS REDUCTION AND RESILIENCY
PLANNING**

EPA GRANT NUMBER: 96275200

August 2025

REQUEST FOR QUALIFICATIONS FOR ENVIRONMENTAL SERVICES FOR EMISSIONS REDUCTION AND RESILIENCY PLANNING

In accordance with Act 125 of May 7, 1942, as amended, and Regulation 8981 of PRPA Bids and Request for Proposals, the Puerto Rico Ports Authority (PRPA) is requesting competitive bids from contractors for the project referenced above.

The Environmental Protection Agency (EPA) has awarded a grant to the Puerto Rico Ports Authority to design the planning phase of an emissions monitoring project at the Port of San Juan and its surrounding communities. The project consists of developing an emissions inventory for the Ports of San Juan, quantifying target emissions by source, an operational assessment of cargo handling equipment and vehicles, an assessment of zero-emission technology readiness for use at the port, modeling baseline and forecasted energy use and demand, an infrastructure assessment to support electrification, and preparing an emission reduction road map. Other activities include conducting vulnerability assessments of infrastructure related to extreme weather events; developing plans for such events; engaging with port tenants, workers, and fleet operators; and holding meetings with local communities. To gather this information, we expect stakeholder involvement to include the setup of an air monitoring network for one year in areas surrounding the port.

The anticipated deliverables will comprise: a comprehensive baseline emissions inventory; a detailed summary of equipment and charging locations; the identification of zero-emission equipment options and associated infrastructure and utility upgrade requirements; port energy demand models; a strategic roadmap for greenhouse gas reductions; climate vulnerability assessments and adaptation plans; and community and workforce engagements initiatives. Stakeholder participation will further include the establishment of one year air monitoring network in the vicinity of the port.

The anticipated outcomes include: an enhanced understanding of current emissions and their sources; strengthened capacity to transition to zero-emission technologies and infrastructure; improved insight into future energy use and infrastructure requirements; the availability of emissions-reduction strategies; strengthened stakeholder collaboration; increased transparency and knowledge regarding emissions trends and progress; and expanded workforce development to support transitions to zero-emission technologies.

The intended beneficiaries include near-community residents that are impacted by the port, and the Puerto Rico Ports Authority (grantee) and engaged utility entity, which will ensure that the electrical infrastructure is upgraded to meet future load growth from electrification of port operations.

Proposers of this project shall submit the Proposal, in accordance with the Instructions to Bidders contained in the Contract Documents, on or before **December 2, 2025, at 10:00 AM**. A non-compulsory pre-proposal meeting and site visit will be held on **October 7, 2025, at 10:00 AM** (Local PR Time-AST).

In order to participate, Proposers should request participation filling and sending registration form, included as part of this advertisement, to the following email JATorres@prpa.pr.gov until **October**

Request for Qualification (RFQ) for
Environmental Services for Emissions Reduction
And Resiliency Planning

August 2025
EPA Clean Ports Program
PR Port Authority

10, 2025, at 4:00 PM. The complete RFQ document and the registration form may be accessed from PRPA Web site www.prpa.pr.gov/Avisos.

Proposers are advised that they must be registered as possessors of the contract documents for the project and possessors of all such amendments.

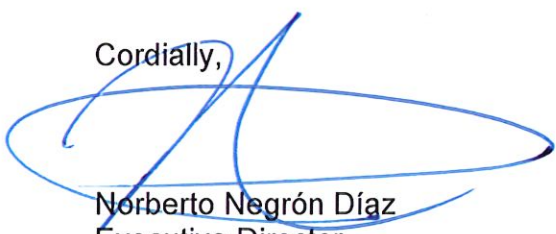
Date limit for Requests for Further Information (RFI) is **October 31, 2025, at time 4:00 PM.** RFI should be addressed by email to the following address; JATorres@prpa.pr.gov

Certain mandatory federal requirements apply to this solicitation and will be made part of any contract awarded. The Qualified Proponent must comply with all federal regulations, including, but not limited, to Access to Records and Reports (Reference: 2 CFR § 200.326, 2 CFR § 200.333), affirmative action requirement (Reference: 41 CFR part 60-4, Executive Order 11246), Breach of Contract Terms. (Reference 2 CFR § 200 Appendix II (A)), Buy American Preference (Reference: 49 USC § 50101), Civil Rights — General and Title VI Assurances (Reference: 49 USC § 47123), Clean Air And Water Pollution Control (Reference: 49 CFR§ 18.36(i)(12)), Contract Workhours and Safety Standards Act Requirements (Reference: 2 CFR § 200 Appendix II (E)), Copeland "Anti-Kickback" Act (Reference: 2 CFR § 200 Appendix II (D), 29 CFR parts 3 & 5), Davis-Bacon Requirements (Reference: 2 CFR § 200 Appendix II (D)), Debarment and Suspension (Non-Procurement) (Reference: 2 CFR part 180 (Subpart C), 2 CFR part 1200, DOT Order 4200.5 DOT Suspension & Debarment Procedures & Ineligibility), Disadvantaged Business Enterprise (Reference: 49 CFR part 26), Energy Conservation Requirements (Reference 2 CFR § 200 Appendix II(H)), Equal Opportunity Clause And Specifications (Reference 41 CFR § 60-1.4, Executive Order 11246), Federal Fair Labor Standards Act (Federal Minimum Wage)(Reference: 29 USC § 201 , et seq.), Lobbying and Influencing Federal Employees (Reference: 49 CFR part 20, Appendix A), Nonsegregated Facilities Requirement (Reference: 41 CFR § 60-18), Occupational Safety and Health Act of 1970 (Reference 20 CFR part 1910), Right to Inventions (Reference 2 CFR § 200 Appendix II (F)), Termination of Contract (Reference 2 CFR § 200 Appendix II (B)), Trade Restriction (Reference: 49 CFR part 30), Texting When Driving (References: Executive Order 13513, and DOT Order 3902.10) and Veteran's Preference (Reference: 49 USC § 47112(c)). , .

We appreciate your interest in being considered for the performance of the services described in this RFQ.

Cordially,

Date : August 27, 2025
San Juan, PR



Norberto Negrón Díaz
Executive Director

Document Registration

PUERTO RICO PORTS AUTHORITY EMISSIONS REDUCTION AND RESILIENCY PLANNING, EPA CLEAN PORTS PROGRAM, PORT OF SAN JUAN

Firm requesting documents: _____

Authorized Representative: _____
(Name)

Email Address: _____

Telephone No.: _____

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Exhibits:

1. EPA General Terms and Conditions (**Exhibit 1**)
2. Certification Regarding Debarment, Suspension and Other Responsibility Matters – Primary Covered Transactions (**Exhibit 2**)
3. Certification of Disadvantage Business Enterprise (DBE) Annual State Goal (**Exhibit 3**)
4. Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements (**Exhibi 4**)
5. Certification for No Conflict of Interest (**Exhibit 5**)

Request for Proposal (RFQ) -EPA Clean Ports Program

Title: Consulting Services for Emissions Reduction and Resiliency Planning Project

The Puerto Rico Ports Authority (PRPA) is issuing this Request for Proposal (RFQ) to solicit qualified firms or teams with demonstrated expertise in environmental planning, air quality management, and maritime logistics to develop a **Comprehensive Emissions Reduction Plan (ERP)**.

I. Background

PRPA oversees and manages major seaport facilities across Puerto Rico, playing a vital role in the island's supply chain and economic infrastructure. As part of our commitment to sustainability and compliance with both federal and local environmental laws and regulations, PRPA seeks to implement proactive measures to reduce port-related emissions from vessels, cargo-handling equipment, ground support vehicles, and auxiliary operations. The Puerto Rico Ports Authority (PRPA) is initiating the Emissions Reduction and Resiliency Planning Project to support climate resilience and zero-emissions (ZE) operations at the Port of San Juan. This project aims to develop a baseline air emissions inventory, emissions reduction strategies, and a resiliency plan to address weather-and climate-related vulnerabilities. Initiating the **Emissions Reduction and Resiliency Planning Project** to support **climate resilience** and **zero-emissions (ZE) operations** at the Port of San Juan in Puerto Rico is a multi-step process that involves assessing current emissions, identifying opportunities for reductions, ensuring that resilience strategies are in place to handle the effects of climate change, and aligning with Puerto Rico's and international emissions reduction goals.

PRPA is seeking qualified consultants to assist in achieving the objectives outlined in its EPA Clean Ports Program funding application.

II. Scope of Work

Proposal should cover the following components, with the expectation that PRPA will be directly involved in their planning and implementation:

1. Identify Key Stakeholders

- Engage local authorities (e.g., DRNA), port management, local communities, shipping companies, and other relevant parties.
- Conduct stakeholder engagement and community reach.
- Facilitate engagement with tenants, fleet operators, and local communities.
- Hold community open houses to inform the community about actual emissions, progress toward ZE, and effectiveness of the emissions control options; share workforce development opportunities; and interact and receive input from the community.

- Develop a web dashboard that visualizes air emissions (bar + pie charts), lists active reduction strategies, and tracks progress toward zero-emissions (ZE) targets.
- Conduct tours of port operations, highlighting both planned and implemented emissions reduction projects
- Conduct workshops for workers, labor unions, and other workforce stakeholders on ongoing emissions reduction strategies and the effectiveness of the strategies as well as training and job opportunities associated with ZE technologies.
- Interact with agencies such as LUMA, the electrical utility provider in Puerto Rico, and terminal operators to gather essential information for ZE planning and implementation initiatives.

2. Baseline Air Emissions Inventory

- Develop a comprehensive inventory of air emissions, including greenhouse gases (GHGs) and air toxins, following EPA's guidance.
- Gather data on fuel consumption, shipping patterns, port operations, transportation, and energy use within the port.
- Assess the carbon footprint of port activities to understand the magnitude of emissions.
- Perform a GHG emissions inventory for the Port of San Juan, covering activities such as vessel operations, cargo handling, logistics, port infrastructure energy use, etc.
- Prepare business-as-usual emissions inventories for milestone years 2030 and 2050.
- Analysis of emissions sources, ranking them by contribution.

3. Emissions Reduction Strategy Development

- Assess ZE technology readiness and operational feasibility.
- Model baseline and projected energy demand for ZE technology implementation.
- Develop an actionable roadmap with specific emissions reduction targets.

4. Resiliency Plan Development

- Conduct assessments of port infrastructure vulnerabilities to weather and climate risks such as hurricanes and sea-level rise.
- Identify and prioritize critical infrastructure improvements for sustained ZE operations.
- Develop a Resiliency Plan to identify the vulnerability of critical assets during storm events or otherwise at risk of failure.

III. Consultant's Tasks

Task 1. Emissions Inventory Preparation

- a) Gather data from all tenants for emissions inventory preparation (list tenants, understand operation, detailed list of mobile sources, detailed list of stationary sources, operational data for each water-side source and land-side source).
- b) Estimate baseline emissions (water-side mobile sources, land-side mobile sources, land-side stationary sources).
- c) Analyze baseline emissions – breakdown of emissions by tenants, by port type (cargo handling, cruise), by source type. Rank sources by contribution. Prepare both draft and final versions of a baseline emissions report to document current emission levels and establish a reference point for measuring future reductions.
- d) The estimated projection data for 2030 and 2050, including growth, vehicle fleet mix, and energy projections.
- e) Prepare business-as-usual emissions inventory for 2030
- f) Prepare business-as-usual emissions inventory for 2050
- g) Analyze 2030 emissions - emissions breakdown and ranking similar to baseline inventory.
- h) Analyze 2050 emissions - emissions breakdown and ranking similar to baseline inventory.
- i) Prepare business-as-usual emissions reports – draft and final.
- j) Evaluate emissions inventories, set reduction targets for milestone years

Task 2. Emissions Reduction Strategy

- a) Identify operational limitations for all tenants
- b) Identify potential opportunities for ZE technology introduction
- c) Identify and evaluate ZE equipment options that are available for immediate and future implementation
- d) Model baseline energy use for different emissions reduction strategies (such as electrification)
- e) Model forecasted energy demand with different emissions reduction strategies (such as electrification)
- f) Infrastructure upgrade assessment (determining capital investment need)
- g) Develop emissions reduction strategy report (roadmap)

Task 3. Stakeholder Engagement

- a) Create, maintain, and regularly update a public-facing website to share project information, air quality data, and progress toward emission-reduction goals.

- b) Establish a one-year air monitoring network to measure airborne diesel particulate matter (DPM) concentrations in areas surrounding the port, with a focus on disadvantage communities impacted by elevated DPM levels
- c) Conduct continuous air-quality monitoring, perform data analysis, and publish results on the website at regular intervals to ensure transparency and public accessibility.

IV. Deliverables

In alignment with the tasks and key components outlined above, PRPA anticipates the following deliverables:

- *Baseline Emissions Inventory Report (2025)*
- *Emissions Reduction Strategy Roadmap (2026)*
- Resiliency Plan Report (2027)
- Quarterly progress reports and stakeholder meeting summaries
- Scheduling regular stakeholder meetings, tracking attendance and recording and reporting on input received for incorporation in the emissions reduction strategy roadmap; and
- Establishment of an emissions tracking webpage, which will be updated to provide information on community and workforce meetings and emissions monitoring and reduction activities.

V. Instructions

Firms interested in providing the requested services shall submit an electronic PDF electronic file to JATorres@prpa.pr.gov on or before, 3:00PM, September 24 , 2025.

The cover letter shall be addressed to:

Norberto Negrón Díaz.
Deputy Executive Director
Puerto Rico Ports Authority
PO Box 362829
San Juan, P.R. 00936-2829

To the attention of:

Romel Pedraza, P.E.
Assistant Executive Director for
Engineering and Construction

Statements of qualifications ("SOQ") delivered after the specified deadline or delivered wrong may be rejected/disqualified.

A. SOQ Submittal Content

The following information shall be included in the Statement of Qualifications submitted:

1. Introductory Letter: Introductory Letter, signed by an authorized representative, of no more than two (2) pages, containing the following office information:
Introductory Letter, signed by an authorized representative, of not more than two (2) pages, containing the following office information:
 - a. Project title
 - b. Firm's name
 - c. Mail and physical address of main/regional office
 - d. Principal and procurement's contact person mobile and office phone numbers.
 - e. Brief project approach and executive presentation.
 - f. SAM's Registration
2. Firm Experience in Similar Projects - Provide a list of at least three (3) projects that demonstrate the firm's and staff experience on similar environmental studies performed within the last ten (10) years. For each project, the list must include project name, a very brief scope of work, and a reference's contact person with email address or phone number. Limit responses to a maximum of three (3) pages.

3. Personnel Qualifications - Provide qualifications of personnel who will serve directly in key positions such as project manager and subject matter expert for the projects. Includes licenses, certifications, resumes and professional associations. Limit responses to a maximum of five (5) pages. Attached resumes do not count for page numbers.

4. Main Office Technical Support:

Provide a brief description of the firm's office, indicate the personnel who would serve as the supervisor, technical support and specialist: specific experience for each person on relevant projects and if they are available to work on this project. Limit responses to a maximum of two (2) pages.

5. Project Understanding: Provide a brief narrative of the project understanding. Explain how you propose to approach project coordination with stakeholder to conduct stakeholders outreach. Limit responses to a maximum of one two (2) pages.

6. Federal Government Documents:

- ☐ Certification Regarding Debarment, Suspension and Other Responsibility Matters – Primary Covered Transactions (Form included).
- ☐ Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements (Form included).
- ☐ Certification for No Conflict of Interest, Goal (Form included).

Failure to comply with any of the above requirements herein contained may result in the disqualification of the consultant.

B. Evaluation Criteria and Selection Process

Each statement of qualification will be examined by the Selection Committee for compliance with the requirements stated in this RFQ.

From the experience and qualification data obtained from consultants, the Selection Committee will prepare a pre-selection short-list of the best qualified consultants. Utilizing the Qualifications Evaluation Sheet, included below, the Selection Committee will establish an order of qualification of the short-listed Firms.

The Firms will be evaluated on the basis to perform successfully all services described. The evaluation consists of the: professional qualifications, expertise, the capacity to deploy the necessary resources, and undertake the projects among other criteria.

For the purpose of development this SOQ, firms may not enter on any efforts to obtain information from the PRPA, such as: preliminary studies, and/or other internal information. SOQ shall be specific to the requirements stated in Section A. Site visits, and technical data may be shared with the Firms during the negotiation phase.

