

**THE U.S. DEPARTMENT OF STATE
STANDARD TERMS AND CONDITIONS
for
DOMESTIC FEDERAL ASSISTANCE AWARDS**

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I. Introduction

The recipient and any sub-recipient must, in addition to the assurances and certifications made as part of the award, comply with all applicable terms and conditions during the project period.

II. Order of Precedence

In the event of any inconsistency between provisions of the award, the inconsistency will be resolved by giving precedence in the following order:

- A. Applicable laws and statutes of the United States, including any specific legislative provisions mandated in the statutory authority for the award.
- B. Code of Federal Regulations (CFR)
- C. OMB Circulars
- D. Standard Terms and Conditions
- E. Bureau/Program Specifics (if applicable)
- F. Other documents and attachments

III. Controlling Language

It is the Department of State's policy that English is the official language of all award documents. If an award or any supporting documents are provided in both English and a foreign language, it must be stated in each version that the English language version is the controlling version.

IV. Department of State (DOS) Responsibilities

DOS has overall responsibility for Department-funded awards, including providing oversight for technical, programmatic, financial and administrative performance.

A. Agency Award Administrator - Grants Officer (GO)

1. The GO is responsible for all action on behalf of the Department of State to enter into, change, or terminate an award. The GO is authorized by a warrant issued by the Procurement Executive in the Office of the Procurement Executive. In addition, the GO is responsible for administrative coordination and liaison with the recipient.
2. The GO is the only person authorized to approve changes in any of the requirements in the award. In the event the recipient effects any change at the

direction of any person other than the GO, the change(s) will be considered to have been made without authority and no adjustment will be made in the amount of the award to cover any increase in costs incurred as a result thereof.

B. Agency Program Contact - Grants Officer Representative (GOR)

In accordance with DOS policy, the GO may designate technically qualified personnel to assist in the administration of grants. The GOR is responsible for the programmatic, technical, and/or scientific aspects of the award. Recipients should direct any correspondence related to programmatic and budgetary issues to the GOR.

V. Recipient Responsibilities and Compliance with Federal Requirements

- A. The recipient is responsible for notifying DOS of any significant problems relating to the administrative or financial aspects of the award.
- B. The recipient has full responsibility for the management of the project or activity supported under the award and for adherence to the terms and conditions. Although the recipient is encouraged to seek the advice and opinion of the GO and/or the GOR on special problems that may arise, such advice does not diminish the recipient's responsibility for making prudent and sound administrative judgments under the circumstances prevailing at the time the decision was made and should not imply that the responsibility for operating decisions has shifted to DOS.
- C. The recipient has responsibility for, and agrees to, ensure that:
1. Within thirty (30) days after the date of execution of the award, the recipient furnish names, titles, and brief biographical sketches (if these have not been previously furnished), including information on the education and experience of key personnel in charge of the award project and other key professional and supervisory personnel; i.e., the members of the professional staff in a program supervisory position engaged for or assigned to duties under the award. The recipient also provides similar information concerning such new officer personnel as may subsequently be assigned by the recipient to duties in connection with the award. Any changes, prolonged absences, or significant adjustments of total time devoted to the award project of any listed personnel should be brought to the attention of the GO for prior approval.
 2. Terms and conditions flow down to all sub-recipients, and are appropriately addressed in the performing organization's sub-award instrument.
 3. All cost reimbursement subawards (subgrants, subcontracts, etc.) are subject to those Federal cost principles applicable to the particular organization concerned. Thus, if a subaward is to a non-profit organization, this Circular shall apply; if a subaward is to a commercial organization, the cost principles applicable to commercial concerns shall apply; if a subaward is to a college or university, Circular A-21 shall apply; if a subaward is to a State, local, or federally recognized

Indian tribal government, Circular A-87 shall apply; or if a subaward is to a foreign entity the Department of State Overseas terms and conditions shall apply.

- D. All recipients shall comply with the following terms and conditions unless otherwise specified in the award:
1. Certain applicable Federal administrative standards are incorporated by reference. The applicable requirements may be obtained at:
<http://www.whitehouse.gov/omb/circulars/index.html>
 2. Appropriate officials are made aware that electronic copies containing the complete text of the circulars are available on the OMB website at:
<http://www.whitehouse.gov/wh/eop/omb>.
 3. In addition, all 22 CFR references are available on the Department of State's website at: <http://fa.statebuy.state.gov> .
- E. All recipients shall exercise prudent management of all expenditures and actions affecting the award. Documentation for each expenditure or action affecting the award must reflect appropriate organizational approvals that must be made in advance of the action.
- F. Organizational approvals are intended to help ensure that expenditures are allowable, necessary, and reasonable for the conduct of the project, and that the proposed action:
1. is consistent with the terms and conditions;
 2. is consistent with DOS and recipient's written and established policies;
 3. represents effective use of DOS resources; and
 4. does not constitute a significant project change (see Provision XII).
- G. The principal investigator(s) or project director(s) shall receive a copy of the terms and conditions, including the award, bureau-specific requirements, and any subsequent changes in the terms and conditions.
- H. The appropriate recipient officials shall be made aware of the terms and conditions made available by DOS in electronic form at <http://fa.statebuy.state.gov> which may be duplicated, copied or otherwise reproduced as appropriate.
- I. This provision does not alter the recipient's full responsibility for conduct of the project and compliance with all terms and conditions.