TECHNICAL PROPOSAL EVALUATION SHEET		
Rating Criteria	Possible Score	Result
Technical Qualification and Relevant Experience in Planning and Environmental Consulting Demonstrated expertise in relation to the scope of potential work, including relative degrees, licenses and certifications, and expertise of inspection similar complexity projects	0 - 25	
Project Approach and Commitment to Success Describe how this team will approach the Process, describe your plan to maintain staffing levels appropriate to the construction activity; describe your document control processes; and examples of recent projects	0 - 20	
Main Office Relevant Experience and Technical Resources Describe how your technical resources are experienced in terms of the scope of work, and quality of service	0 - 20	

provided to customers in the past. Team Qualifications: Résumés of key personnel, relevant project experience.		
Project Understanding and familiarization Describe how this team will approach the process in this kind of project and conditions. References: At least three (3) similar projects completed in the past five (5) years.	0 - 20	
Total Result	0 - 100	

In the event the Committee cannot negotiate a satisfactory contract with the highest rated Firm, negotiations will be terminated with that Firm and will then proceed with the next highest ranked Firm.

This process will continue until satisfactory contractual arrangements with a Firm have been reached.

C. Protest Procedure

A protest must be submitted by an interested Party no later than 10 business days after the allegedly aggrieved person or party is notified of the contract award. All protest must be in writing and shall include 3 copies containing the following:

- The procurement title and/or number under which the protest is made.
- Name and address of the allegedly aggrieved party.
- A detailed description of the specific grounds for the protest and all supporting documentation.
- The specific ruling or relief requested.
- The written protest shall be addressed to:

Abimael Hilerio
Deputy Executive Director
Puerto Rico Ports Authority
PO Box 362829
San Juan, P.R. 00936-2829

A judicial review of the determinations made by PRPA will be governed by the *Uniform Administrative Procedure Act*, Law No. 38 of June 30, 2017, as amended.

D. General Conditions:

1. The PRPA reserves the right to initiate additional procurement action for any of the services described in this RFQ.
2. Communications with PRPA's regarding any matter related to the contents of this RFQ are prohibited during the submission and selection processes. Failure to comply with these communications restrictions will result in rejection of the firm's proposal.
3. A Firm responding to this RFQ understands and agrees that in the event that a Firm is selected the firm must maintain the following insurance coverage policies, which include but are not limited to:
 - a. Certificate of Registro Único de Proveedores ("RUP") From ASG
 - b. Workmen's compensation insurance required for this type of work, covering the period of time of the construction ("Fondo del Seguro del Estado")
 - c. Public Liability Insurance (\$1,000,000) and a hold harmless agreement in favor of the PRPA.
 - i. General Liability
 - ii. Automobile Liability
 - d. Professional Liability Insurance with minimal coverage in the amount of one million dollars (\$1,000,000).
4. Firms understand that issuance of this RFQ does not constitute a commitment by PRPA to award a contract. PRPA reserves the right to accept or reject, in whole or part, and without further explanation, any or all Proposals submitted and/or cancel this solicitation and reissue this RFQ or another version of it, including, but not limited to, if it deems that doing so is in the best interests of the Government of Puerto Rico.
5. A Firm responding to this RFQ understands and agrees that in the event that their Firm is selected, is subject to the law No. 84 of 18 June 2002. It establishes a code of conduct that regulates the ethics conduct of the (as) contractors and suppliers of goods or services with the Executive of the Commonwealth of Puerto Rico and applicant economic incentive agencies.
6. A Firm responding to this RFQ understands and agrees that in the event that their Firm is selected, the firm is subject to EPA's Federal Contract Provisions.
7. The PRPA is not responsible for any costs, or expenses incurred in the preparation of this SOQ.
8. The PRPA reserves the right to make investigations when perceived any conflicts of interest of any firms submitting proposals in response to this RFQ. The mere appearance of a conflict of interest shall constitute sufficient cause for the outright rejection of a SOQ.
9. Responses to this RFQ are public records available for inspection by the public upon issuance of the Authority's Notice of Intended Selection.
10. Any interpretation or correction will be issued as an Addendum by the PRPA. Only a written interpretation or correction by Addendum shall be binding. Firms shall not rely upon any verbal interpretation or correction given by any other method.

ENVIRONMENTAL PROTECTION AGENCY CONTRACT CLAUSES (which applies):

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ENVIRONMENTAL PROTECTION AGENCY CONTRACT CLAUSES

1. BUILD AMERICA, BUY AMERICA REQUIREMENTS (BABA)

Infrastructure Investment and Jobs Act (IIJA) (P.L. 117-58, §§70911-70917)

Applicable to: All contracts that participate of federally funded projects, and EPA funding obligated after May 14, 2022, for EPA funded infrastructure projects.

The Contractor agrees to comply with IIJA (P.L. 117-58, §§70911-70917 (BABA) . The BABA preference requirement applies to the entire infrastructure project, even if it is funded by both Federal and Non-Federal funds. Additional information on BABA compliance is available in EPA's "Build America, Buy America" General Term and Condition.

2. CARGO PREFERENCE REQUIREMENTS

46 U.S.C. 1241 46 CFR Part 381

Applicable to: All contracts involving equipment, materials, or commodities which may be transported by ocean vessels.

Use of United States-Flag Vessels. The Contractor agrees:

- (1) to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels.
- (2) to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington D.C. 20590 and the FTA recipient (through the Contractor in the case of a subcontractor's bill-of-lading.)
- (3) to include these requirements in all subcontracts issued pursuant to the contract when the subcontract may involve the transport of equipment, materials, or commodities by ocean vessel.

3. ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321 et seq.
49 CFR Part 18

Applicable to: All contracts.

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

4. FEDERAL CHANGES

49 CFR Part 18

Applicable to: All contracts.

Contractors shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement (Form FTA MA (14) dated October 2007) between Puerto Rico Ports Authority and FTA, as they may be amended or promulgated from time to time during the term of this contract. The contractor's failure to comply with this shall constitute a material breach of this contract.

5. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicable to: All contracts.

- (1) Puerto Rico Ports Authority and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- (2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

6. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

31 U.S.C. 3801 et seq.
49 CFR Part 31, 18 U.S.C. 1001
49 U.S.C. 5307

Applicable to: All contracts.

- (1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq. and U.S. DOT regulations "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this contract. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- (2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- (3) The Contractor agrees to include the above two clauses in each subcontract financed as a whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

7. TERMINATION

49 U.S.C. Part 18
FTA Circular 4220.1F

Applicable to: All contracts in excess of \$10,000.

- (a) **Termination for Convenience (General Provision):** Puerto Rico Ports Authority may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Puerto Rico Ports Authority' best interest. The

Contractor shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Puerto Rico Ports Authority to be paid by the Contractor. If the Contractor has any property in its possession belonging to Puerto Rico Ports Authority, the Contractor will account for the same and dispose of it in the manner Puerto Rico Ports Authority directs.

- (b) **Termination for Default [Breach or Cause] (General Provision):** If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, Puerto Rico Ports Authority may terminate this contract for default. Termination shall be affected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by Puerto Rico Ports Authority that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, Puerto Rico Ports Authority, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

- (c) **Termination for Default (Construction):** If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, Puerto Rico Ports Authority may terminate this contract for default. Puerto Rico Ports Authority shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Puerto Rico Ports Authority may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to Puerto Rico Ports Authority resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by Puerto Rico Ports Authority in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charge with damages under this clause if.

- the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such

causes include acts of God, acts of Puerto Rico Ports Authority, acts of another Contractor in the performance of a contract with Puerto Rico Ports Authority, epidemics, quarantine restrictions, strikes, freight embargoes; and

- The contractor, within [10] days from the beginning of any delay, notifies Puerto Rico Ports Authority in writing of the causes of the delay. If in the judgment of Puerto Rico Ports Authority, the delay is excusable, the time for completing the work shall be extended. The judgment of Puerto Rico Ports Authority shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Puerto Rico Ports Authority.

- (d) **Opportunity to Cure (General Provision):** Puerto Rico Ports Authority in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such a case, the notice of termination will state the time period in which a cure is permitted and other appropriate conditions.

If Contractor fails to remedy to Puerto Rico Ports Authority' satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from Puerto Rico Ports Authority setting forth the nature of said breach or default, Puerto Rico Ports Authority shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Puerto Rico Ports Authority from also pursuing all available remedies against Contractor and its sureties for said breach or default.

- (e) **Waiver of Remedies for any Breach:** In the event that Puerto Rico Ports Authority elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by Puerto Rico Ports Authority shall not limit Puerto Rico Ports Authority' remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

8. CIVIL RIGHTS REQUIREMENTS

29 U.S.C. § 623, 42 U.S.C. § 2000
42 U.S.C. § 6102, 42 U.S.C. § 12112
42 U.S.C. § 12132, 49 U.S.C. § 5332
29 CFR Part 1630, 41 CFR Parts 60 et seq.

Applicable to: All contracts.

(1) Nondiscrimination

In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the American with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity

(a) Race, Color, Creed, National Origin, Sex

In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (US DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246 "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age

In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities

In accordance with section 102 of the Americans with Disabilities Act, as 42 U.S.C. § 12112, the contractor agrees that it will comply with the

requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act" 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

9. DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS

40 CFR Part 33 and 49 CFR Part 26

Applicable to: All contracts.

- (1) The Federal Fiscal Year Goal Has Been Set by Puerto Rico Ports Authority in an attempt to match projected procurements with available qualified disadvantaged businesses. Puerto Rico Ports Authority' goals for budgeted service contracts, bus parts, and other material and supplies for Disadvantaged Business Enterprises have been established by Puerto Rico Ports Authority as set forth by the Department of Transportation Regulations 49 CFR Part 26 and is considered pertinent to any contract resulting from this request for quotation/proposal.

If a specific DBE goal is assigned to this contract, it will be clearly stated in the bid documents, and if the contractor is found to have failed to exert sufficient, reasonable, and good faith efforts to involve DBEs in the work provided, Puerto Rico Ports Authority may declare the Contractor noncompliant and in breach of contract. If a goal is not stated in the bidding documents, it will be understood that no specific goal is assigned to this contract.

(a) Policy:

It is the policy of the of the Environmental Protection Agency and Puerto Rico Ports Authority that Disadvantaged Business Enterprises (DBE), as defined in 40 CFR Part 33, have an equal opportunity to receive and participate in the performance of Contracts financed in whole or in part with federal funds under this Agreement. Consequently, the DBE requirements of 40 CFR Part 33 and 49 CFR Part 26 apply to this Contract. It is also the policy of Puerto Rico Ports Authority to:

- To ensure nondiscrimination in the award of contracts under EPA financial assistance agreements. To that end, implementation of this rule with respect to grantees, sub-grantees, loan recipients, prime contractors, or subcontractors in particular States or locales, notably those where there is no apparent history of relevant discrimination—must comply with equal protection standards at that

level, apart from the EPA DBE Rule's constitutional compliance as a national matter;

- To harmonize EPA's DBE Program objectives with the U.S. Supreme Court's decision in *Adarand Constructors, Inc. v. Peña*, 515 U.S. 200 (1995); To help remove barriers to the participation of DBEs in the award of contracts under EPA financial assistance agreements; and To ensure that only firms that fully meet 49 CFR Part 26 and 40 CFR Part 33 eligibility standards are permitted to participate as DBEs; and
- To provide appropriate flexibility to recipients of EPA financial assistance in establishing and providing contracting opportunities for DBEs.

The Contractor agrees to ensure that DBEs as defined in 40 CFR Part 33 and 49 CFR Part 26, have the maximum opportunity to participate in whole or in part with federal funds provided under this Agreement. In this regard, the Contractor shall take all necessary and reasonable steps in accordance with the regulations to ensure that DBEs have the maximum opportunity to compete for and perform subcontracts. The Contractor shall not discriminate on the basis of race, color, national origin, religion, sex, age or physical handicap in the award and performance of subcontracts.

If is further the policy of Puerto Rico Ports Authority to promote the development and increase the participation of businesses owned and controlled by disadvantaged. DBE involvement in all phases of Puerto Rico Ports Authority procurement activities is encouraged.

(b) DBE obligation:

The Contractor and its subcontractors agree to ensure that DBEs have the maximum opportunity to participate in the performance of contracts and subcontracts financed as a whole or in part with federal funds provided under the Agreement. In that regard, all Contractors and subcontractors shall take all necessary and reasonable steps in accordance with 40 CFR Part 33 and 49 CFR Part 26 to ensure that DBEs have the maximum opportunity to compete for and perform contracts.

- (c) Where the Contractor is found to have failed to exert sufficient reasonable and good faith efforts to involve DBEs in the work provided, Puerto Rico Ports Authority may declare the contractor noncompliant and in breach of contract. Guidance concerning good faith efforts may be found in the bid documents and are also listed in Puerto Rico Ports Authority' Disadvantaged Business Enterprise Program document.
- (d) The Contractor will keep records and documents for a reasonable time following performance of this contract to indicate compliance with Puerto Rico Ports Authority' DBE program. These records and documents will be made available at reasonable times and places for inspection by any authorized representative of the

Puerto Rico Ports Authority and will be submitted to Puerto Rico Ports Authority upon request.

(e) Puerto Rico Ports Authority will provide affirmative assistance, as may be reasonable and necessary to assist the prime contractor in implementing their programs for DBE participation. The assistance may include the following upon request:

- Identification of qualified DBEs,
- Available listing of Minority Assistance Agencies,
- Holding bid conferences to emphasize requirements.

(2) Prime Contractors are encouraged to use the services of DBE banks.

(3) DBE Program Definitions:

a) Disadvantaged business enterprises or DBE means a for-profit small business concern:

- i. That is at least 51 percent owned by one or individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or such individuals; and
- ii. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

b) Small business concern means, with respect to firms seeking to participate as DBEs in federal funds assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (12 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b).

c) Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is.

(1) Any individual who is a recipient finds himself to be a socially and economically disadvantaged individual on a case-by-case basis.

(2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

- i. "Black Americans", which includes persons having origins in any of the Black racial groups of Africa.
- ii. "Hispanic Americans", which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or

- Portuguese culture or origin, regardless of race.
- iii. "Native Americans", which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians.
- iv. "Asian-Pacific American", which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of Pacific Islands (Republic of Palua), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
- v. "Subcontinent Asian Americans", which includes persons whose origins are from India, Pakistan, and Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- vi. Women.
- vii. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such times as the SBA designation becomes effective.

1. BUY AMERICA REQUIREMENTS

49 U.S.C. 5323(j) 49 CFR Part 661

Applicable to: *Construction contracts and acquisition of goods or rolling stock (valued at more than \$100,000).*

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7 and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a 60 percent domestic content.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification with all bids on FTA-funded contracts, except those subjects to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as non-responsive. This requirement does not apply to lower tier subcontractors.

The certificate titled *Buy America Certification* must be completed and returned with your bid. This certificate is located behind the bid form.

2. SEISMIC SAFETY REQUIREMENTS
42 U.S.C. 7701 et seq. 49 CFR Part 41

Applicable to: Only to construction of new buildings or additions to existing buildings.

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

12. CLEAN WATER REQUIREMENTS
33 U.S.C. 1251

Applicable to: All contracts and subcontracts which exceed \$100,000.

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

13. LOBBYING
31 U.S.C. 1352
49 CFR Part 19
49 CFR Part 20

Applicable to: Contracts for construction, architectural and engineering, acquisition of rolling stock, professional service contract, operational service contract, and turnkey contracts which exceed \$100,000.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification

required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

The certificate titled *Certification Regarding Lobbying* must be completed and returned with your bid. This certificate is located behind the bid form.

14. ACCESS TO RECORDS AND REPORTS

49 U.S.C. 5325

18 CFR 18.36 (i)

49 CFR 633.17

Applicable to: Contracts as described below.

- (1) Where the Purchaser is not a State but a local government and is the EPA Recipient or a subgrantee of the EPA Recipient in accordance with C. F. R. Part 33.107, the Contractor agrees to provide the Purchaser, the EPA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
- (2) Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
- (3) Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. (If applicable).
- (4) Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller

General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection. (If applicable).

- (5) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (6) The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
- (7) FTA does not require the inclusion of these requirements in subcontracts.

15. CLEAN AIR

42 U.S.C. 7401 et seq

40 CFR 15.61

49 CFR Part 18

Applicable to: All contracts exceeding \$100,000.

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

16. RECYCLED PRODUCTS

42 U.S.C. 6962

40 CFR Part 247 Executive Order 12873

Applicable to: Recycled Products requirements apply to all contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the fiscal year or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds. These regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases \$10,000 or more of one of these items in a fiscal year, or when the

cost of such items purchased during the previous fiscal year was \$10,000.

The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

17. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

Applicable to: Construction contracts over \$2000 for Davis-Bacon Act.