VI. Local Law Compliance

- A. The recipient's employees shall maintain private status and may not rely on local U.S. Government offices or facilities for support while under this grant.

- B. The sale of personal property or automobiles by recipient employees and their dependents, if they enjoy exemption from duty on the import or purchase of such personal property or automobiles, in the foreign country to which they are assigned shall be subject to the same limitations and prohibitions which apply to employees of the United States government as defined in 22 CFR 136.3 except as this may conflict with host government regulations.
- C. The recipient's employees, while in a foreign country, are expected to show respect for its conventions, customs, and institutions, to abide by its applicable laws and regulations.
- D. In the event the conduct of any recipient employee is not in accordance with the preceding paragraphs, the recipient's chief of party shall consult with the Grants Officer and the employee involved, and the Grants Officer will recommend to the U.S. Ambassador a course of action with regard to such employee of the recipient.
- E. The parties recognize the rights of the U.S. Ambassador to direct the removal from a country of any U.S. citizen employed by the recipient or the discharge from this grant award of any third country national when, in the discretion of the Ambassador, the interests of the United States so require.
- F. If it is determined that the services of such employee should be terminated, the recipient shall use its best efforts to cause the return of such employee to the United States, or point of origin, as appropriate.

VII. Confidentiality of Information

- A. Confidential information, as used in this Provision, means:
 - 1. Information or data of a personal nature about an individual that, if released, would constitute a clearly unwarranted invasion of personal privacy.
- B. In addition to the types of confidential information described in paragraphs A-1 above, information which might require special consideration with regard to the timing of its disclosure may derive from studies or research, during which public disclosure of preliminary invalidated findings could create erroneous conclusions which might threaten public health or safety if acted upon.
- C. The Grants Officer and the Recipient may, by mutual consent, identify elsewhere in this award specific information and/or categories of information which the Government will furnish to the Recipient or that the Recipient is expected to generate which is confidential. Similarly, the Grants Officer and the Recipient may, by mutual consent, identify such confidential information from time to time during the performance of the agreement.

- D. If it is established that information to be utilized under this award is subject to the Privacy Act, the Recipient will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, and implementing regulations and policies, with respect to systems of records determined to be subject to the Privacy Act.
- E. Written advance notice of at least 45 calendar days will be provided to the Grants Officer of the Recipient's intent to release findings of studies or research, which have the possibility of adverse effects on the public or the Federal agency, as described in paragraph B above. If the Grants Officer does not pose any objections in writing within the 45-calendar day period, the recipient may proceed with disclosure.
- F. Whenever the Recipient is uncertain with regard to the proper handling of material under the Cooperative Agreement, or if the material in question is subject to the Privacy Act or is confidential information subject to this Provision, the Recipient shall obtain a written determination from the Grants Officer prior to any release, disclosure, dissemination, or publication.

VIII. Liability

The recipient shall hold and save the Government, its officers, agents and employees. harmless from all liability of any nature or kind, including costs and expenses, for or on account of any or all suits for damage sustained by any person or persons or property by virtue of performance of this award.

IX. Financial Management System (FMS) Requirements

- A. General. Recipients must adhere to the Code of Federal Regulations (22 CFR Parts 145.20 – 145.28 for institutions of higher education, hospitals and other non-profit organizations, and 22 CFR Parts 135.20 – 135.26 for state and local governments) standards for financial management systems and methods for making payments, and rules for satisfying cost sharing and matching requirements, accounting for program income, budget revision approvals, making audits, determining allowability of costs, and establishing funds availability.
- B. Standards
 - 1. The Department of State requires recipients to relate financial data to performance data and develop unit cost information whenever practical. Recipients' financial management systems shall provide for the following:
 - a. Financial Reporting. Accurate, current and complete disclosure of the financial results of each federally-sponsored project or program in accordance with the reporting requirements set forth in 22 CFR 145.52 (or for state/local government: 22 CFR 135.41). If the Department requires reporting on an accrual basis from a recipient that maintains its records on other than an accrual basis, the recipient shall not be required to establish an accrual accounting

system. These recipients may develop such accrual data for its reports on the basis of an analysis of the documentation on hand.

- b. Accounting Records. Records that identify adequately the source and application of funds for federally-sponsored activities. These records shall contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.
 - c. Internal Control. Effective control over, and accountability for, all funds, property and other assets. Recipients shall adequately safeguard all such assets and assure they are used solely for authorized purposes and intent.
 - d. Budget Control. Periodic comparison of outlays with budget amounts for each award. Whenever appropriate, financial information should be related to performance and unit cost data.
 - e. Cash Management. Written procedures to minimize the time elapsing between the transfer of funds to the recipient from the U.S. Government and the issuance or redemption of checks, warrants or payments by other means for program purposes by the recipient. To the extent that the provisions of the Cash Management Improvement Act (CMIA) (P.L. 101-453) govern, payment methods of State agencies, instrumentalities, and fiscal agents shall be consistent with CMIA Treasury-State Agreements or the CMIA default procedures codified at 31 CFR Part 205, "Withdrawal of Cash from the Treasury for Advances under Federal Grants and Other Programs."
 - f. Allowable Costs. Written procedures for determining the reasonableness, allocability and allowability of costs in accordance with the provisions of the applicable Federal cost principles and the terms and conditions of the award.
 - g. Documentation. Accounting records, including cost accounting records that are supported by source documentation.
2. Where the Federal Government guarantees or insures the repayment of money borrowed by the recipient, the Department, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the recipient are not deemed adequate to protect the interest of the Federal Government.
 3. The Department of State may require adequate fidelity bond coverage where the recipient lacks sufficient coverage to protect the Federal Government's interest.
 4. Where bonds are required in the situations described above, the bonds shall be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR Part 223, "Surety Companies Doing Business with the United States."