Applicable to: Construction contracts over \$100,000 for Copeland Anti-Kickback Act.

Background and Application

The Davis-Bacon and Copeland Acts are codified at 40 USC 3141, *et seq.* and 18 USC 874. The Acts apply to grantee construction contracts and subcontracts that “at least partly are financed by a loan or grant from the Federal Government.” 40 USC 3145(a), 29 CFR 5.2(h), 49 CFR 18.36(i)(5). The Acts apply to any construction contract over \$2,000. 40 USC 3142(a), 29 CFR 5.5(a). ‘Construction,’ for purposes of the Acts, includes “actual construction, alteration and/or repair, including painting and decorating.” 29 CFR 5.5(a). The requirements of both Acts are incorporated into a single clause (see 29 CFR 3.11) enumerated at 29 CFR 5.5(a) and reproduced below.

The clause language is drawn directly from 29 CFR 5.5(a) and any deviation from the model clause below should be coordinated with counsel to ensure the Acts’ requirements are satisfied.

(1) Minimum wages:

- (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or

costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

- (ii) (A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination, and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - (1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (2) The classification is utilized in the area by the construction industry; and
 - (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
 - (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt

and so advise the contracting officer or notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so will advise the contracting officer or notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

- (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account asset for the meeting of obligations under the plan or program.
- (v) (A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination, and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:
 - (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (2) The classification is utilized in the area by the construction industry; and

- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) Withholding:

Puerto Rico Ports Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, Puerto Rico Ports Authority may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary

to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records:

- (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
- (ii) (A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to Puerto Rico Ports Authority for transmission to the Federal Transit Administration as requested. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete.
- (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

- (iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after writing notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees:

- (i) Apprentices -Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of

Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (ii) Trainees -Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved

by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will not be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

- (iii) Equal employment opportunity -The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements:

The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts:

The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment:

A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements:

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards:

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between

the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility:

- (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

18. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Background and Application

The Contract Work Hours and Safety Standards Act is codified at 40 USC 3701, *et seq.* The Act applies to grantee contracts and subcontracts “financed at least in part by loans or grants from ... the [Federal] Government.” 40 USC 3701(b)(1)(B)(iii) and (b)(2), 29 CFR 5.2(h), 49 CFR 18.36(i)(6). Although the original Act required its application in any construction contract over \$2,000 or non-construction contract to which the Act applied over \$2,500 (and language to that effect is still found in 49 CFR 18.36(i)(6)), the Act no longer applies to any “contract in an amount that is not greater than \$100,000.” 40 USC 3701(b)(3) (A)(iii).

The Act applies to construction contracts and, in very limited circumstances, non-construction projects that employ “laborers or mechanics on a public work.” These non-construction applications do not generally apply to transit procurements because transit procurements (to include rail cars and buses) are deemed “commercial items.” 40 USC 3707, 41 USC 403 (12). A grantee that contemplates entering into a contract to procure a developmental or unique item should consult counsel to determine if the Act applies to that procurement and that additional language required by 29 CFR 5.5(c) must be added to the basic clause below.

The clause language is drawn directly from 29 CFR 5.5(b) and any deviation from the model clause below should be coordinated with counsel to ensure the Act’s requirements are satisfied.

- (1) Overtime requirements** -No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or

mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

- (2) **Violation; liability for unpaid wages; liquidated damages** -In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$ 10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) **Withholding for unpaid wages and liquidated damages** -Puerto Rico Ports Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) **Subcontracts** -The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance with any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

19. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

49 CFR Part 29 Executive Order 12549

Applicable to: All contracts and subcontracts which exceed \$25,000.00

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by Puerto Rico Ports Authority. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Puerto Rico Ports Authority, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower-tier-covered transactions.

Contractors and subcontractors are also subject to a continuing duty of disclosure contractors and subcontractors must provide immediate written notice to Puerto Rico Ports Authority if it learns that a person involved in a covered transaction has been excluded. Puerto Rico Ports Authority must then provide written notice to the Federal Transit Administration.

20. BREACHES AND DISPUTE RESOLUTION

49 CFR Part 18 FTA Circular 4220, 1 F

Applicable to: All contracts in excess of \$100,000.

See Puerto Rico Ports Authority' General Conditions which are made a part of this contract.

21. RIGHT OF PROTEST

FTA Circular 4220.1F

Applicable to: All contracts

If a Contractor has a grievance with a solicitation or award, they may protest to the Executive Director within 14 days of award. The written protest shall include the name of the protestor, solicitation/contract number or description, and a statement of the grounds for protest. Protests should be filed with the Executive Director at the following address:

Norberto Negrón Diaz.
Executive Director

Puerto Rico Ports Authority

PO Box 362829
San Juan, P.R. 00936-2829

The Executive Director will investigate the complaint and decide whether the complaint is justified and if so, what corrective action should be taken. All decisions by the Executive Director are final.

The Federal Transit Administration will only entertain a protest that alleges Puerto Rico Ports Authority failed to follow the stated protest procedures. Such protests to FTA must be filed in accordance with FTA Circular 4220.1F.

22. BONDING REQUIREMENTS

For Bonding requirements, refer to Puerto Rico Ports Authority' bonding requirements for bid guaranty and performance bond, including the required performance bond form, found in the contract bid documents.

23. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS FTA Circular 4220.1F

Applicable to: All contracts.

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Puerto Rico Ports Authority requests which would cause Puerto Rico Ports Authority to be in violation of the FTA terms and conditions.

24. COMPLIANCE WITH FEDERALLY REQUIRED CLAUSES AND REQUIREMENTS

The contractor (proposer) is responsible for ensuring its compliance with all applicable Federal Transit Administration (FTA) requirements. Additionally, Contractor is responsible for ensuring that subcontractors, at as many tiers of the Project as required, perform in accordance with the terms, conditions and specifications of the contract, including all applicable FTA requirements.

Upon request of Puerto Rico Ports Authority or FTA, Contractor shall provide evidence

of the steps it has taken to ensure its compliance with the FTA requirements, as well as evidence of the steps it has taken to ensure subcontractor performance, and/or submit evidence of subcontractor's compliance, at all tiers.

25. AMERICANS WITH DISABILITIES ACT (ADA)

Americans with Disabilities Act (ADA). The Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC § 12101 et seq.; section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; 49 USC § 5301(d); and any implementing requirements FTA may issue. These regulations provide that no handicapped individual, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity included in or resulting from this Agreement.

26. PROMPT PAYMENT AND RETURN OF RETAINAGE

Applicable to: All contracts.

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 15 calendar days from the receipt of each payment the prime contractor receives from the Puerto Rico Ports Authority. The prime contractor agrees further to return retainage payments (if any) to each subcontractor within 30 calendar days after the subcontractor(s)' work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of Puerto Rico Ports Authority. This clause applies to both DBE and non-DBE subcontractors.

It is the responsibility of the subcontractors to notify Puerto Rico Ports Authority' DBE Liaison Officer (Luis Raul Torres (787) 729-8715 ext. 2269) of prime contractor noncompliance with the above prompt payment provisions. Upon receipt of such notification, the Puerto Rico Ports Authority will investigate and take appropriate action.

3. Forms Provided by the Authority as Appendix to this RFQ.

1. Certification Regarding Debarment, Suspension and Other Responsibility Matters – Primary Covered Transactions
2. Certification Regarding Lobbying for Contracts, Grants, Loans, and Cooperative Agreements

EXHIBIT I

EPA GENERAL TERMRS AND CONDITIONS

Environmental Protection Agency

General Terms and Conditions

Effective October 1, 2024

Revision History:

The Environmental Protection Agency's General Terms and Conditions **are published and become effective October 1st at the start of the federal fiscal year.** Any additions, revisions, or changes to the terms and conditions after October 1 will be summarized below.

T&C Number	Effective Date	Description of Changes
#54	4/03/2025	Added new T&C on Federal anti-discrimination laws.
#3	4/03/2025	Added a new termination provision if the award no longer effectuates the program goals or agency priorities.
#27	4/03/2025	Updated pursuant to a class exception to subparts of 40 CFR Part 33 issued on March 17, 2025.
#8, 42, 47	4/03/2025	Revised in accordance with administration priorities.
#41	4/26/2025	Added a new T&C on the procurement of synthetic nucleic acids and benchtop nucleic acid synthesis equipment.
#15	3/12/2025	The Federal Subaward Reporting System (FSRS) was decommissioned and replaced fully by the System for Award Management (SAM.gov), all references to FSRS have been replaced with SAM.gov to reflect this change.
#18	11/26/2024	Added language on the de minimis rate for grants amended to incorporate the October 2024 Revisions to 2 CFR Part 200.

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Preface

1. Introduction

- (a) These terms and conditions are in addition to the assurances and certifications made as part of the award and terms, conditions, and restrictions reflected on the official assistance award document. Recipients **must** review their official award document for additional administrative and programmatic requirements. Failure to comply with the general terms and conditions outlined below and those directly reflected on the official assistance award document may result in enforcement actions as outlined in [2 CFR 200.339](#) and [2 CFR 200.340](#).
- (b) If the EPA General Terms and Conditions have been revised, EPA will update the terms and conditions when it provides additional funding (incremental or supplemental) prior to the end of the period of performance of this agreement. The recipient must comply with the revised terms and conditions after the effective date of the EPA action that leads to the revision. Revised terms and conditions do not apply to the recipient's expenditures of EPA funds or activities the recipient carries out prior to the effective date of the EPA action. EPA will inform the recipient of revised terms and conditions in the action adding additional funds.

2. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

This award is subject to the requirements of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards; Title [2 CFR Part 200](#) and [2 CFR Part 1500](#). 2 CFR 1500.2, Adoption of 2 CFR Part 200, states the EPA adopts the Office of Management and Budget (OMB) guidance Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to Non-Federal Entities (subparts A through F of 2 CFR Part 200), as supplemented by 2 CFR Part 1500, as the EPA policies and procedures for financial assistance administration. 2 CFR Part 1500 satisfies the requirements of [2 CFR 200.110\(a\)](#) and gives regulatory effect to the OMB guidance as supplemented by 2 CFR Part 1500. This award is also subject to applicable requirements contained in EPA programmatic regulations located in 40 CFR Chapter 1 Subchapter B.

3. Termination (Updated 4/03/2025)

Consistent with [2 CFR 200.340](#), EPA may terminate this award in part or its entirety:

- (a) If a recipient or subrecipient fails to comply with the terms and conditions of the award, including statutory or regulatory requirements;
- (b) With the consent of the recipient when both the recipient and the EPA agree upon the termination conditions, which include the effective date and, in the case of partial termination, the portion to be terminated;
- (c) If a recipient sends the EPA a written notification of the reasons for such termination, the effective date, and in the case of partial termination, the portion to be terminated; however, if the EPA determines that the remaining portion of the Federal award will not accomplish the

purposes for which the Federal award was made, the EPA may terminate the award in its entirety; or

- (d) Pursuant to the programmatic terms and conditions specified in the Federal award.
- (e) By the EPA or pass-through entity to the extent authorized by law, if an award no longer effectuates the program goals or agency priorities. **This provision applies to all new awards and funding amendments (incremental and supplemental) made on or after April 3, 2025.**

Financial Information

4. Reimbursement Limitation

EPA's financial obligations to the recipient are limited by the amount of federal funding awarded to date as reflected on the award document. If the recipient incurs costs in anticipation of receiving additional funds from EPA, it does so at its own risk. See [2 CFR 1500.9](#).

5. Automated Standard Application Payments (ASAP) and Proper Payment Draw Down

Electronic Payments. Recipients must be enrolled or enroll in the Automated Standard Application for Payments (ASAP) system to receive payments under EPA financial assistance agreements unless:

- EPA grants a recipient-specific exception;
- The assistance program has received a waiver from this requirement;
- The recipient is exempt from this requirement under [31 CFR 208.4](#); or,
- The recipient is a fellowship recipient pursuant to [40 CFR Part 46](#).

EPA will not make payments to recipients until the ASAP enrollment is completed or if recipients fall under one of the above categories. EPA's Research Triangle Park Finance Center (RTPFC) will initiate the ASAP enrollment based on the key contact information on the grant application. The "payee" on the key contacts form will receive an email from ASAP indicating the steps required for completing the enrollment. Recipients may request exceptions using the procedures below.

Under this payment mechanism, the recipient initiates an electronic payment request online via ASAP, which is approved or rejected based on the amount of available funds authorized by EPA in the recipient's ASAP account. Approved payments are credited to the account at the financial institution of the recipient organization set up by the recipient during the ASAP enrollment process.

Additional information concerning ASAP and enrollment can be obtained by contacting the EPA RTPFC, at rtpfc-grants@epa.gov, or by visiting: <https://www.fiscal.treasury.gov/asap/>.

EPA will grant exceptions to the ASAP enrollment requirement only in situations in which the recipient demonstrates to EPA that receiving payment via ASAP places an undue administrative or financial management burden on the recipient or EPA determines that granting the waiver is in the public interest. Recipients may request an exception to the requirement by following the procedures specified in [RAIN-2018-G06-R](#).

Proper Payment Drawdown (for recipients other than states)

- (a) As required by [2 CFR 200.305\(b\)](#), the recipient must draw funds from ASAP only for the minimum amounts needed for actual and immediate cash requirements to pay employees, contractors, subrecipients or to satisfy other obligations for allowable costs under this assistance agreement. The timing and amounts of the drawdowns must be as close as administratively feasible to actual disbursements of EPA funds. Disbursement within 5 business days of drawdown will comply with this requirement and the recipient agrees to meet this standard when performing this award.
- (b) Recipients may not retain more than 5% of the amount drawn down, or \$1,000 whichever is less, 5 business days after drawdown to materially comply with the standard. Any EPA funds subject to this paragraph that remain undisbursed after 5 business days must be fully disbursed within 15 business days of draw down or be returned to EPA.
- (c) If the recipient draws down EPA funds in excess of that allowed by paragraph b., the recipient must contact rtpfc-grants@epa.gov for instructions on whether to return the funds to EPA. The recipient must comply with the requirements at [2 CFR 200.305\(b\)\(11\)](#) regarding depositing advances of Federal funds in interest bearing accounts.
- (d) Returning Funds: [Pay.gov](#) is the preferred mechanism to return funds. It is free, secure, paperless, expedient, and does not require the recipient//vendor to create an account. Contact RTPFC-Grants at rtpfc-grants@epa.gov to obtain complete instructions. Additional information is available at the [Pay.gov website](#). Information on how to repay EPA via check is available at <https://www.epa.gov/financial/makepayment>. Instructions on how to return funds to EPA electronically via ASAP are available at <https://www.fiscal.treasury.gov/asap/>.
- (e) Failure on the part of the recipient to materially comply with this condition may, in addition to EPA recovery of the un-disbursed portions of the drawn down funds, lead to changing the payment method from advance payment to a reimbursable basis. EPA may also take other remedies for noncompliance under [2 CFR 200.208](#) and/or [2 CFR 200.339](#).
- (f) If the recipient believes that there are extraordinary circumstances that prevent it from complying with the 5-business day disbursement requirement throughout the performance period of this agreement, recipients may request an exception to the requirement by following the procedures specified in [RAIN-2018-G06-R](#). EPA will grant exceptions to the 5-business day disbursement requirement only if the recipient demonstrates that compliance places an undue administrative or financial management burden or EPA determines that granting the exception is in the public interest. EPA will grant exceptions to the 5-business day disbursement requirement only if the recipient demonstrates that compliance places an undue administrative or financial management burden or EPA determines that granting the exception is in the public interest.

Proper Payment Drawdown for State Recipients

In accordance with [2 CFR 200.305\(a\)](#), payments are governed by Treasury-State Cash Management Improvement Act (CMIA) agreements and default procedures codified [at 31 CFR Part 205, Subparts A and B](#) and [Treasury Financial Manual \(TFM\) 4A-2000, "Overall Disbursing Rules for All Federal Agencies"](#) unless a program specific regulation (e.g. 40 CFR 35.3160 or 40 CFR 35.3560) provides

otherwise. Pursuant to 31 CFR Part 205, [Subpart A—Rules Applicable to Federal Assistance Programs Included in a Treasury-State Agreement](#), States follow their Treasury-State CMIA Agreement for major Federal programs listed in the agreement. For those programs not listed as major in the Treasury-State agreement, the State follows the default procedures in 31 CFR Part 205, [Subpart B—Rules Applicable to Federal Assistance Programs Not Included in a Treasury-State Agreement](#), which directs State recipients to draw-down and disburse Federal financial assistance funds in anticipation of immediate cash needs of the State for work under the award. States must comply with [2 CFR 200.302\(a\)](#) in reconciling costs incurred and charged to EPA financial assistance agreements at time of close out unless a program specific regulation provides otherwise.

Selected Items of Cost

6. Prohibition on Certain Telecommunications and Video Surveillance Service Equipment or Services

Prohibition on covered telecommunications and video surveillance services or equipment is effective on all obligations and expenditures of EPA financial assistance funding as of August 13, 2020, including awards made before that date.

As required by [2 CFR 200.216](#), EPA recipients and subrecipients, including borrowers under EPA-funded revolving loan fund programs, are prohibited from obligating or expending Federal loan or grant funds to procure or obtain covered telecommunications equipment or services; extend or renew a contract to procure or obtain covered telecommunications equipment or services; or enter into a contract (or extend or renew a contract) to procure or obtain covered telecommunications equipment or services. As described in section 889 of [Public Law 115-232](#), “covered telecommunications equipment or services” means any of the following:

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

Pursuant to [2 CFR 200.216\(c\)](#), “covered telecommunications equipment or services” also include systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. Consistent with [2 CFR](#)

[200.471](#), costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, and cloud servers are allowable except for the following circumstances:

- (a) Obligating or expending EPA funds for covered telecommunications and video surveillance services or equipment or services as described in [2 CFR 200.216](#) to:
 - (1) Procure or obtain, extend or renew a contract to procure or obtain;
 - (2) Enter into a contract (or extend or renew a contract) to procure; or
 - (3) Obtain the equipment, services, or systems.

Certain prohibited equipment, systems, or services, including equipment, systems, or services produced or provided by entities identified in section 889 of [Public Law 115-232](#), are recorded in the [System for Award Management](#) exclusion list.

7. Consultant Cap

EPA participation in the salary rate (excluding overhead) paid to individual consultants retained by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule, available at: <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>, to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. This rate does not include transportation and subsistence costs for travel performed (the recipient will pay these in accordance with their normal travel reimbursement practices).

Information on how to calculate the maximum daily rate and the daily pay limitation is available at the Office Of Personnel Management's [Fact Sheet: How to Compute Rates of Pay](#) and [Fact Sheet: Expert and Consultant Pay](#). Specifically, to determine the maximum daily rate, follow these steps:

- (1) Divide the Level IV salary by 2087 to determine the hourly rate. Rates must be rounded to the nearest cent, counting one-half cent and over as the next higher cent (e.g., round \$18.845 to \$18.85).
- (2) Multiply the hourly rate by 8 hours. The product is the maximum daily rate.

Contracts and subcontracts with firms for services that are awarded using the procurement requirements in Subpart D of 2 CFR Part 200 are not affected by this limitation unless the terms of the contract provide the recipient with responsibility for the selection, direction and control of the individuals who will be providing services under the contract at an hourly or daily rate of compensation. See [2 CFR 1500.10](#).

8. Establishing and Managing Subawards (Updated 4/03/2025)

If the recipient chooses to pass funds from this assistance agreement to other entities, the recipient must comply with applicable subaward provisions of 2 CFR Part 200 and the [EPA Subaward Policy](#).

As a pass-through entity, the recipient agrees to:

1. Select subrecipients and conduct subaward competitions, as appropriate, using a system that properly differentiates between subrecipients and procurement contractors consistent with the differentiating characteristics explained in 2 CFR [200.331](#) and EPA's supplemental guidance in [Appendix A of the EPA Subaward Policy](#).
2. Verify that the potential subrecipient is not excluded or disqualified in accordance with the verification methods provided in [2 CFR 180.300](#), such as confirming in SAM.gov that a potential subrecipient is not suspended, debarred, or otherwise excluded from receiving Federal funds.
3. Establish and follow a system that ensures all subaward agreements are in writing and contain all of the elements required by [2 CFR 200.332\(b\)](#). EPA has developed a template for subaward agreements that is available in [Appendix D of the EPA Subaward Policy](#).
4. Prior to making subawards, ensure that each subrecipient has a "Unique Entity Identifier" (UEI). The UEI is required by [2 CFR Part 25](#) and [2 CFR 200.332\(b\)](#). Subrecipients are not required to complete full [System for Award Management \(SAM.gov\)](#) registration to obtain a UEI. Information regarding obtaining a UEI is available at the System for Award Management (SAM.gov) Internet site: <http://www.sam.gov/SAM/> and in the General Condition of the pass-through entity's agreement with EPA entitled "**System for Award Management and Universal Identifier Requirements**" T&C of the pass-through entity's agreement with the EPA.
5. Ensure that subrecipients are aware of the requirements that apply to the subaward, including those that flow down from the recipient, as required by [2 CFR 200.332\(b\)](#) and monitor the activities of the subrecipient to ensure compliance with these requirements per [2 CFR 200.332\(e\)](#). These requirements include, among others:
 - a. Title VI of the Civil Rights Act and other Federal statutes and regulations prohibiting discrimination in Federal financial assistance programs, as applicable, including provisions protecting free speech, religious liberty, public welfare, and the environment per [2 CFR 200.300\(a\)](#), as well as regulations, including [2 CFR 200.300\(b\)](#) prohibiting discrimination based on sex.
 - b. Reporting Subawards and Executive Compensation under Federal Funding Accountability and Transparency Act (FFATA) set forth in the General Condition pass-through entity's agreement with EPA entitled "**Reporting Subawards and Executive Compensation.**"
 - c. Limitations on individual consultant fees as set forth in [2 CFR 1500.10](#) and the General Condition of the pass-through entity's agreement with EPA entitled "**Consultant Fee Cap.**"
 - d. EPA's prohibition on paying management fees as set forth in General Condition of the pass-through entity's agreement with EPA entitled "**Management Fees.**"
 - e. The Procurement Standards in [2 CFR Part 200](#) including those requiring competition when the subrecipient acquires goods and services from

- contractors (including consultants) and Domestic preferences for procurements at [2 CFR 200.322](#).
- f. Other statutes, regulations and Executive Orders that may apply to subawards are described at [Information on Requirements that Pass-Through Entities must “Flow Down” to Subrecipients](#). Many Federal requirements are agreement- or program-specific, and EPA encourages pass-through entities to review the terms of their assistance agreement carefully and consult with their EPA Project Officer for advice if necessary.
6. Establish and follow a system for evaluating subrecipient fraud risk and risk of noncompliance with a subaward to determine the appropriate monitoring described at [2 CFR 200.332\(c\)](#) and consider whether, based on the evaluation of risk, additional monitoring tools may be useful as described in [2 CFR 200.332\(f\)](#). When evaluating a subrecipient’s risk, a pass-through entity should consider:
- a. The subrecipient’s prior experience with same or similar subawards;
 - b. Results of previous audits, including considering whether the subrecipient receives a Single Audit, in accordance with [2 CFR Part 200, Subpart F](#) and the extent to which the same or similar subawards have been audited as a major program;
 - c. Whether the subrecipient has new personnel or new or substantially change systems, and
 - d. The extent and results of any Federal agency monitoring (for example, if the subrecipient also receives Federal awards directly from the Federal agency).
7. Establish and follow a process for deciding whether to implement specific conditions in subawards based on risk factors, as described in [2 CFR 200.208](#), and notify EPA of the specific conditions as required by [2 CFR 200.332\(d\)](#). Examples of specific conditions, per [2 CFR 200.208](#), may include:
- a. Requiring payments as reimbursements rather than advance payments;
 - b. Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance;
 - c. Requiring additional or more detailed financial reports;
 - d. Requiring additional or project monitoring;
 - e. Requiring the recipient or subrecipient to obtain technical or management assistance; or
 - f. Establishing additional prior approvals.
8. Establish and follow a system for monitoring subrecipient performance that includes the elements required at [2 CFR 200.332\(e\)](#), such as reviewing financial and performance reports, and report the results of the monitoring in performance reports as provided in the reporting terms and conditions of this agreement.
9. Ensure that a subrecipient provides a plan for and takes corrective action on all significant developments that negatively affect the subaward. Per [2 CFR 200.332\(e\)\(2\)](#), significant developments include Single Audit findings related to the subaward, other audit findings, site visits, and written notifications from a subrecipient of adverse conditions that will impact their ability to meet the

milestones or objectives of the subaward.

10. Establish and maintain an accounting system which ensures compliance with the \$50,000 limitation at [2 CFR 200.1](#), *Modified Total Direct Costs*, if applicable, on including subaward costs in *Modified Total Direct Costs* for the purposes of distributing indirect costs. Recipients with Federally approved indirect cost rates that use a different basis for distributing indirect costs to subawards must comply with their Indirect Cost Rate Agreement.
11. Work with EPA's Project Officer to obtain the written consent of EPA's Office of International and Tribal Affairs (OITA) prior to awarding a subaward to a foreign or international organization or a subaward to be performed in a foreign country, even if that subaward is described in a proposed scope of work.
12. Obtain prior written approval from the EPA's Award Official for any subawards or subaward activities that are not described in the approved work plan in accordance with [2 CFR 200.308](#). As provided in 2 CFR [200.308\(f\)\(6\)](#), recipients must obtain prior approval to change a named subrecipient from the EPA Award Official if the pass-through entity described the original subrecipient's qualifications and/or performance history in the competitive application. Recipients must contact their Project Officer to begin the prior approval process.
13. Obtain prior written approval from the EPA's Award Official before awarding a subaward to an individual if the EPA-approved scope of work does not include a description of subawards to individuals.
14. Establish and follow written procedures under [2 CFR 200.302\(b\)\(7\)](#) for determining that subaward costs are allowable in accordance with [2 CFR Part 200, Subpart E](#) and the terms and conditions of this award. These procedures may provide for allowability determinations on a pre-award basis, through ongoing monitoring of costs that subrecipients incur, or a combination of both approaches provided the pass-through entity documents its determinations.
15. Verify that the subrecipient is audited, as applicable, per [2 CFR part 200, Subpart F](#), and establish and maintain a system under [2 CFR 200.332\(g\)](#) and [2 CFR 200.521](#) for issuing management decisions for audits of subrecipients that relate to the Federal award from the recipient. The recipient remains accountable to EPA for ensuring that unallowable subaward costs initially paid by EPA are either reimbursed or offset with allowable costs, regardless of whether the recipient recovers those costs from the subrecipient.
16. As provided in [2 CFR 200.333](#), pass-through entities must obtain EPA approval to make fixed amount subawards. Recipients should consult with their EPA Project Officer regarding how to obtain EPA approval.

By accepting this award, the recipient is certifying that it either has systems in place to comply

with the requirements described in Items 1 through 16 above or will refrain from making subawards until the systems are designed and implemented.

Subawards to Federal Agencies – Clarity on Applicable EPA Terms and Conditions: If the subrecipient is a Federal agency, the only provisions of the EPA General Terms and Conditions implementing 2 CFR Part 200 on subawards that apply are: (1) the requirement for the Federal agency to obtain a Unique Entity Identifier (UEI) in accordance with 2 CFR Part 25 as described in Item 4 above and (2) the requirement for the recipient to report on first-tier subawards as described in EPA General Term and Condition 15.1, “Reporting of first tier subawards.”

As provided within [2 CFR 200.101\(a\)\(2\)](#), all other provisions of 2 CFR Part 200, Subparts A through E, do not apply to subawards with federal agencies. Transactions between the recipient and the Federal agency subrecipient will be governed by the Federal agency subrecipient’s cost reimbursement agreement with the recipient.

9. Management Fees

Management Fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses; unforeseen liabilities; or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

10. Federal Employee Costs

The recipient understands that none of the funds for this project (including funds contributed by the recipient as cost sharing) may be used to pay for the travel of Federal employees or for other costs associated with Federal participation in this project unless a Federal agency will be providing services to the recipient as authorized by a Federal statute.

11. Foreign Travel

EPA policy requires that all foreign travel must be approved by its Office of International and Tribal Affairs. The recipient agrees to obtain prior EPA approval before using funds available under this agreement for international travel unless the trip(s) are already described in the EPA approved budget for this agreement. Foreign travel includes trips to Mexico and Canada but does not include trips to Puerto Rico, the U.S. Territories or possessions. Recipients that request post-award approval to travel frequently to Mexico and Canada by motor vehicle (e.g., for sampling or meetings) may describe their proposed travel in general terms in their request for EPA approval. Requests for prior approval must be submitted to the Project Officer for this agreement.

12. The Fly America Act and Foreign Travel

The recipient understands that all foreign travel **funded under this assistance agreement** must comply with the Fly America Act. All travel must be on U.S. air carriers certified under 49 U.S.C. Section 40118, to the extent that service by such carriers is available even if foreign air carrier costs are less than the American air carrier.

13. Union Organizing

Grant funds may not be used to support or oppose union organizing, whether directly or as an offset for other funds.

Reporting and Additional Post-Award Requirements

14. System for Award Management and Universal Identifier Requirements

- 14.1 Requirement for System for Award Management (SAM)** Unless exempted from this requirement under [2 CFR 25.110](#), the recipient must maintain current and active registrationSAM.gov. The recipient's registration must always be current and active until it submits all final reports required under this Federal award or receive the final payment, whichever is later. The recipient must review and update its information in SAM.gov at least annually from the date of its initial registration or any subsequent updates to ensure it is current, accurate, and complete. If applicable, this includes identifying the recipient's immediate and highest-level owner and subsidiaries and providing information about the recipient's predecessors that have received a Federal award or contract within the last three years.
- 14.2 Requirement for Unique Entity Identifier (UEI).** If the recipient is authorized to make subawards under this award, the recipient:
- a. Must notify potential subrecipients that no entity may receive a subaward unless the entity has provided its UEI to the recipient.
 - b. Must not make a subaward to an entity unless the entity has provided its UEI. Subrecipients are not required to complete full registration in SAM.gov to obtain a UEI.
- 14.3 Definitions.** For the Purpose of this award term:
- a. **System for Award Management (SAM.gov)** means the Federal repository into which an entity must provide the information required for the conduct of business as a recipient. Additional information about registration procedures may be found in SAM.gov (currently at: <https://www.sam.gov>).
 - b. **Unique Entity Identifier** means the universal identifier assigned by SAM.gov to uniquely identify an entity.
 - c. **Entity** is defined at [2 CFR 25.400](#) and includes all of the following types as defined in [2 CFR 200.1](#):
 - 1) Non-federal entity,
 - 2) Foreign organization;

- 3) Foreign public entity;
- 4) Domestic for-profit organization; and
- 5) Federal agency.
- d. **Subaward** has the meaning given in [2 CFR 200.1](#)
- e. **Subrecipient** has the meaning given in [2 CFR 200.1](#)

15. Reporting Subawards and Executive Compensation (Updated 3/12/2025)

15.1 Reporting of first tier subawards.

- a. **Applicability.** Unless the recipient is exempt as provided in paragraph 15.4. of this award term, the recipient must report each action that obligates \$30,000 or more in Federal funds for a subaward to an entity or Federal agency. The recipient must also report a subaward if a modification increases the Federal funding to an amount that equals or exceeds \$30,000.
- b. **Reporting Requirements.** (1) The entity or Federal agency must report each subaward described in paragraph 15.1.a of this award term at the [System for Award Management \(SAM.gov\)](#). (2) For subaward information, report no later than the end of the month following the month in which the subaward was made. (For example, if the subaward was made on any date during the month of November of a given year, the obligation must be reported by no later than December 31 of that year.)

15.2 Reporting Total Compensation of Recipient Executives.

- a. **Applicability.** The recipient must report the total compensation for each of its five most highly compensated executives for the preceding completed fiscal year, if:
 - 15.2.a.1.** The total Federal funding authorized to date under this award is \$30,000 or more;
 - 15.2.a.2.** In the preceding fiscal year, the recipient received: (i.) 80 percent or more of their annual gross revenues from Federal procurement contracts (and subcontracts) and Federal awards (and subawards) subject to the Transparency Act; (ii.) and \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal awards (and subawards) subject to the Transparency Act; and
 - 15.2.a.3.** 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 after receiving this subaward. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at: [http:// www.sec.gov/answers/execomp.htm](http://www.sec.gov/answers/execomp.htm).)
- b. **Reporting Requirements.** The recipient must report executive total compensation described in paragraph 15.2.a of this award term: (i.) As part of the recipient's registration profile at <https://www.sam.gov/SAM/> (ii.) No later than the end of the month following the month in which this award is made, and annually thereafter

(For example if this award was made on any date of November in a given year, the executive total compensation must be reported by no later than December 31 of that year.)