X. Payments

- A. Payment methods shall minimize the time elapsing between the transfer of funds from the U.S. Treasury and the issuance or redemption of checks, warrants, or payment by other means by the recipients. Payment methods of State agencies or instrumentalities shall be consistent with Treasury-State CMIA agreements or default procedures codified at 31 CFR Part 205.
- B. Advances. Recipients are to be paid in advance, provided they maintain or demonstrate the willingness to maintain:
1. Written procedures that minimize the time elapsing between the transfer of funds and disbursement by the recipient, and
 2. Financial management systems that meet the standards for fund control and accountability as established in 22 CFR 145.21 (or for state/local government: 22 CFR 135.20) and included in Section VIII of these Terms and Conditions.
- C. Timing and Amount. Cash advances to a recipient organization shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by the recipient organization for direct program or project costs and the proportionate share of any allowable indirect costs.
- D. Requirements and Procedures
1. Whenever possible, advances shall be consolidated to cover anticipated cash needs for all awards made by the Department of State to the recipient.
 2. In order of preference, advance payment mechanisms include:
 - a. Electronic funds transfer (EFT) via the Department of Health & Human Services (HHS) Payment Management System (PMS),
 - b. Department of State-issued electronic funds transfers (EFT), and
 - c. Treasury check.
 3. Payment by a means other than through PMS must be authorized by the Department.
 4. Advance payment mechanisms are subject to 31 CFR Part 205.
 5. Recipients shall be authorized to submit requests for advances and reimbursements at least monthly when electronic fund transfers are not used.

E. Forms. Unless otherwise specified in these Terms and Conditions, only the following forms shall be authorized for the recipients in requesting advances and reimbursements. The Department shall not require more than an original and two copies.

1. SF-270, Request for Advance or Reimbursement. Requests for Treasury check advance payment shall be submitted on SF-270, "Request for Advance or Reimbursement," or other forms as may be authorized by OMB. This form is not to be used when Treasury check advance payments are made to the recipient automatically through the use of a predetermined payment schedule or if precluded by special Department of State instructions for electronic funds transfer.
2. SF-271, Outlay Report and Request for Reimbursement for Construction Programs. The Department has adopted the SF-271, "Outlay Report and Request for Reimbursement for Construction Programs," as the standard form to be used for requesting reimbursement for construction programs. However, the Department may substitute the SF-270 when it is determined that it provides adequate information to meet Federal needs.

F. Reimbursement. Reimbursement is the preferred method of payment when the requirements in 22 CFR 145.22(b) (or for state/local government: 22 CFR 135.41) cannot be met. The Department may also use this method on any construction agreement, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal assistance constitutes a minor portion of the project.

1. When the reimbursement method is used, the Department of State shall make payment within 30 days after receipt of the billing, unless the billing is improper.
2. Recipients shall be authorized to submit request for reimbursement at least monthly when electronic funds transfers are not used.

G. Working Capital Advance. If a recipient cannot meet the criteria for advance payments and the Department of State has determined that reimbursement is not feasible because the recipient lacks sufficient working capital, the Department may provide cash on a working capital advance basis. Under this procedure, the Department shall advance cash to the recipient to cover its estimated disbursement needs for an initial period generally geared to the awardee's disbursing cycle. Thereafter, the Department shall reimburse the recipient for its actual cash disbursements. The working capital advance method of payment shall not be used for recipients unwilling or unable to provide timely advances to their subrecipients to meet the subrecipients' actual cash disbursements.

H. Use of Available Funds. To the extent available, recipients shall disburse funds available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries and interest earned on such funds before requesting additional cash payments.

I. Withholding of Payments

1. Unless otherwise required by statute, Federal awarding agencies shall not withhold payments for proper charges made by recipients at any time during the project period unless paragraphs I-1a or b of this section apply.
 - a. A recipient has failed to comply with the project objectives, the terms and conditions of the award, or Federal reporting requirements, and/or
 - b. The recipient or subrecipient is delinquent in a debt to the United States as defined in OMB Circular A-129, "Managing Federal Credit Programs."
2. Under such conditions, the Department of State may, upon reasonable notice, inform the recipient that payments shall not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal Government is liquidated.

J. Banking Institution Requirements

1. Standards governing the use of banks and other institutions as depositories of funds advanced under awards are as follows:
 - a. Except for situations described in paragraph J-1b and c of this section, Federal awarding agencies shall not require separate depository accounts for funds provided to a recipient or establish any eligibility requirements for depositories for funds provided to a recipient. However, recipients must be able to account for the receipt, obligation and expenditure of funds.
 - b. Advances of Federal funds shall be deposited and maintained in insured accounts whenever possible.
2. Consistent with the national goal of expanding the opportunities for women-owned and minority-owned business enterprises, recipients shall be encouraged to use women-owned and minority-owned banks (a bank which is owned at least 50 percent by women or minority group members).