15.3 Reporting Total Compensation of Subrecipient Executives.

- a. Applicability.** Unless a first-tier subrecipient is exempt as provided in paragraph 15.4. of this award term, the recipient must report the executive total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if:
- 15.3.a.1.** The total federal funding authorized to date under the subaward equals or exceeds \$30,000; and
- 15.3.a.2.** In the subrecipient's preceding fiscal year, the subrecipient received: (i.) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal awards subject to the Transparency Act; and (ii.) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal awards (and subawards) subject to the Transparency Act; and
- 15.3.a.3.** 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 after receiving this subaward. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at: [http:// www.sec.gov/answers/execomp.htm](http://www.sec.gov/answers/execomp.htm).)
- b. Reporting Requirements.** Subrecipients must report their executive total compensation described in paragraph 15.3.a. of this award term to the recipient. The recipient is required to submit this information to SAM.gov no later than the end of the month following the month in which the subaward was made. (For example, if a subaward was made on any date during the month of October of a given year, the subaward must be reported no later than November 30 of that year).

15.4 Exemptions

- a.** If, in the previous tax year, the recipient had gross income, from all sources, under \$300,000, the recipient is exempt from the requirements to report:
- 15.4.a.1.** (i) subawards, and (ii) the total compensation of the five most highly compensated executives of any subrecipient.

15.5 Definitions. For purposes of this award term:

- a. Entity:** includes:
- (1) whether for profit or nonprofit: (i) A corporation; (ii) An association; (iii) A partnership; (iv) A limited liability company; (v) A limited liability partnership; (vi) A sole proprietorship; (vii) Any other legal business entity; (viii) Another grantee or contractor that is not excluded by subparagraph (2); and (ix) Any State or locality.

- (2) It does not include: (i) An individual recipient of Federal financial assistance; or (ii) A Federal employee.
- b. Executive** means an officer, managing partner, or any other employee holding a management position.
- c. Subaward:** has the meaning given in [2 CFR 200.1](#)
- d. Subrecipient** has the meaning given in [2 CFR 200.1](#).
- e. Total compensation** means the cash and noncash dollar value an executive earns during the recipient's or subrecipient's preceding fiscal year. This includes all items of compensation as prescribed in [17 CFR 229.402\(c\)\(2\)](#).

16. Recipient Integrity and Performance Matters – Reporting of Matters Related to Recipient Integrity and Performance

16.1 General Reporting Requirement

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

16.2 Proceedings About Which You Must Report

Submit the information required about each proceeding that:

- a.** Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b.** Reached its final disposition during the most recent five-year period; and
- c.** Is one of the following:
 - 16.2.c.1.** A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
 - 16.2.c.2.** A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - 16.2.c.3.** An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
 - 16.2.c.4.** Any other criminal, civil, or administrative proceeding if:

16.2.c.4.1. It could have led to an outcome described in paragraph 16.2.c.1, 16.2.c.2, or 16.2.c.3 of this award term and condition;

16.2.c.4.2. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and

16.2.c.4.3. The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

16.3 Reporting Procedures

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

16.4 Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 16.1 of this award term and condition, you must report proceedings information through SAM.gov for the most recent five-year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

16.5 Definitions

For purposes of this award term and condition:

- a.** Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (*e.g.*, Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- b.** Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of *nolo contendere*.
- c.** Total value of currently active grants, cooperative agreements, and procurement contracts includes –
 - 16.5.c.1.** Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
 - 16.5.c.2.** The value of all expected funding increments under a Federal award and options, even if not yet exercised.

17. Federal Financial Reporting (FFR)

Pursuant to [2 CFR 200.328](#) and [2 CFR 200.344](#), EPA recipients must submit the Federal Financial Report (SF-425) at least annually and no more frequently than quarterly. EPA's standard reporting frequency is annual unless an EPA Region has included an additional term and condition specifying greater reporting frequency within this award document in accordance with [2 CFR 200.208](#). EPA recipients must submit the SF-425 no later than 30 calendar days after the conclusion of each specified reporting period for quarterly and semi-annual reports and 90 calendar days for annual reports. Final reports are due no later than 120 calendar days after the conclusion of the period of performance of the award. Extension of reporting due dates may be approved by EPA when requested and justified by the recipient. The FFR form is available on the internet at: <https://www.epa.gov/grants/sf-425-federal-financial-report>. All FFRs must be submitted to the Research Triangle Park Finance Center (RTPFC) via email at rtpfc-grants@epa.gov or mail it to:

US Environmental Protection Agency
RTP-Finance Center (Mail Code AA216-01)
4930 Page Rd.
Durham, NC 27703

The RTPFC will make adjustments as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement.

18. Indirect Cost Rate Agreements

This term and condition provides requirements for recipients using EPA funds for indirect costs and applies to all EPA assistance agreements unless there are [statutory or regulatory limits on IDCs](#). See also [EPA's Indirect Cost Policy for Recipients of EPA Assistance Agreements](#) (IDC Policy).

In order for the assistance agreement recipient to use EPA funding for indirect costs, the IDC category of the recipient's assistance agreement award budget must include an amount for IDCs and at least one of the following must apply:

- With the exception of "exempt" agencies and Institutions of Higher Education as noted below, all recipients must have one of the following current (not expired) IDC rates, including IDC rates that have been extended by the cognizant agency:
 - Provisional
 - Final
 - Fixed rate with carry-forward
 - Predetermined
 - Grants awarded before October 1, 2024 - 10% de minimis rate of modified total direct costs authorized by [2 CFR 200.414\(f\)](#)
 - Grants awarded on or after October 1, 2024 – up to a 15% de minimis rate of modified total direct costs authorized by [2 CFR 200.414\(f\)](#)
 - Grants amended to incorporate the October 2024 Revisions to 2 CFR 200 – up to a

15% de minimis rate of modified total direct costs authorized by [2 CFR 200.414\(f\)](#), effective as of the date of the amendment and going forward, cannot be applied retroactively

- EPA-approved use of an expired fixed rate with carry-forward on an exception basis, as detailed in section 6.4.a. of the IDC Policy
- “Exempt” state of local governmental departments or agencies are agencies that receive up to and including \$35,000,000 in Federal funding per the department or agency’s fiscal year and must have an IDC rate proposal developed in accordance with 2 CFR Part 200, Appendix VII, with documentation maintained and available for audit.
- Institutions of Higher Education must use the IDC rate(s) on the approved rate agreement in place at the time of award during the life of the assistance agreement (unless the rate was provisional at time of award, in which case the rate will change once it becomes final). As provided by 2 CFR Part 200, Appendix III(C)(7), the term “life of the assistance agreement”, means each competitive segment of the project. If negotiated rate agreements do not extend through the life of the Federal award at the time of the initial award, then the negotiated rate for the last year of the Federal award must be extended through the end of the award. Additional information is available in the regulation.

IDCs incurred during any period of the assistance agreement that are not covered by the provisions above are not allowable costs and must not be drawn down by the recipient. Recipients may budget for IDCs if they have submitted a proposed IDC rate to their cognizant Federal agency, or requested an exception from EPA under subsection 6.4 of the IDC Policy. However, recipients may not draw down IDCs until their rate is approved, if applicable, or EPA grants an exception. IDC drawdowns must comply with the indirect rate corresponding to the period during which the costs were incurred. If the recipient’s indirect cost rate has not been finalized within one year after the period of performance ends, the EPA Grants Management Officer is authorized to close the recipient’s award using their most recently negotiated rate per [2 CFR 200.344\(h\)](#).

This term and condition does not govern indirect rates for subrecipients or recipient procurement contractors under EPA assistance agreements. Pass-through entities are required to comply with 2 CFR 200.332(b)(4)(i) and (ii) when establishing indirect cost rates for subawards.

19. Audit Requirements

In accordance with [2 CFR 200.501\(a\)](#), the recipient hereby agrees to obtain a single audit from an independent auditor, if their organization expends \$1,000,000 or more in total Federal funds in their fiscal year for that year.

The recipient must submit a single audit report within 9 months of the end of the recipient’s fiscal year or 30 days after receiving the report from an independent auditor. The single audit report MUST be submitted using the Federal Audit Clearinghouse available at: <https://fac.gov/>.

For complete information on how to accomplish the single audit submissions, the recipient will need to visit the Federal Audit Clearinghouse Web site: <https://fac.gov/>

20. Closeout Requirements

Reports required for closeout of the assistance agreement must be submitted in accordance with this agreement. Submission requirements and frequently asked questions can also be found at: <https://www.epa.gov/grants/frequent-questions-about-closeouts>

21. Suspension and Debarment

Recipient shall fully comply with Subpart C of 2 C.F.R. Part 180 entitled, “Responsibilities of Participants Regarding Transactions Doing Business With Other Persons,” as implemented and supplemented by [2 C.F.R. Part 1532](#). Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of [2 C.F.R. Part 180](#), entitled “Covered Transactions,” and [2 C.F.R. § 1532.220](#), includes a term or condition requiring compliance with 2 C.F.R. Part 180, Subpart C. Recipient is responsible for further requiring the inclusion of a similar term and condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information required under [2 C.F.R. § 180.335](#) to the EPA office that is entering into the transaction with the recipient may result in the delay or negation of this assistance agreement, or pursuance of administrative remedies, including suspension and debarment. Recipients may access the SAM.gov exclusion list at <https://sam.gov/SAM/> to determine whether an entity or individual is presently excluded or disqualified.

22. Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law

This award is subject to the provisions contained in an appropriations act(s) which prohibits the Federal Government from entering into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to any corporation having a delinquent Federal tax liability or a felony conviction under any Federal law, unless the agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government. A “corporation” is a legal entity that is separate and distinct from the entities that own, manage, or control it. It is organized and incorporated under the jurisdictional authority of a governmental body, such as a State or the District of Columbia. A corporation may be a for-profit or non-profit organization.

As required by the appropriations act(s) prohibitions, the Government will not enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee with any corporation that — (1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or (2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has

considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

By accepting this award, the recipient represents that it is not a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and it is not a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

Alternatively, by accepting this award, the recipient represents that it disclosed unpaid Federal tax liability information and/or Federal felony conviction information to the EPA. The recipient may accept this award if the EPA Suspension and Debarment Official has considered suspension or debarment of the corporation based on tax liabilities and/or Federal felony convictions and determined that suspension or debarment is not necessary to protect the Government's interests.

If the recipient fails to comply with this term and condition, EPA will annul this agreement and may recover any funds the recipient has expended in violation of the appropriations act(s) prohibition(s). The EPA may also pursue other administrative remedies as outlined in [2 CFR 200.339](#) and [2 CFR 200.340](#) and may also pursue suspension and debarment.

23. Disclosing Conflict of Interest

23.1 For Awards to Recipients, Subrecipients, and Individuals (other than states and fellowship recipients under 40 CFR Part 46)

As required by [2 CFR 200.112](#), EPA has established a policy (COI Policy) for disclosure of conflicts of interest (COI) that may affect EPA financial assistance awards. EPA's COI Policy is posted at <https://www.epa.gov/grants/epas-financial-assistance-conflict-interest-policy>. The posted version of EPA's COI Policy is applicable to new funding (initial awards, supplemental and incremental funding) awarded on or after October 1, 2015.

For competitive awards, recipients must disclose any competition related COI described in section 4.0(a) of the COI Policy that are discovered after award to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of discovery of the COI. The Grant Specialist will respond to any such disclosure within 30 calendar days.

EPA's COI Policy requires that recipients have systems in place to address, resolve and disclose to EPA COIs described in sections 4.0(b), (c) and/or (d) of the COI Policy that affect any contract or subaward regardless of amount funded under this award. The recipient's COI Point of Contact for the award must disclose any COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of the discovery of the potential COI and their approach for resolving the COI.

EPA's COI Policy requires that subrecipients have systems in place to address, resolve and disclose COI's described in section 4.0(b)(c) and (d) of the COI Policy regardless of the amount of the transaction. Recipients who are pass-through entities as defined at 2 CFR 200.1 must require that subrecipients being considered for or receiving subawards disclose COI to the pass-through entities in a manner that, at a minimum, is in accordance with sections 5.0(d) and 7.0(c) of EPA's COI Policy. Pass-through entities must disclose the subrecipient COI along with the approach for resolving the COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of receiving notification of the COI by the subrecipient.

EPA only requires that recipients and subrecipients disclose COI's that are discovered under their systems for addressing and resolving COI. If recipients or subrecipients do not discover a COI, they do not need to advise EPA or the pass-through entity of the absence of a COI.

Upon notice from the recipient of a potential COI and the approach for resolving it, the Agency will then make a determination regarding the effectiveness of these measures within 30 days of receipt of the recipient's notice unless a longer period is necessary due to the complexity of the matter. Recipients may not request payment from EPA for costs for transactions subject to the COI pending notification of EPA's determination. Failure to disclose a COI may result in cost disallowances.

Disclosure of potential COI will not necessarily result in EPA disallowing costs, with the exception of procurement contracts that the Agency determines violate [2 CFR 200.318\(c\)\(1\) or \(2\)](#), provided the recipient notifies EPA of measures the recipient or subrecipient has taken to eliminate, neutralize or mitigate the conflict of interest when making the disclosure.

23.2 For Awards to States Including State Universities that are State Agencies or Instrumentalities

As required by [2 CFR 200.112](#), EPA has established a policy (COI Policy) for disclosure of conflicts of interest (COI) that may affect EPA financial assistance awards. EPA's COI Policy is posted at: <https://www.epa.gov/grants/epas-financial-assistance-conflict-interest-policy>. The posted version of EPA's COI Policy is applicable to new funding (initial awards, supplemental, incremental funding) awarded on or after October 1, 2015.

For competitive awards, recipients must disclose any competition related COI described in section 4.0(a) of the COI Policy that are discovered after award to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of discovery of the COI. The Grants Specialist will respond to any such disclosure within 30 calendar days.

States including state universities that are state agencies and instrumentalities receiving funding from EPA are only required to disclose subrecipient COI as a pass-through entity as

defined by [2 CFR 200.1](#). Any other COI are subject to state laws, regulations, and policies. EPA's COI Policy requires that subrecipients have systems in place to address, resolve and disclose COIs described in section 4.0(b)(c) and (d) of the COI Policy that arise after EPA made the award regardless of the amount of the transaction. States who are pass-through entities as defined at [2 CFR 200.1](#) must require that subrecipients being considered for or receiving subawards disclose COI to the state in a manner that, as a minimum, in accordance with sections 5.0(d) and 7.0(c) of EPA's COI Policy. States must disclose the subrecipient COI along with the approach for resolving the COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of receiving notification of the COI by the subrecipient.

EPA only requires that subrecipients disclose COI's to state pass-through entities that are discovered under their systems for addressing, resolving, and disclosing COI. If subrecipients do not discover a COI, they do not need to advise state pass-through entities of the absence of a COI.

Upon receiving notice of a potential COI and the approach for resolving it, the Agency will make a determination regarding the effectiveness of these measures within 30 days of receipt of the state's notice of a subrecipient COI unless a longer period is necessary due to the complexity of the matter. States may not request payment from EPA for costs for transactions subject to the COI pending notification of EPA's determination. A subrecipient's failure to disclose a COI to the state and EPA may result in cost disallowances.

Disclosure of potential subrecipient COI will not necessarily result in EPA disallowing costs, with the exception of procurement contracts that the Agency determines violate [2 CFR 200.318\(c\)\(1\) or \(2\)](#), provided the subrecipient has taken measures that EPA and the state agree eliminate, neutralize or mitigate the conflict of interest.

24. Transfer of Funds

24.1 Transfer of Funds

Applicable to all assistance agreements other than Continuing Environmental Program Grants subject to 40 CFR 35.114 and 40 CFR 35.514 when EPA's share of the total award exceeds the Simplified Acquisition Threshold. Simplified Acquisition Threshold is defined at 2 CFR 200.1 and is currently set at \$250,000 but the amount is subject to adjustment.

- (1) As provided at [2 CFR 200.308\(i\)](#), the recipient must obtain prior approval from EPA's Grants Management Officer if the cumulative amount of funding transfers among direct budget categories or programs, functions and activities exceeds 10% of the total budget, as last approved by EPA, including cost share. Recipients must submit requests for prior approval to the Grant Specialist and Grants Management Officer with a copy to the Project Officer for this agreement.

- (2) Recipients must notify EPA's Grant Specialist and Project Officer of cumulative funding transfers among direct budget categories or programs, functions and activities that do not exceed 10% of the total budget for the agreement. Prior approval by EPA's Grants Management Officer is required if the transfer involves any of the items listed in [2 CFR 200.407](#) that EPA did not previously approve at time of award or in response to a previous post-award request by the recipient.

24.2 Post-Award Changes for Continuing Environmental Program Grants

Applicable to Continuing Environmental Program Grants subject to 40 CFR 35.114 and 40 CFR 35.514 when EPA's share of the total project costs exceeds the Simplified Acquisition Threshold. Simplified Acquisition Threshold is defined at 2 CFR 200.1 and is currently set at \$250,000 but the amount is subject to adjustment.

To determine if a post-award change in work plan commitments is significant and requires prior written approval for the purposes of [40 CFR §35.114\(a\)](#) or [40 CFR §35.514\(a\)](#), the recipient agrees to consult the EPA Project Officer (PO) before making the change. The term work plan commitments is defined at [40 CFR §35.102](#). If the PO determines the change is significant, the recipient cannot make the change without prior written approval by the EPA Award Official or Grants Management Officer.

The recipient must obtain written approval from the EPA Award Official prior to transferring funds from one budget category to another if the EPA Award Official determines that such transfer significantly changes work plan commitment(s). All transfers must be reported in required performance reports. In addition, unless approved with the budget at the time of award, Continuing Environmental Program (CEP) recipients must also obtain prior written approval from the EPA Award Official or Grants Management Officer to use EPA funds for directly charging compensation for administrative and clerical personnel under [2 CFR 200.413\(c\)](#) and the General Provisions for Selected Items of Cost allowability at [2 CFR 200.420](#) through [2 CFR 200.476](#) as supplemented by [EPA's Guidance on Selected Items of Cost](#). The recipient is not required to obtain prior written approval from the EPA Award Official for other items requiring prior EPA approval listed in [2 CFR 200.407](#).

25. Electronic/Digital Signatures on Financial Assistance Agreement Form(s)/Document(s)

Throughout the life of this assistance agreement, the recipient agrees to ensure that any form(s)/document(s) required to be signed by the recipient and submitted to EPA through any means including but not limited to hard copy via U.S. mail or express mail, hand delivery or through electronic means such as e-mail are: (1) signed by the individual identified on the form/document, and (2) the signer has the authority to sign the form/document for the recipient. Submission of any signed form(s)/document(s) is subject to any provisions of law on making false statements (e.g., 18 U.S.C. 1001).

26. Extension of Project/Budget Period Expiration Date

EPA has not exercised the waiver option to allow automatic one-time extensions for non-research grants under [2 CFR 200.308\(g\)\(2\)](#). Therefore, if a no-cost time extension is necessary to extend the period of availability of funds, the recipient must submit a written request to the EPA at least 10 calendar days before the conclusion of the period of performance as required by [2 CFR 200.308\(f\)\(10\)](#). **The written request must include:** a justification describing the need for additional time, an estimated date of completion, and a revised schedule for project completion including updated milestone target dates for the approved workplan activities. In addition, if there are overdue reports required by the general, administrative, and/or programmatic terms and conditions of this assistance agreement, the recipient must ensure that they are submitted along with or prior to submitting the no-cost time extension request.

27. Utilization of Disadvantaged Business Enterprises (Updated 4/03/2025)

General Compliance, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in [40 CFR, Part 33](#).

The following text provides updates to 40 CFR Part 33 based upon the associated class exception or highlights a requirement.

1) EPA MBE/WBE CERTIFICATION, 40 CFR, Part 33, Subpart B

The EPA no longer certifies entities as Minority-Owned Business Entities (MBEs) or Women-Owned Business Entities (WBEs) pursuant to a class exception issued in October 2019. The class exception was authorized pursuant to the authority in [2 CFR, Section 1500.4\(b\)](#).

2) SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to [40 CFR Section 33.301](#), the recipient agrees to make good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained. The specific six good faith efforts can be found at: [40 CFR Section 33.301 \(a\)-\(f\)](#).

However, in EPA assistance agreements that are for the benefit of Native Americans, the recipient must solicit and recruit Native American organizations and Native American-owned economic enterprises and give them preference in the award process prior to undertaking the six good faith efforts ([40 CFR Section 33.304](#)). If recruiting efforts are unsuccessful, the recipient must follow the six good faith efforts.

3) CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of [40 CFR Section 33.302](#) (a)-(d) and (i).

4) BIDDERS LIST, 40 CFR Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see [40 CFR Section 33.501 \(b\) and \(c\)](#) for specific requirements and exemptions.

5) FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

The EPA is suspending negotiations of fair share objectives with recipients under 40 CFR Part 33, Subpart D pursuant to a class exception issued on March 17, 2025. The class exception was authorized pursuant to the authority in [2 CFR, Section 1500.4\(b\)](#).

6) MBE/WBE REPORTING, 40 CFR, Part 33, Subpart E

The EPA is suspending recipient reporting requirements under 40 CFR 33.502 pursuant to a class exception issued on March 17, 2025. The class exception was authorized pursuant to the authority in [2 CFR, Section 1500.4\(b\)](#).

7) MBE/WBE RECORDKEEPING, 40 CFR, Part 33, Subpart E

The EPA is suspending recipient recordkeeping requirements under 40 CFR Part 33, Subpart E pursuant to a class exception issued on March 17, 2025. The class exception was authorized pursuant to the authority in 2 CFR, Section 1500.4(b).

Programmatic General Terms and Conditions

28. Sufficient Progress

EPA will measure sufficient progress by examining the performance required under the workplan in conjunction with the milestone schedule, the time remaining for performance within the project period and/or the availability of funds necessary to complete the project. EPA may terminate the assistance agreement for failure to ensure reasonable completion of the project within the project period.

29. Copyrighted Material and Data

In accordance with [2 CFR 200.315](#), EPA has the right to reproduce, publish, use and authorize others to reproduce, publish and use copyrighted works or other data developed under this assistance agreement for Federal purposes. This includes the right to require recipients and subrecipients to make such works available through agency-designated public access repositories.

Examples of a Federal purpose include but are not limited to: (1) Use by EPA and other Federal employees for official Government purposes; (2) Use by Federal contractors performing specific tasks for [i.e., authorized by] the Government; (3) Publication in EPA documents provided the document does not disclose trade secrets (e.g. software codes) and the work is properly attributed to the recipient through citation or otherwise; (4) Reproduction of documents for inclusion in

Federal depositories; (5) Use by State, Tribal and local governments that carry out delegated Federal environmental programs as “co-regulators” or act as official partners with EPA to carry out a national environmental program within their jurisdiction and; (6) Limited use by other recipients to carry out Federal grants provided the use is consistent with the terms of EPA’s authorization to the other recipient to use the copyrighted works or other data.

Under Item 6, the recipient acknowledges that EPA may authorize another recipient(s) to use the copyrighted works or other data developed under this grant as a result of:

- The selection of another recipient by EPA to perform a project that will involve the use of the copyrighted works or other data, or
- Termination or expiration of this agreement.

In addition, EPA may authorize another recipient to use copyrighted works or other data developed with Agency funds provided under this grant to perform another grant when such use promotes efficient and effective use of Federal grant funds.

30. Patents and Inventions

Rights to inventions made under this assistance agreement are subject to federal patent and licensing regulations, which are codified at Title [37 CFR Part 401](#) and Title 35 USC Sections 200-212.

Pursuant to the Bayh-Dole Act (set forth in 35 USC 200-212), EPA retains the right to a worldwide, nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention owned by the assistance agreement holder, as defined in the Act. To streamline the invention reporting process and to facilitate compliance with the Bayh-Dole Act, the recipient must utilize the Interagency Edison extramural invention reporting system at <https://www.nist.gov/iedison>. Annual utilization reports must be submitted through the system. The recipient is required to notify the Project Officer identified on the award document when an invention report, patent report, or utilization report is filed at <https://www.nist.gov/iedison>. EPA elects not to require the recipient to provide a report prior to the close-out of a funding agreement listing all subject inventions or stating that there were none.

In accordance with Executive Order 12591, as amended, government owned and operated laboratories can enter into cooperative research and development agreements with other federal laboratories, state and local governments, universities, and the private sector, and license, assign, or waive rights to intellectual property “developed by the laboratory either under such cooperative research or development agreements and from within individual laboratories.”

31. Acknowledgement Requirements for Non-ORD Assistance Agreements

The recipient agrees that any reports, documents, publications, or other materials developed for public distribution supported by this assistance agreement shall contain the following statement: “This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient). The contents of this document do not necessarily reflect the views and policies of the Environmental Protection Agency, nor does the

Environmental Protection Agency endorse trade names or recommend the use of commercial products mentioned in this document, as well as any images, video, text, or other content created by generative artificial intelligence tools, nor does any such content necessarily reflect the views and policies of the Environmental Protection Agency.”

Recipients of EPA Office of Research Development (ORD) research awards must follow the acknowledgement requirements outlined in the research T&Cs available at: <https://www.nsf.gov/awards/managing/rtc.jsp>. In accordance with the [Research Terms and Conditions Overlay to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards \(Uniform Guidance\), 2 CFR §200](#), recipients of EPA ORD research must abide by the research T&Cs.

32. Electronic and Information Technology Accessibility

Recipients are subject to the program accessibility provisions of Section 504 of the Rehabilitation Act, codified in [40 CFR Part 7](#), which includes an obligation to provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology (“EIT”). In compliance with Section 504, EIT systems or products funded by this award must be designed to meet the diverse needs of users (e.g., U.S. public, recipient personnel) without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology. At this time, the EPA will consider a recipient’s websites, interactive tools, and other EIT as being in compliance with Section 504 if such technologies meet standards established under Section 508 of the Rehabilitation Act, codified at [36 CFR Part 1194](#). While Section 508 does not apply directly to grant recipients, we encourage recipients to follow either the 508 guidelines or other comparable guidelines that concern accessibility to EIT for individuals with disabilities.

Recipients may wish to consult the latest Section 508 guidelines issued by the U.S. Access Board or W3C’s Web Content Accessibility Guidelines (WCAG) 2.0 (see <https://www.access-board.gov/about/policy/accessibility.html>).

33. Human Subjects

Human subjects research is any activity that meets the regulatory definitions of both research AND human subject. Research is a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge. Human subject means a living individual about whom an investigator (whether professional or student) conducting research: (i) Obtains information or biospecimens through intervention or interaction with the individual, and uses, studies, or analyzes the information or biospecimens; or (ii) Obtains, uses, studies, analyzes, or generates identifiable private information or identifiable biospecimens [40 CFR 26.102\(e\)\(I\)](#).

No research involving human subjects shall be conducted under this agreement without prior written approval of the EPA Human Subject Research Review Official (HSRRO) to proceed with that research. If engaged in human subjects' research as part of this agreement, the recipient agrees to comply with all applicable provisions of EPA Regulation 40 CFR 26 (Protection of Human Subjects). This includes, at Subpart A, the Basic Federal Policy for the Protection of Human Research Subjects, also known as the Common Rule. It also includes, at Subparts B, C, and D, prohibitions and additional protections for children, nursing women, pregnant women, and fetuses in research conducted or supported by EPA.

The recipient further agrees to comply with EPA's procedures for oversight of the recipient's compliance with 40 CFR 26, as given in EPA Order 1000.17A (Policy and Procedures on Protection of Human Research Subjects in EPA Conducted or Supported Research). As per this order, no human subject may be involved in any research conducted under this assistance agreement, including recruitment, until the research has been approved or determined to be exempt by the EPA HSRRO after review of the approval or exemption determination of the Institutional Review Board(s) (IRB(s)) with jurisdiction over the research under 40 CFR 26.

For HSRRO approval, the recipient must forward to the Project Officer: (1) copies of all documents upon which the IRB(s) with jurisdiction based their approval(s) or exemption determination(s), (2) copies of the IRB approval or exemption determination letter(s), (3) copy of the IRB-approved consent forms and subject recruitment materials, if applicable, and (4) copies of all supplementary IRB correspondence.

Following the initial approvals indicated above, the recipient must, as part of the annual report(s), provide evidence of continuing review and approval of the research by the IRB(s) with jurisdiction, as required by [40 CFR 26.109\(e\)](#). Materials submitted to the IRB(s) for their continuing review and approval are to be provided to the EPA HSRRO via the Project Officer upon IRB approval. During the course of the research, investigators must promptly report any unanticipated problems involving risk to subjects or others according to requirements set forth by the IRB. In addition, any event that is significant enough to result in the removal of the subject from the study should also be reported to the EPA HSRRO via the Project Officer, even if the event is not reportable to the IRB of record.

34. Animal Subjects

The recipient agrees to comply with the Animal Welfare Act of 1966 (P.L. 89-544), as amended, 7 USC 2131- 2156. Recipient also agrees to abide by the "U.S. Government Principles for the Utilization and Care of Vertebrate Animals used in Testing, Research, and Training." (Federal Register 50(97): 20864-20865. May 20,1985). The nine principles can be viewed at <https://olaw.nih.gov/policies-laws/phs-policy.htm>. For additional information about the Principles, the recipient should consult the [Guide for the Care and Use of Laboratory Animals](#), prepared by the Institute of Laboratory Animal Resources, National Research Council.

35. Light Refreshments and/or Meals

(a) APPLICABLE TO ALL AGREEMENTS EXCEPT STATE CONTINUING ENVIRONMENTAL PROGRAMS (AS DESCRIBED BELOW):

Unless the event(s) and all of its components are described in the approved workplan, the recipient agrees to obtain prior approval from EPA for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops and outreach activities (events). The recipient must send requests for approval to the EPA Project Officer and include:

- (1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s)
- (2) A description of the purpose, agenda, location, length, and timing for the event, and
- (3) An estimated number of participants in the event and a description of their roles

Costs for light refreshments and meals for recipient staff meetings and similar day-to-day activities are not allowable under EPA assistance agreements.

Recipients may address questions about whether costs for light refreshments, and meals for events may be allowable to the recipient's EPA Project Officer; however, the Agency Award Official or Grant Management Officer will make final determinations on allowability. Agency policy prohibits the use of EPA funds for receptions, banquets and similar activities that take place after normal business hours unless the recipient has provided a justification that has been expressly approved by EPA's Award Official or Grants Management Officer.

EPA funding for meals, light refreshments, and space rental may not be used for any discrete portion of an event or meeting, such as a reception, banquet, or another similar entertainment-oriented activity, where alcohol is served, purchased, or otherwise available as part of the discrete portion of the event or meeting, even if EPA funds are not used to purchase the alcohol. This restriction does not prohibit a recipient from using its own funds, private donations, or separate fees charged to the meeting attendees (that are not program income) for discrete portions of events or meetings, such as receptions, banquets, or another similar entertainment-oriented activity where alcohol is served.

Note: U.S. General Services Administration regulations define light refreshments for morning, afternoon, or evening breaks to include, but not be limited to, coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips, or muffins. ([41 CFR 301-74.7](#))

(b) FOR STATE CONTINUING ENVIRONMENTAL PROGRAM GRANT RECIPIENTS EXCLUDING STATE UNIVERSITIES:

If the state maintains systems capable of complying with federal grant regulations at [2 CFR 200.432](#) and [2 CFR 200.438](#), EPA has waived the prior approval requirements for the use of EPA funds for light refreshments and/or meals served at meetings, conferences, and training, as described in paragraph (a) above. The state may follow its own procedures without requesting prior approval from EPA. However, notwithstanding state policies, EPA funds may not be used for (1) Meetings

(e.g. routine staff meetings) that do not meet the definition of “Conference” in [2 CFR 200.432](#), (2) evening receptions, or (2) other evening events (with the exception of working meetings). Examples of working meetings include those evening events in which small groups discuss technical subjects on the basis of a structured agenda or there are presentations being conducted by experts. EPA funds for meals, light refreshments, and space rental may not be used for any portion of an event (including evening working meetings) where alcohol is served, purchased, or otherwise available as part of the event or meeting, even if EPA funds are not used to purchase the alcohol.

By accepting this award, the state is certifying that it has systems in place (including internal controls) to comply with the requirements described above.

36. Tangible Personal Property

36.1 Reporting

Pursuant to [2 CFR 200.312](#) and [2 CFR 200.314](#), property reports, if applicable, are required for Federally-owned property in the custody of a recipient or subrecipient upon completion of the Federal award or when the property is no longer needed. Additionally, upon termination or completion of the project, residual unused supplies with a total aggregate fair market value exceeding \$10,000 not needed for any other Federally-funded programs or projects must be reported. For Superfund awards under Subpart O, refer to [40 CFR 35.6340](#) and [40 CFR 35.6660](#) for property reporting requirements. Recipients should utilize the Tangible Personal Property Report form series (SF-428) to report tangible personal property.

36.2 Disposition

36.2.1. Most Recipients or Subrecipients. Consistent with [2 CFR 200.313](#), unless instructed otherwise on the official award document, this award term, or at closeout, the recipient or subrecipient, including a subrecipient of a State or an Indian Tribe, may keep the equipment and continue to use it on the project originally funded through this assistance agreement or on other federally funded projects whether or not the project or program continues to be supported by Federal funds.