K. Use of Interest-Bearing Accounts

1. Interest Earned on Advances of Federal Funds. If a recipient utilizing a U.S. banking institution receives any amount of Federal funds under an award before the need to make actual cash outlays of the funds for direct program costs and any allowable indirect or facilities and administrative costs that are allocable to those direct costs, they shall maintain those advances of funds in interest bearing accounts, unless paragraphs K-1a, b or c of this section apply.
2. Exceptions. Exceptions to this requirement are:

- a. The recipient receives less than \$120,000 in Federal awards per year.
 - b. The best reasonably available interest bearing account would not be expected to earn interest in excess of \$250 per year on Federal cash balances.
 - c. The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.
3. Interest Less than \$250. Interest amounts up to \$250 per year may be retained by the recipient for administrative expenses.
 4. Remission of Interest Earned. For those entities where CMIA and its implementing regulations at 31 CFR Part 205 do not apply, interest earned on Federal advances deposited in interest bearing accounts shall be remitted annually to Department of Health and Human Services, Payment Management System, Rockville, MD 20852. State universities and hospitals shall comply with CMIA, as it pertains to interest. If an entity subject to CMIA uses its own funds to pay pre-award costs for discretionary awards without prior written approval from the Department of State, it waives its right to recover the interest under CMIA.

XI. Period of Availability of Funds

The project period under the award is indicated on the award cover sheet (form DS-1909). The recipient may charge to the award only allowable costs resulting from obligations incurred during the project period. However, the funds shall be available for closeout activities and the recipient shall liquidate all obligations incurred under the award not later than 90 days after the project period.

XII. Pre-Award Costs

GO is authorized, at their option, to waive pre-award prior written approvals required by OMB. This waiver may include authorizing recipients to:

- A. Pre-award costs must be necessary for the effective and economical conduct of the project and the costs must be otherwise allowable in accordance with Provision XII.
- B. Incur pre-award costs 90 calendar days prior to award. GO approval is required for pre-award costs that exceed the 90 calendar days. All pre-award costs are incurred at the risk of the recipient (i.e., the Department is under no obligation to reimburse such costs if for any reason the recipient does not receive an award or if the award is less than anticipated and inadequate to cover such costs).

XIII. Prior Approval Requirements

- A. The recipient must submit all requests, in writing to the GO or GOR, before the project period end date indicated on form DS-1909. Final approval is subject to review and acceptance by the GO.
- B. Unless otherwise specified in the award, provisions of the applicable Federal cost principles and other Federal administrative requirements for prior approval apply only to the activities and expenditures specified in the award.
- C. Written prior approval, by way of amendment, from the Department of State's GO is required for:
 1. Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval);
 2. Change in a key personnel specified in the application or award document;
 3. The absence for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator;
 4. The need for additional Federal funding;
 5. The transfer of amounts budgeted for indirect costs to absorb increases in direct costs;
 6. Extension of the period of performance;
 7. The transfer of funds among direct cost categories or programs, functions and activities for awards in which the Federal share of the project exceeds \$100,000 and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget;
 8. Unless described in the application and funded in the approved award, the sub-award (as defined in Section 20 Part B(3)a), transfer or contracting out of any work under an award; and/or
 9. The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.

XIV. Procurement Standards under Awards

- A. Whether or not approval of a procurement is required where appropriate, the recipients (including commercial organizations) are responsible for compliance with the procurement standards identified by OMB.

- B. The recipient is also responsible for ensuring that the appropriate terms and conditions from the award are made a part of any contract or other arrangement whose award amount exceeds the simplified acquisition threshold (currently \$150,000).

XV. Allowable Costs

- A. Government-wide cost principles. The allowability of costs incurred by the recipients, any sub-recipients, and any cost type contractors will be determined in accordance with the Federal cost principles applicable to the organization.
- B. General rule on allowability of costs.
 1. The recipient may use funds under the award, including DOS funds and any required cost sharing or matching contributions, only for:
 2. Allowable costs incurred by the recipients, any sub-recipients, or cost-type contractors; and Refer to the OMB Circulars to obtain listing of allowable costs, or visit the website address at: <http://www.whitehouse.gov/omb/circulars/index.html>.

XVI. Indirect Costs

- A. Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. Direct cost of minor amounts may be treated as indirect costs. After direct costs have been determined and assigned directly to awards or other work as appropriate, indirect costs are those remaining to be allocated to benefiting cost objectives. A cost may not be allocated to an award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to an award as a direct cost.
- B. Because of the diverse characteristics and accounting practices of non-profit organizations, it is not possible to specify the types of cost which may be classified as indirect cost in all situations. However, typical examples of indirect cost for many non-profit organizations may include depreciation or use allowances on buildings and equipment, the costs of operating and maintaining facilities, and general administration and general expenses, such as the salaries and expenses of executive officers, personnel administration, and accounting.
- C. Indirect costs shall be classified within two broad categories: "Facilities" and "Administration." "Facilities" is defined as depreciation and use allowances on buildings, equipment and capital improvement, interest on debt associated with certain buildings, equipment and capital improvements, and operations and maintenance expenses. "Administration" is defined as general administration and general expenses such as the director's office, accounting, personnel, library expenses and all other types of expenditures not listed specifically under one of the subcategories of "Facilities" (including cross allocations from other pools, where applicable).