36.2.2. State Agencies. Per [2 CFR 200.313\(b\)](#), recipients that are State agencies must manage and dispose of equipment acquired under this assistance agreement in accordance with state laws and procedures.

36.2.3. Indian Tribes. Per [2 CFR 200.313\(b\)](#), recipients that are Indian Tribes must manage and dispose of equipment acquired under this assistance agreement in accordance with tribal laws and procedures. If such laws and procedures do not exist, Indian Tribes, unless instructed otherwise on the official award document or at closeout, may keep the equipment and continue to use it on the project originally funded through this assistance agreement or on other federally funded projects whether or not the project or program continues to be supported by Federal funds.

36.2.4. Superfund Recipients. Equipment purchased for Superfund projects under Subpart O is subject to specific disposal options in accordance with [40 CFR Part 35.6345](#).

37. Dual Use Research of Concern (DURC)

The recipient agrees to conduct all life science research* in compliance with [EPA's Order on the Policy and Procedures for Managing Dual Use Research of Concern](#) (EPA DURC Order) and [United States Government Policy for Institutional Oversight of Life Sciences Dual Use Research of Concern \(iDURC Policy\)](#). If the recipient is an institution within the United States that receives funding through this agreement, or from any other source, the recipient agrees to comply with the iDURC Policy if they conduct or sponsor research involving any of the agents or toxins identified in Section 6.2.1 of the iDURC Policy. If the institution is outside the United States and receives funding through this agreement to conduct or sponsor research involving any of those same agents or toxins, the recipient agrees to comply with the iDURC Policy. The recipient agrees to provide any additional information that may be requested by EPA regarding DURC and iDURC. The recipient agrees to immediately notify the EPA Project Officer should the project use or introduce use of any of the agents or toxins identified in the iDURC Policy. The recipient's Institution/Organization must also comply with USG iDURC policy and EPA DURC Order and will inform the appropriate government agency if funded by such agency of research with the agents or toxins identified in Section 6.2.1 of the iDURC Policy. If privately funded the recipient agrees to notify the National Institutes of Health at DURC@od.nih.gov.

* "Life Sciences Research," for purposes of the EPA DURC Order, and based on the definition of research in [40 CFR §26.102\(d\)](#), is a systematic investigation designed to develop or contribute to generalizable knowledge involving living organisms (e.g., microbes, human beings, animals, and plants) and their products. EPA does not consider the following activities to be research: routine product testing, quality control, mapping, collection of general-purpose statistics, routine monitoring and evaluation of an operational program, observational studies, and the training of scientific and technical personnel. [Note: This is consistent with Office of Management and Budget Circular A-11.]

38. Research Misconduct

In accordance with [2 CFR 200.329](#), the recipient and subrecipient agree to notify the EPA Project Officer in writing about research misconduct involving research activities that are supported in whole or in part with EPA funds under this project. EPA defines research misconduct as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results [65 FR 76262. I], or ordering, advising or suggesting that subordinates engage in research misconduct. The recipient agrees to:

- (1) Immediately notify the EPA Project Officer who will then inform the EPA Office of Inspector General (OIG) if, at any time, an allegation of research misconduct falls into one of the categories listed below:
 - A. Public health of safety is at risk
 - B. Agency resources or interests are threatened
 - C. Circumstances where research activities should be suspended
 - D. There is a reasonable indication of possible violations of civil or criminal law

- E. Federal action is required to protect the interests of those involved in the investigation
 - F. The research entity believes that the inquiry or investigation may be made public prematurely so that appropriate steps can be taken to safeguard evidence and protect the rights of those involved
 - G. Circumstances where the research community or public should be informed. [65 FR 76263.III]
- (2) Report other allegations to the OIG when they have conducted an inquiry and determined that there is sufficient evidence to proceed with an investigation. [65 FR 76263. III]

39. Scientific Integrity Terms and Conditions

The recipient agrees to comply with [EPA's Scientific Integrity Policy](#) when conducting, supervising, and communicating science and when using or applying the results of science. For purposes of this award condition scientific activities include, but are not limited to, computer modelling, economic analysis, field sampling, laboratory experimentation, demonstrating new technology, statistical analysis, and writing a review article on a scientific issue. The recipient agrees to:

39.1 Scientific Products

39.1.1. Produce scientific products of the highest quality, rigor, and objectivity, by adhering to applicable EPA [information quality guidelines](#), [quality policy](#), and peer review policy.

39.1.2. Prohibit all recipient employees, contractors, and program participants, including scientists, managers, and other recipient leadership, from suppressing, altering, or otherwise impeding the timely release of scientific findings or conclusions.

39.1.3. Adhere to [EPA's Peer Review Handbook, 4th Edition](#), for the peer review of scientific and technical work products generated through EPA grants or cooperative agreements which, by definition, are not primarily for EPA's direct use or benefit.

39.2 Scientific Findings

39.2.1. Require that reviews regarding the content of a scientific product that are conducted by the project manager and other recipient managers and the broader management chain be based only on scientific quality considerations, e.g., the methods used are clear and appropriate, the presentation of results and conclusions is impartial.

39.2.2. Ensure scientific findings are generated and disseminated in a timely and transparent manner, including scientific research performed by employees, contractors, and program participants, who assist with developing or applying the results of scientific activities.

39.2.3. Include, when communicating scientific findings, an explication of underlying assumptions, accurate contextualization of uncertainties, and a description of the probabilities associated with both optimistic and pessimistic projections, if applicable.

39.2.4. Document the use of independent validation of scientific methods.

39.2.5. Document any independent review of the recipient's scientific facilities and testing activities, as occurs with accreditation by a nationally or internationally recognized sanctioning body.

39.2.6. Make scientific information available online in open formats in a timely manner, including access to data and non-proprietary models.

39.3 Scientific Misconduct

39.3.1. Prohibit intimidation or coercion of scientists to alter scientific data, findings, or professional opinions or non-scientific influence of scientific advisory boards. In addition, recipient employees, contractors, and program participants, including scientists, managers, and other leadership, shall not knowingly misrepresent, exaggerate, or downplay areas of scientific uncertainty.

39.3.2. Prohibit retaliation or other punitive actions toward recipient employees who uncover or report allegations of scientific and research misconduct, or who express a differing scientific opinion. Employees who have allegedly engaged in scientific or research misconduct shall be afforded the due process protections provided by law, regulation, and applicable collective bargaining agreements, prior to any action. Recipients shall ensure that all employees and contractors of the recipient shall be familiar with these protections and avoid the appearance of retaliatory actions.

39.3.3. Require all recipient employees, contractors, and program participants to act honestly and refrain from acts of research misconduct, including publication or reporting, as described in [EPA's Policy and Procedures for Addressing Research Misconduct](#), Section 9.C. Research misconduct does not include honest error or differences of opinion. While EPA retains the ultimate oversight authority for EPA-supported research, grant recipients conducting research bear primary responsibility for prevention and detection of research misconduct and for the inquiry, investigation, and adjudication of research misconduct alleged to have occurred in association with their own institution.

39.3.4. Take the actions required on the part of the recipient described in the EPA's Policy and Procedures for Addressing Research Misconduct, Sections 6 through 9, when research misconduct is suspected or found.

39.4 Additional Resources

For more information about the Scientific Integrity Policy, an introductory video can be accessed at: <https://youtu.be/FQJCy8BXXq8>. A training video is available at: <https://youtu.be/Zc0T7fooot8>.

40. Post-Award Disclosure of Current and Pending Support on Research Grants

The recipient is required to notify EPA if there has been a change in support for senior/key persons since submission of its application or the last reporting period in the performance report. If there has been a change, the recipient must report the change within 30 calendar days to the EPA Project Officer. The information should also be included in the next due performance report. If there has been a change, submit a revised current and pending support form (see 'EPA Current and Pending Support'). Senior/key persons must certify that the information contained in the updated current and pending support form is current, accurate, and complete. For additional details on what information needs to be disclosed, please see NSTC Pre-award and Post-award disclosures Relating to the Biographical Sketch and Current and Pending (Other) Support at [NSTC Research Security Subcommittee NSPM-33 Implementation Guidance Disclosure Requirements & Standardization](#).

EPA may consult with the Lead/Contact PI and the Authorized Organization Representative (AOR), if necessary, to determine the impact of the new information on the EPA-funded research grant and, where necessary, take appropriate action.

If the recipient discovers that a senior/key person on an active EPA grant failed to disclose current and pending support information or provided inaccurate information as part of the proposal submission process, it must submit a revised current and pending support form (see 'EPA Current and Pending Support') to the EPA Project Officer within 30 calendar days of the identification of the undisclosed or inaccurate current and pending information.

41. Procurement of Synthetic Nucleic Acids and Benchtop Nucleic Acid Synthesis Equipment (Effective 4/26/2025)

Beginning on April 26, 2025, the recipient must procure synthetic nucleic acids and benchtop nucleic acid synthesis equipment, as defined in the [2024 Office of Science and Technology Policy \(OSTP\) Framework for Nucleic Acid Synthesis Screening \(Framework\)](#), from providers or manufacturers that attest to adhering to the Framework. The attestation may be posted on a public website or provided directly to the recipient upon request. The recipient must include this requirement in all lower tier agreements (for example subrecipients or subcontractors).

Public Policy Requirements

42. Civil Rights Obligations (Updated 4/03/2025)

This term and condition incorporates by reference the signed assurance provided by the recipient's authorized representative on: 1) EPA Form 4700-4, "Preaward Compliance Review Report for All Applicants and Recipients Requesting EPA Financial Assistance"; and 2) Certifications and Representations in SAM.gov or Standard Form 424D, as applicable.

These assurances and this term and condition obligate the recipient to comply fully with applicable civil rights statutes and implementing federal and EPA regulations.

(a) Statutory Requirements

- i. In carrying out this agreement, the recipient must comply with:
 - 1) Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, and national origin, by entities receiving Federal financial assistance.
 - 2) Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against persons with disabilities by entities receiving Federal financial assistance; and
 - 3) The Age Discrimination Act of 1975, which prohibits age discrimination by entities receiving Federal financial assistance.
- ii. If the recipient is an education program or activity (e.g., school, college, or university) or if the recipient is conducting an education program or activity under this agreement, it must also comply with:

- 1) Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in education programs and activities operated by entities receiving Federal financial assistance. For further information about your compliance obligations regarding Title IX, see <https://www.justice.gov/crt/title-ix>
- iii. If this agreement is funded with financial assistance under the Clean Water Act (CWA), the recipient must also comply with:
 - 1) Section 13 of the Federal Water Pollution Control Act Amendments of 1972, which prohibits discrimination on the basis of sex in CWA-funded programs or activities.

(b) Regulatory Requirements

- i. The recipient agrees to comply with all applicable EPA civil rights regulations, including:
 - 1) For Title IX obligations, 40 C.F.R. Part 5; and
 - 2) For Title VI, Section 504, Age Discrimination Act, and Section 13 obligations, [40 C.F.R. Part 7](#).

Note that for financial assistance awarded to any entity, including any subrecipient, in the State of Louisiana, pursuant to a permanent injunction issued by the U.S. District Court for the Western District of Louisiana, EPA will not impose any disparate-impact or cumulative-impact-analysis requirements under Title VI of the Civil Rights Act of 1964 in any pre-award assurances or terms and conditions accompanying the application for and receipt of this grant award.

- 3) The statutory and national policy requirements at [2 CFR 200.300\(a\)](#).
- 4) For Federal awards that are subject to a Federal statute prohibiting discrimination based on sex, the Federal agency or pass-through entity must ensure that the award is administered in accordance with [2 CFR 200.300](#).
- 5) As noted on the EPA Form 4700-4 signed by the recipient's authorized representative, these regulations establish specific requirements as applicable, including, but not limited to collecting, maintaining, and providing upon request compliance information, establishing grievance procedures, designating a Civil Rights Coordinator, and providing notices of non-discrimination.

(c) Title VI – Limited English Proficiency (LEP), Public Participation and Affirmative Compliance Obligation

- i. As a recipient of EPA financial assistance, you are required by Title VI of the Civil Rights Act to take reasonable steps to provide meaningful access to LEP individuals. In implementing that requirement, the recipient may refer to the EPA document entitled "Guidance to Environmental Protection Agency Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons." The Guidance can be found at:
<https://www.federalregister.gov/documents/2004/06/25/04-14464/guidance-to-environmental-protection-agency-financial-assistance-recipients-regarding-title-vi>.
- ii. If the recipient is administering permitting programs under this agreement, the recipient may refer to EPA's "Title VI Public Involvement Guidance for EPA Assistance Recipients

Administering Environmental Permitting Programs.” The Guidance can be found at: <https://www.govinfo.gov/content/pkg/FR-2006-03-21/pdf/06-2691.pdf>.

- iii. In accepting this assistance agreement, the recipient acknowledges it has an affirmative obligation to implement effective federal civil rights compliance programs, as required by EPA’s nondiscrimination regulations at 40 C.F.R. Parts 5 and 7, and ensure that it does not discriminate in its programs and activities in violation of federal civil rights laws and regulations. The recipient must be prepared to demonstrate to EPA that such compliance programs exist and are being implemented, or to otherwise demonstrate how it is meeting its federal civil rights obligations. For further assistance on civil rights compliance, the recipient may refer to the EPA document entitled, “Civil Rights Guidance on Procedural Safeguards: Requirements and Best Practices.” The Guidance can be found at: <https://www.epa.gov/external-civil-rights/civil-rights-guidance-procedural-safeguards><http://www.epa.gov/system/files/documents/2024-08/civil-rights-guidance-on-procedural-safeguards-august-2024.pdf>.

43. Drug-Free Workplace

The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title [2 CFR Part 1536 Subpart B](#). Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provisions set forth in Title [2 CFR Part 1536 Subpart C](#).

The consequences for violating this condition are detailed under Title [2 CFR Part 1536 Subpart E](#). Recipients can access the Code of Federal Regulations (CFR) Title 2 Part 1536 at www.ecfr.gov/.

44. Hotel-Motel Fire Safety

Pursuant to U.S.C. 2225a, the recipient agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <https://apps.usfa.fema.gov/hotel/> to see if a property is in compliance, or to find other information about the Act.

45. Lobbying Restrictions

- a) **This assistance agreement is subject to lobbying restrictions as described below. Applicable to all assistance agreements:**
 - i. The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the U.S. unless authorized under existing law. The recipient shall abide by the Cost Principles available at [2 CFR Part 200](#) which generally

prohibits the use of federal grant funds for litigation against the U.S. or for lobbying or other political activities.

- ii. The recipient agrees to comply with Title [40 CFR Part 34](#), New Restrictions on Lobbying. The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000 and require that subrecipients submit certification and disclosure forms accordingly.
- iii. In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.
- iv. Contracts awarded by a recipient shall contain, when applicable, the anti-lobbying provision as stipulated in the contract provisions provided in [Appendix II to Part 200](#).
- v. By accepting this award, the recipient affirms that it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986 as required by Section 18 of the Lobbying Disclosure Act; or that it is a nonprofit organization described in Section 501(c)(4) of the Code but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act. Nonprofit organizations exempt from taxation under section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are ineligible for EPA subawards.

b) Applicable to assistance agreements when the amount of the award is over \$100,000:

- i. By accepting this award, the recipient certifies, to the best of its knowledge and belief that:
 - 1) No Federal appropriated funds have been or will be paid, by or on behalf of the recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, or any employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the recipient shall complete and submit the linked [Standard Form -- LLL, "Disclosure Form to Report Lobbying,"](#) in accordance with its instructions.
 - 3) The recipient shall require that the language of this certification be included in the award documents for all subawards exceeding \$100,000 at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

- ii. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each failure.

46. Recycled Paper

When directed to provide paper documents, the recipient agrees to use recycled paper and double-sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA.

47. Resource Conservation and Recovery Act (Updated 4/03/2025)

Consistent with goals of section 6002 of RCRA (42 U.S.C. 6962), State and local institutions of higher education, hospitals and non-profit organization recipients agree to give preference in procurement programs to the purchase of specific products containing recycled materials, as identified in [40 CFR Part 247](#).

- a) Consistent with section 6002 of RCRA (42 U.S.C. 6962) and [2 CFR 200.323](#), the recipient or subrecipient that is a State agency or agency of a political subdivision of a State and its contractors are required to purchase certain items made from recycled materials, as identified in 40 CFR Part 247, when the purchase price exceeds \$10,000 during the course of a fiscal year or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. Pursuant to [40 CFR 247.2\(d\)](#), the recipient or subrecipient may decide not to procure such items if they are not reasonably available in a reasonable period of time; fail to meet reasonable performance standards; or are only available at an unreasonable price.

48. Trafficking in Persons

a) Provisions applicable to a recipient that is a private entity receiving funds under the award.

- i. The recipient, the recipient's employees, subrecipients under this award, and subrecipients' employees may not engage in:
 - 1) Severe forms of trafficking in persons
 - 2) The procurement of a commercial sex act during the period of time that this award or any subaward is in effect;
 - 3) The use forced labor in the performance of this award or any subaward; or
 - 4) Acts that directly support or advance trafficking in persons, including the following acts:
 - i. Destroying, concealing, removing, confiscating, or otherwise denying an employee access to that employee's identity or immigration documents;
 - ii. Failing to provide return transportation or pay for return transportation costs to an employee from a country outside the United States to the country from

which the employee was recruited upon the end of employment if requested by the employee, unless:

- A. Exempted from the requirement to provide or pay for such return transportation by the Federal department or agency providing or entering into the grant or cooperative agreements; or
 - B. The employee is a victim of human trafficking seeking victim services or legal redress in the country of employment or a witness in a human trafficking enforcement action;
 - iii. Soliciting a person for the purpose of employment, or offering employment, by means of materially false or fraudulent pretenses, representations, or promises regarding that employment;
 - iv. Charging recruited employees a placement or recruitment fee; or
 - v. Providing or arranging housing that fails to meet the host country's housing and safety standards.
- ii. EPA may unilaterally terminate this award or take any remedial actions authorized by 22 U.S.C. 7104b(c), without penalty, if any private entity under this award:
- 1) Is determined to have violated a prohibition in paragraph 47.a.i. of this award term; or
 - 2) Has an employee that is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph 47.a.i. of this award term through conduct that is either:
 - i. Associated with the performance under this award; or
 - ii. Imputed to the recipient or subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in [2 CFR Part 180](#), "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement)," as implemented by EPA at [2 CFR Part 1532](#).
- b) Provision applicable to a recipient other than a private entity.** EPA may unilaterally terminate this award or take any remedial actions authorized by 22 U.S.C. 7104b(c), without penalty, if a subrecipient that is a private entity under this award:
- i. Is determined to have violated an applicable prohibition in paragraph 48.a.i. of this award term; or
 - ii. Has an employee that is determined to have violated a prohibition in paragraph 48.a.i. of this award term through conduct that is either:
 - 1) Associated with the performance under this award; or
 - 2) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by EPA at [2 CFR Part 1532](#).

c) Provisions applicable to any recipient

- i. The recipient must inform the EPA and the EPA's Office of Inspector General immediately of any information received from any source alleging a violation of a prohibition in paragraph 48.a.i. of this award term.
- ii. The EPA's right to terminate unilaterally that is described in paragraphs 48.a. and 48.b.:
 - 1) Implements the requirements of 22 U.S.C. Chapter 78, and
 - 2) Is in addition to all other remedies for noncompliance that are available to the EPA under this award.
- iii. The recipient must include the requirements of paragraph 48.a.1. of this award term in any subaward made to a private entity.
- iv. If applicable, the recipient must also comply with the compliance plan and certification requirements in [2 CFR 175.105\(b\)](#).

d) Definitions. For purposes of this award term:

- i. "Employee" means either:
 - 1) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - 2) Another person engaged in the performance of the project or program under this award and not compensated by the recipient including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing requirements.
- ii. "Private Entity" means any entity, including for-profit organizations, nonprofit organizations, institutions of higher education, and hospitals. The term does not include foreign public entities, Indian Tribes, local governments, or states as defined in [2 CFR 200.1](#)
- iii. The terms "severe forms of trafficking in persons," "commercial sex act," "sex trafficking," "Abuse or threatened abuse of law or legal process," "coercion," "debt bondage," and involuntary servitude" have the meanings given at section 103 of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7102).

49. Build America, Buy America – Required Use of American Iron, Steel, Manufactured Products, and Construction Materials (effective October 23, 2023, and forward)

Buy America Preference. Recipients of an award of Federal financial assistance from a program for infrastructure are hereby notified that none of the funds provided under this award may be used for an infrastructure project unless:

- (1) All iron and steel used in the project are produced in the United States—this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- (2) All manufactured products used in the project are produced in the United States— this means the manufactured product was manufactured in the United States; and the cost of the

components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard that meets or exceeds this standard has been established under applicable law or regulation for determining the minimum amount of domestic content of the manufactured product; and

(3) All construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States. The construction material standards are listed below.

Incorporation into an infrastructure project. The Buy America Preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America Preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project, but are not an integral part of the structure or permanently affixed to the infrastructure project.

Categorization of articles, materials, and supplies. An article, material, or supply should only be classified into one of the following categories: (i) Iron or steel products; (ii) Manufactured products; (iii) Construction materials; or (iv) Section 70917(c) materials. An article, material, or supply should not be considered to fall into multiple categories. In some cases, an article, material, or supply may not fall under any of the categories listed in this paragraph. The classification of an article, material, or supply as falling into one of the categories listed in this paragraph must be made based on its status at the time it is brought to the work site for incorporation into an infrastructure project. In general, the work site is the location of the infrastructure project at which the iron, steel, manufactured products, and construction materials will be incorporated.

Application of the Buy America Preference by category. An article, material, or supply incorporated into an infrastructure project must meet the Buy America Preference for only the single category in which it is classified.

Determining the cost of components for manufactured products. In determining whether the cost of components for manufactured products is greater than 55 percent of the total cost of all components, use the following instructions:

(a) For components purchased by the manufacturer, the acquisition cost, including transportation costs to the place of incorporation into the manufactured product (whether or not such costs are paid to a domestic firm), and any applicable duty (whether or not a duty-free entry certificate is issued); or

(b) For components manufactured by the manufacturer, all costs associated with the manufacture of the component, including transportation costs as described in paragraph (a), plus

allocable overhead costs, but excluding profit. Cost of components does not include any costs associated with the manufacture of the manufactured product.

Construction material standards. The Buy America Preference applies to the following construction materials incorporated into infrastructure projects. Each construction material is followed by a standard for the material to be considered “produced in the United States.” Except as specifically provided, only a single standard should be applied to a single construction material.

- (1) Non-ferrous metals. All manufacturing processes, from initial smelting or melting through final shaping, coating, and assembly, occurred in the United States.
- (2) Plastic and polymer-based products. All manufacturing processes, from initial combination of constituent plastic or polymer-based inputs, or, where applicable, constituent composite materials, until the item is in its final form, occurred in the United States.
- (3) Glass. All manufacturing processes, from initial batching and melting of raw materials through annealing, cooling, and cutting, occurred in the United States.
- (4) Fiber optic cable (including drop cable). All manufacturing processes, from the initial ribboning (if applicable), through buffering, fiber stranding and jacketing, occurred in the United States. All manufacturing processes also include the standards for glass and optical fiber, but not for non-ferrous metals, plastic and polymer-based products, or any others.
- (5) Optical fiber. All manufacturing processes, from the initial preform fabrication stage through the completion of the draw, occurred in the United States.
- (6) Lumber. All manufacturing processes, from initial debarking through treatment and planing, occurred in the United States.
- (7) Drywall. All manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.
- (8) Engineered wood. All manufacturing processes from the initial combination of constituent materials until the wood product is in its final form, occurred in the United States.

Waivers. When supported by rationale provided in IJA §70914, the recipient may submit a waiver request in writing to EPA. Recipients should request guidance on the submission instructions of an EPA waiver request from the EPA Project Officer for this agreement. A list of approved EPA waivers (general applicability and project specific) is available on the [EPA Build America, Buy America website](#).

EPA may waive the application of the Buy America Preference when it has determined that one of the following exceptions applies:

- (1) applying the Buy America Preference would be inconsistent with the public interest;
- (2) the types of iron, steel, manufactured products, or construction materials are not produced in the United States in sufficient and reasonably available quantities or of a satisfactory quality; or
- (3) the inclusion of iron, steel, manufactured products, or construction materials produced in the United States will increase the cost of the overall project by more than 25 percent.

For questions regarding the Build America, Buy America Act requirements for this assistance agreement or to determine if there is an approved waiver in place, please contact the EPA Project Officer for this agreement.

Definitions. For legal definitions and sourcing requirements, the recipient must consult the [EPA Build America, Buy America website](#), [2 CFR Part 184](#), and the [Office of Management and Budget's \(OMB\) Memorandum M-24-02 Implementation Guidance on Application of Buy America Preference in Federal Financial Assistance Programs for Infrastructure](#).

50. Required Certifications and Consequences of Fraud

Per [2 CFR 200.415\(a\)](#), financial reports must include a certification that must be signed by an official who is authorized to legally bind the recipient which reads as follows:

“By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729-3730 and 3801-3812).”

As outlined in [2 CFR 200.415\(b\)](#), subrecipients of all tiers under the Federal award must certify to the pass-through entity whenever applying for funds, requesting payment, and submitting financial reports as follows:

“I certify to the best of my knowledge and belief that the information provided herein is true, complete, and accurate. I am aware that the provision of false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil, or administrative consequences including, but not limited to violations of U.S. Code Title 18, Sections 2, 1001, 1343 and Title 31, Sections 3729-3730 and 3801-3812.”

The certifications must be maintained in accordance with the record retention requirements at [2 CFR 200.334](#).

51. Reporting Waste, Fraud and Abuse

Consistent with [2 CFR 200.113](#), the recipient and any subrecipients of this award must promptly report in writing whenever there is credible evidence of the commission of a violation of Federal criminal law involving fraud, conflict of interest, bribery, or gratuity violations found in Title 18 of the United States Code or a violation of the civil False Claims Act (31 U.S.C. 3729-3733) to the EPA Project Officer, the pass-through entity (if applicable), and the [EPA Office of Inspector General \(OIG\)](#). The methods to contact the EPA OIG are (1) online submission via the [EPA OIG Hotline Complaint](#)

[Form](#); (2) email to OIG_Hotline@epa.gov; (3) phone 1-888-546-8740; or (4) mail directed to Environmental Protection Agency, Office of Inspector General, 1200 Pennsylvania Avenue, N.W. (2410T), Washington, DC 20460.

To support awareness of the OIG hotline, recipients and/or subrecipients receiving an EPA award or subaward of \$1,000,000 or more must display EPA OIG Hotline posters in facilities where the work is performed under the grant. EPA OIG Hotline posters may be [downloaded or printed](#) or may be obtained by contacting the OIG at 1- 888-546-8740. Recipients and subrecipients need not comply with this requirement if they have established a mechanism, such as a hotline, by which employees may report suspected instances of improper conduct and have provided instructions that encourage employees to make such reports.

Recipients and subrecipients are also required to report matters related to recipient integrity and performance in accordance with [Appendix XII to 2 CFR Part 200](#).

52. Whistleblower Protections

This award is subject to whistleblower protections, including the protections established at 41 U.S.C. 4712 and [2 CFR 200.217](#) providing that an employee of the recipient or subrecipient may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in paragraph (a)(2) of 41 U.S.C. 4712 information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of Federal funds, an abuse of authority relating to a Federal contract, grant, or subaward, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract), grant. These covered persons or bodies include:

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

Consistent with 41 U.S.C. 4712(d), the recipient and subrecipients must inform their employees in writing, in the predominant language of the workforce or organization, of employee whistleblower rights and protections under 41 U.S.C. 4712. Additional information about whistleblower protections, including protections for such employees may be found at the [EPA Office of Inspector General's Whistleblower Protection page](#).

53. Access to Records

In accordance with [2 CFR 200.337](#), EPA, the pass-through entity, the EPA Office of Inspector General (OIG), and the Comptroller General of the United States have the right to access any records of the recipient and subrecipient pertinent to this award, to perform audits, execute site visits, or for any other official use. This right of access also includes timely and reasonable access to the recipient and subrecipient's personnel for the purpose of interview and discussion related to such documents or the Federal award in general. This right of access shall continue as long as the records are retained.

54. Federal Anti-Discrimination Laws (Added 4/03/2025; Updated 8/25/2025)

This term and condition applies to all new awards and funding amendments (incremental and supplemental) made on or after April 3, 2025.

By accepting this EPA financial assistance agreement, (A) the recipient agrees that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the government's payment decisions for purposes of section 3729(b)(4) of title 31, United States Code; and (B) the recipient certifies that it does not operate any programs violating any applicable Federal anti-discrimination law or promoting any such violation.

EXHIBIT 2

Certification Regarding Debarment, Suspension and Other Responsibility Matters – Primary Covered Transactions

CERTIFICATION BY CONTRACTOR

CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSABILITY MATTERS - PRIMARY COVERED TRANSACTIONS

The Contractor _____, certifies to the best of its knowledge and
belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three year period preceding this proposal been convicted of or has a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or Local) terminated for cause or default.

Executed this _____ day of _____, 20__

(Title of Authorized Official)

EXHIBIT 3

CERTIFICATION OF DISADVANTAGE BUSINESS ENTERPRISE (DBE) ANNUAL STATE GOAL

UTILIZATION STATEMENT
Disadvantage Business Enterprise

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner. *(Please mark the appropriate box)*

- ☐ **The bidder/offeror is committed to a minimum of 28% DBE utilization on this contract.**
- ☐ **The bidder/offeror, while unable to meet the DBE goal of 28%, hereby commits to a minimum of _____% DBE utilization on this contract and also submits documentation, as an attachment demonstrating good faith efforts (GFE).**

The undersigned hereby further assures that the information included herein is true and correct, and that the DBE firm(s) listed herein have agreed to perform a commercially useful function in the work items noted for each firm. The undersigned further understands that no changes to this statement may be made without prior approval from the Civil Right Staff of the Federal Aviation Administration.

Bidder's/Offeror's Firm Name

Signature

Date

DBE UTILIZATION SUMMARY

<u>Percentage</u>	<u>Contract Amount</u>	<u>DBE Amount</u>	<u>Contract</u>
DBE Prime Contractor	\$ _____ x 1.00 =	\$ _____	_____ %
DBE Subcontractor	\$ _____ x 1.00 =	\$ _____	_____ %
DBE Supplier	\$ _____ x 0.60 =	\$ _____	_____ %
DBE Manufacturer	\$ _____ x 1.00 =	\$ _____	_____ %
Total Amount DBE		\$ _____	_____ %
DBE Goal		\$ _____	_____ %

Note: If the total proposed DBE participation is less than the established DBE goal, Bidder must provide written documentation of the good faith efforts as required by 49 CFR Part 26.

LETTER OF INTENT
Disadvantage Business Enterprise
(This page shall be submitted for each DBE firm)

Bidder/Offer Name: _____
Address: _____
City: _____ State: _____ Zip: _____

DBE Firm: DBE Firm: _____
Address: _____
City: _____ State: _____ Zip: _____

DBE Contact Person: Name: _____ Phone: (____) _____

DBE Certifying Agency: _____ Expiration Date: _____

Each DBE Firm shall submit evidence (such as a photocopy) of their certification status.

Classification: ☐ Prime Contractor ☐ Subcontractor ☐ Joint Venture
☐ Manufacturer ☐ Supplier

Work item(s) to be performed by DBE	Description of Work Item	Quantity	Total

The bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The estimated participation is as follows:

DBE contract amount: \$ _____ Percent of total contract: _____ %

AFFIRMATION:

The above-named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By:

(Signature)

(Title)

Note: In the event the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

EXHIBIT 4

CERTIFICATION REGARDING LOBBYING FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

CERTIFICATION REGARDING LOBBYING
FOR
CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies, to the best of his or her knowledge and belief, that:

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

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of

Congress, an officer or employee of Congress, Oran employee of a Member of Congress in

connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned

shall complete and submit Standard Form -LLL, "Disclosure of Lobbying Activities" in

accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award

documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts

under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and

disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 21, U.S. Code. Any Person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Firm Name: -----

Signature of Authorized Official: _____

Title of Authorized Official:

Date:

EXHIBIT 5

CERTIFICATION FOR NO CONFLICT OF INTEREST

CERTIFICATION FOR NO CONFLICT OF INTEREST

Under penalty of absolute nullity, I certify that no public servant of the Puerto Rico Ports Authority (PRPA) is part or has any interest in the profits or benefits produced under any contracts object of this RFQ and that if it is part or has any interests in the profits or benefits produced under contracts, a previous exemption was obtained. The only consideration to provide goods or services to the PRPA under any contract object of this RFQ will be the payment to be agreed with the authorized representative of the agency.

Sign: _____

Date:_____