XVII. Negotiation and Approval of Rates

- A. Unless different arrangements are agreed to by the agencies concerned, the Federal agency with the largest dollar value of awards with an organization will be designated as the cognizant agency for the negotiation and approval of the indirect cost rates and, where necessary, other rates such as fringe benefit and computer charge-out rates. Once an agency is assigned cognizance for a particular non-profit organization, the assignment will not be changed unless there is a major long-term shift in the dollar volume of the Federal awards to the organization. For more information, see OMB Circular A-122.
- B. A non-profit organization which has not previously established an indirect cost rate with a Federal agency, that believes the DOS should be its cognizant agency, shall submit its initial indirect cost proposal immediately after the organization is advised that an award will be made and, in no event, later than three months after the effective date of the award. The DOS point-of-contact in the International Programs Division (telephone 703-875-4655).
- C. Organizations that have previously established indirect cost rates must submit a new indirect cost proposal to the cognizant agency within six months after the close of each fiscal year.
- D. A **predetermined rate** may be negotiated for use on awards where there is reasonable assurance, based on past experience and reliable projection of the organization's costs, that the rate is not likely to exceed a rate based on the organization's actual costs.
- E. **Fixed rates** may be negotiated where predetermined rates are not considered appropriate. A fixed rate, however, shall not be negotiated if:
1. All or a substantial portion of the organization's awards are expected to expire before the carry-forward adjustment can be made;
 2. The mix of Federal and non-Federal work at the organization is too erratic to permit an equitable carry-forward adjustment; or
 3. The organization's operations fluctuate significantly from year to year.
- F. **Provisional and final rates** shall be negotiated where neither predetermined nor fixed rates are appropriate.
- G. The results of each negotiation shall be formalized in a written agreement between the cognizant agency and the non-profit organization.
- H. If a dispute arises in a negotiation of an indirect cost rate between DOS and the non-profit organization, the dispute shall be resolved in accordance with the appeals procedures of the Department of State issuing Bureau point of contact.

XVIII. Publication for Professional Audiences

- A. Any publications or articles resulting from the award must acknowledge the support of the Department of State and will include a disclaimer of official endorsement as follows: “This [article] was funded [in part] by a grant from the United States Department of State. The opinions, findings and conclusions stated herein are those of the author[s] and do not necessarily reflect those of the United States Department of State”. The recipient must ensure that this disclaimer be included on all brochures, flyers, posters, billboards, or other graphic artwork that are produced under the terms of the award.
- B. Seal/Logo. The Department of State’s seal may not be used by recipients without the express written permission of the United States Department of State.

XIX. Travel

- A. All Federal Government-financed international air transportation must be accomplished by U.S. Flag air carriers or U.S. code sharing to the extent that service by those carriers is available.

These circumstances are outlined below:

1. The United States – European Open Skies Air Transport Agreement (U.S.-E.U. Open Skies Agreement) is a bilateral/multilateral agreement that allows federal funded transportation services for employees understand recipient are to use foreign air carriers under specific circumstances. Due to recent modifications to the U.S. – E.U. Open Skies Agreement, the Department's travel policy has been amended.
2. The original U.S. - EU Open Skies agreement allowed travelers to use European (EU) carriers between EU countries and the continents with the United States when there was no contract city pair available between the origin and destination reflected on the travel order. The recent modified agreement allows travelers to:
 - Use EU carriers if the travelers are not eligible to use City Pair Fares. Examples would be government employees traveling between points not reflected on their orders, contractors, and federal grantees.
 - Use EU carriers between points in the United States and points OUTSIDE of the EU when there is no City Pair Fare on the route or the traveler is not eligible to use the fare. In essence, this allows travelers to compare
 - costs and select between an EU and U.S. flag carrier when the flight originates, arrives in, or stops in any of the EU countries.
 - For additional information regarding these issues, we invite you to review the frequently asked questions posted on our A/LM website at http://almopsttm.a.state.gov/EU_OPEN_SKIES_AMENDMENT_FAQ.asp or contact "TransportationQuery@state.gov."

For information on other "open skies" agreements in which the United States has entered, please refer to GSA's website at <http://www.gsa.gov/portal/content/103191>.

- B. Refer to the electronic Code of Federal Regulations as codified published in Title 41 CFR 301.10, "Public Contracts and Property Management, Transportation Expenses" to obtain entire Fly America Act regulatory guidance on following website address: www.gpoaccess.gov/cfr/index.html

XX. Post-Award Requirements for Closeout

- A. The Bureau/Program Specific Requirements will provide recipients with the due dates and where to send final reports. DOS will notify the recipient in writing of any changes to the reporting requirements before the project period end date. Copies of any required forms and instructions for their completion are included with the award and Bureau/Program Specific Requirements.
- B. DOS actions that must precede closeout are:
1. Receipt of all required reports,
 2. Disposition of all property in which the USG retains interest including government furnished property and property acquired under the award. Recipients shall request disposition instructions, in writing, within 30 calendar days of the end of the period of performance. DOS shall issue disposition instructions to the recipient within 120 calendar days of the receipt of the disposition request.
 3. Reconciling expenses, award requirements and Federal cash paid to the recipient.
 4. Final approved Negotiated Indirect Cost Rate Agreement (NICRA).
- C. Annual Reconciliation of Continuing Assistance Awards. DOS must reconcile continuing awards at least annually and evaluate program performance and financial reports. Items to be reviewed include a comparison of the recipient's work performance to its progress reports and project expenditures.
- D. Final Reports. Recipients must submit, within 90 calendar days after the project period end date of the award, all financial, performance, and other reports as required by the terms and conditions of the award. DOS may approve written recipient requests for extensions of the close-out period beyond the allowed 90 days.
- E. Unless DOS authorizes an extension, a recipient must liquidate all obligations incurred under the award not later than 90 calendar days after the funding period or the project period end date as specified on form DS-1909.

- F. DOS must make prompt payments to recipients for allowable reimbursable costs under the award being closed out. The recipient must promptly refund any balances of unobligated cash that DOS has advanced or paid and that is not authorized to be retained by the recipient for use in other projects. OMB Circular A-129 governs unreturned amounts that become delinquent debts.
- G. When authorized by the award, DOS must make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received, not to exceed the amount of the award.
- H. The recipient must account for any real and personal property acquired with Federal funds or received from the Federal Government in accordance with applicable rules, regulations, and laws.
- I. In the event a final audit has not been performed before the closeout of the award, DOS will retain the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

XXI. Monitoring and Reporting Requirements

A. Monitoring

- 1. Recipients are responsible for managing and monitoring each project, program, subaward, function or activity supported by the award. Recipients must monitor subawards to ensure that sub-recipients have met the audit requirements as delineated in the award.
- 2. DOS reserves the right to make site visits to review and evaluate recipient and sub-recipient records (including those documenting sub-recipient monitoring), accomplishments, organizational procedures, and financial control systems; to conduct interviews; and to provide technical assistance as necessary. Site visits will be made in the least disruptive manner possible.

B. Reporting Requirements

- 1. Performance Progress Report (PPR)
 - a. The Performance Progress Report (PPR) is intended to be a common form and format that can replace or incorporate the needs of the multiple existing OMB-cleared performance progress reports used by Federal agencies. The purpose of this government-wide reporting format is to collect performance information from recipients of Federal funds awarded under all Federal programs that exceed \$100,000 or more per project/grant period, excluding those that support research.
 - b. Completion of the PPR “coversheet” is mandatory for awards of \$100,000 or more. The Department recommends that the PPR cover sheet is used for all federal assistance awards under this amount; the requirement to submit the PPR

cover sheet will be specified in the bureau/program-specific portion of these terms and conditions.

2. Financial Reporting

- a. The Department requires recipients to use the SF-425 or SF-425A to report the status of funds for all non-construction projects or programs, unless an equivalent form has been prescribed by the Grants Officer and approved by the OMB and the Office of the Procurement Executive (A/OPE) (e.g., Form DS-2028 for the A/OPR/OS-Office of Overseas Schools). The Department has the option of not requiring the SF-425 or SF-425A when a Fixed Obligation Grant (FOG) is used and reporting requirements specified in the FOG have been met.
- b. The Grants Officer shall prescribe whether the report shall be on a cash or accrual basis. If the Department requires accrual information and the recipient's accounting records are not normally kept on the accrual basis, the recipient shall not be required to convert its accounting system, but shall develop such accrual information through best estimates based on an analysis of the documentation on hand.
- c. The Department shall determine the frequency of the Financial Status Report for each project or program, considering the size and complexity of the particular project or program. However, the report shall not be required more frequently than quarterly or less frequently than annually. A final report shall be required 90 days after completion of the agreement.
- d. The Department requires recipients to submit the SF-425 or SF-425A (an original, plus no more than two copies) no later than 30 days after the end of each specified reporting period for quarterly and semi-annual reports, and 90 calendar days for annual and final reports. These reports should be submitted as printed copies unless the submission is through the HHS Payment Management System (PMS), in which case reports are submitted electronically only. Extensions of reporting due dates may be approved by the Grants Officer upon request of the recipient.
- e. When funds are advanced to recipients, the Department shall require each recipient to submit the SF-425 Federal Cash sections and, when necessary, its continuation sheet-SF-425A. The Department shall use this report to monitor cash advanced to recipients and to obtain disbursement information for each agreement with the recipients.
- f. The Department may require forecasts of Federal cash requirements in the "Remarks" section - Line 12, of the report.
- g. When practical and deemed necessary, the Department may require recipients to report in the "Remarks" section - Line 12, the amount of cash advances

received in excess of three days. Recipients shall provide short narrative explanations of actions taken to reduce the excess cash-on-hand balances.

3. Sub-award Reporting and Executive Compensation

- a. “Sub-awards” are defined as either subcontracts or grants-specific sub-awards. A “subcontract,” means a subcontract awarded directly by a contractor to furnish supplies or services (including construction) for performance of a prime contract, but excludes supplier agreements with vendors, such as long-term arrangements for materials or supplies that would normally be applied to a contractor’s general and administrative expenses or indirect cost. For grants, a “sub-award” means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that:

- (1) The prime recipient awards to an eligible sub-recipient; or
- (2) Sub-recipient at one tier awards to a sub-recipient at the next lower tier.

- b. The prime recipient must report each action of the first tier subaward that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, P.L. 111-5) for a sub-award to an entity.
- c. The recipient must report each obligating action to the Federal Funding Accountability and Transparency Act (FFATA), Federal Subaward Reporting System (FSRS) at www.fsrs.gov. For sub-award information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2011, the obligation must be reported by no later than December 31, 2011.)
- d. Report the information about each obligating action that the submission instructions posted at www.fsrs.gov specify.
- e. Reporting Total Compensation of Recipient Executives

- (1) Recipients must report total compensation for each of the recipient’s five most highly compensated executives, as well as for applicable first tier sub-recipients, for the preceding completed fiscal year, if:

The total Federal funding authorized to date under this award is \$25,000 or more.

- (a) In the preceding fiscal year, you received 80 percent or more of your annual gross revenues from Federal procurement contracts and subcontracts) and Federal financial assistance subject to the Federal Accountability and Transparency Act (“Transparency Act”), as

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

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

(2) The recipient must report executive total compensation described in the award term above, as part of your registration profile at www.ccr.gov, by the end of the month following the month in which this award is made, and annually thereafter, or executive total compensation described in the award term above

4. Additional Information or More Frequent Reports. When additional information or more frequent reports are needed, the following will be observed:

- a. When additional information is needed to comply with legislative requirements, instructions will be issued to require submission of such information under the "Remarks" section of the reports.
- b. When a recipient's accounting system does not meet the standards, additional pertinent information to further monitor awards may be obtained upon written notice until such time as the system is brought up to standard. In obtaining this information, DOS must comply with report clearance requirements of 5 CFR Part 1320.
- c. Identical information may be accepted from the recipient in machine readable format or computer printouts or electronic outputs in lieu of prescribed formats.
- d. The recipients may provide computer or electronic outputs when they expedite or contribute to the accuracy of reporting.

5. Closeout

The bureau/program specifics will identify the due dates and where to submit reports, and it will contain copies of any required forms and instructions for their completion.

XXII. Retention and Access Requirements for Records

- A. The recipient must maintain financial records, supporting documents, statistical records, and all other records pertinent to an award for a period of three years from the date of submission of the final expenditure report. For awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report as authorized by the DOS. The only exceptions are the following:
1. If any litigation, claim, or audit is started before the expiration of the three-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken;
 2. Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition;
 3. When records are transferred to or maintained by DOS, the three-year retention requirement is not applicable to the recipient;
 4. Indirect cost rate proposals and/or cost allocations plans
- B. Copies of Original Records. Copies of original records may be substituted for the original records if authorized by the DOS.
- C. Transfer of Certain Records. DOS must request transfer of certain records to its custody from recipients when it determines that the records possess long-term retention value. However, in order to avoid duplicate recordkeeping, DOS may make arrangements for recipients to retain any records that are continuously needed for joint use.
- D. Timely and Unrestricted Access. DOS, the Inspector General, Comptroller General, or any of their duly authorized representatives have the right of timely and unrestricted access to any books, documents, papers, or other records of recipients that are pertinent to the award, in order to make audits, examinations, excerpts, transcripts, and copies of such documents. This right also includes timely and reasonable access to a recipient's personnel for the purpose of interview and discussion related to such documents. The rights of access in this paragraph are not limited to the required retention period, but must last as long as records are retained.
- E. Restrictions. Unless required by statute, no restrictions shall be placed on recipients that limit public access to the records of recipients that are pertinent to an award, except when the DOS can demonstrate that such records must be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) if the records had belonged to the DOS.

XXIII. Audits

- A. The recipient must comply with the OMB audit requirements.

- B. For all DOS awards, regardless of business type, the recipients are subject to the audit requirements found in OMB audit requirements. In addition, the recipients are subject to the audit requirements found in the Single Audit Act of 1984, 31 U.S.C. 7501-7507.
- C. Non-Federal entities that expend \$500,000 or more in a year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the revised circular.
- D. Non-Federal entities that expend less than \$500,000 a year in Federal awards are exempt from Federal audit requirement for that year, except as noted in OMB Requirements, but records must be available for review or audit by appropriate DOS officials, pass through entity, and Government Accountability Office. The cost of auditing a non-Federal entity which has Federal awards expended of less than \$500,000 for fiscal years ending after December 31, 2003) per year and is thereby exempted under OMB Audit requirements.
- E. The audit must be completed and submitted within 30 days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a longer period is agreed to in advance by the Office of the Inspector General. (However, for fiscal years beginning on or before June 30, 1998, the audit must be completed and submitted within 30 days after receipt of the auditor's report(s), or 13 months after the end of the audit period, unless a longer period is agreed to in advance by the Office of the Inspector General.)
- F. The Inspector General or any of his or her duly authorized representatives have access to any pertinent books, documents, papers and records of the recipient. Information accessible to the Inspector General includes written, printed, recorded, produced, or reproduced by any mechanical, magnetic, or other process or medium. DOS reserves the right to make audits, inspections, excerpts, transcriptions or other examinations as authorized by law of the recipients' documents and facilities.
- G. The data collection form and the reporting package shall be submitted to the following address:
- Federal Clearinghouse
Bureau of the Census
1201 E. 10th Street
Jeffersonville, IN 47132
- H. DOS and its authorized representatives have the legally enforceable right to examine, audit, and copy, at any reasonable time, all records in DOS possession pertaining to the award.

XXIV. Debarment and Suspension (as amended by Executive Order 12549 and NDA Act)

- A. Debarment and suspension are discretionary actions that, taken in accordance with this subpart, are appropriate means to effectuate this policy.
1. The serious nature of debarment and suspension requires that these sanctions be imposed only in the public interest for the Government's protection and not for purposes of punishment. Agencies shall impose debarment or suspension to protect the Government's interest and only for the causes and in accordance with the procedures set forth in this subpart.
 2. When more than one agency has an interest in the debarment or suspension of a recipient, the Interagency Committee on Debarment and Suspension, established under Executive Order 12549, and authorized by Section 873 of the National Defense Authorization Act for Fiscal Year 2009 (Pub. L. 110-417), shall resolve the lead agency issue and coordinate such resolution among all interested agencies prior to the initiation of any suspension, debarment, or related administrative action by any agency.
- B. The recipient certifies to the best of its knowledge and belief that it and its principals:
1. Are not presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 2. Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, 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; and
 4. Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default.
- C. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective primary participant shall attach an explanation to this award.

XXV. Termination

- A. Awards may be terminated (or, with respect to paragraphs 1 and 3 of this section, suspended) in whole or in part if any of the circumstances stated below:
1. By DOS, if a recipient materially fails to comply with the terms and conditions of an award, including the performance and the expenditures of its sub-recipients.
 2. By DOS, with the consent of the recipient, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.
 3. By DOS, if at any time DOS determines that continuation of all or part of the funding for a program should be suspended or terminated because such assistance is not consistent with the national security or foreign policy interests of the United States, or would be in violation of an applicable law. In such cases, DOS may, following notice to the recipient, suspend or terminate the award in whole or in part and prohibit the recipient from incurring additional obligations chargeable to the award other than those costs specified in the notice of suspension. If a suspension is affected and the situation causing the suspension continues for 60 days or more, then DOS may terminate the award in whole or in part on written notice to the recipient and cancel any portion of the award which has not been disbursed or irrevocably committed to third parties.
 4. By the recipient, upon sending to DOS written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated.
- B. However, if DOS determines in the case of partial termination that the reduced or modified portion of the award will not accomplish the purposes for which the award was made, it may terminate the award in its entirety.
- C. If costs are allowed under an award, the responsibilities of the recipient, including those for property management as applicable, shall be considered in the termination of the award, and provision shall be made for continuing responsibilities of the recipient after termination, as appropriate.
- D. By Mutual Agreement
1. 22 CFR 135 (state and local governments) as well as 22 CFR 145 (educational institutions and nonprofits) sets forth termination procedures.
 2. The recipients may terminate their performance of a project in whole or in part. When both parties agree that continuation of the project would not produce results commensurate with further expenditure of funds or for any other reason, the award may be terminated by mutual consent.
 3. The recipients may terminate the project after the authorized representative advises the GO in writing; and concurrently sends a copy to the GOR.

4. When DOS wishes to terminate a project, the GO will issue, in writing, a termination notice to the recipient's authorized representative with a copy to the project manager and the GOR.
5. Within 30 days after receipt of a request by either party for termination by mutual agreement, the other party will provide an appropriate written response.
6. The two parties must agree upon the termination conditions, including the effective date, and, in the case of partial termination, the portion to be terminated. The recipient must not incur new obligations for the terminated portion after the effective date and must cancel as many outstanding obligations as possible. DOS will allow full credit to the recipients for the Federal Share of the obligations that cannot be cancelled properly incurred by the recipients prior to termination.

E. For Cause

1. DOS reserves the right to terminate the award in whole or in part at any time before the project period end date, whenever it is determined that the recipients have failed to comply with the conditions of the award.
2. DOS must promptly notify the recipients in writing of the determination and reasons for the termination, together with the effective date. Payments made to recipients or recoveries by DOS awards terminated for cause must be in accordance with the legal rights and liabilities of the parties.

XXVII. The Age Discrimination Act

Provides that no person in the United States shall, *on the basis of age*, be excluded from participation in, be denied benefits of, or be subject to discrimination under any program or activity receiving Federal financial assistance. (42 U.S.C. 6101 et seq.)

XXVIII. The Rehabilitation Act

Provides that no otherwise qualified disabled individual in the United States, shall, *solely by reason of his/her disability*, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal assistance. Under this regulation, a federally funded arts program when viewed in its entirety must be accessible to all persons. The National Endowment for the Arts issued its regulations in 1979 to enforce the existing law. Failure to comply with Section 504 can result in loss of federal funds.

For the purpose of Section 504, the term "disabled individual" means any person who (a) has a physical or mental impairment which substantially limits one or more of such person's major life activities, (b) has a record of such impairment, or (c) is regarded as having such impairment.

XXIV. Title VI of the Civil Rights Act

As amended, provides that no person in the United States shall, *on the grounds of race, color or national origin*, be excluded from participation in, be denied benefits of, or be subject to

discrimination under any program or activity receiving federal financial assistance. Title VI also extends protection to persons with limited English proficiency.

XXV. The Drug-Free Workplace Act

Requires you to publish a statement about your drug-free workplace program. You must give a copy of this statement to each employee (including consultants and temporary personnel) who will be involved in award-supported activities at any site where these activities will be carried out.

XXVI. The Hatch Act

Restricts the political activity of executive branch employees of the federal government, District of Columbia government and some state and local employees who work in connection with federally funded programs. In 1993, Congress passed legislation that significantly amended the Hatch Act as it applies to federal and D.C. employees (5 U.S.C. §§ 7321-7326). (These amendments did not change the provisions that apply to state and local employees. 5 U.S.C. §§ 1501- 1508.) Under the amendments most federal and D.C. employees are now permitted to take an active part in political management and political campaigns. A small group of federal employees are subject to greater restrictions and continue to be prohibited from engaging in partisan political management and partisan political campaigns.

XXVII. Certification Regarding Lobbying

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 22 CFR Part 138, for persons entering into a grant or cooperative agreement over \$100,000, the applicant 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 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 Cooperative Agreement, 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, an officer or employee of Congress, or an 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 subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients 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 31, United States 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.

XXVIII. Equal Protection of the Laws for Faith-Based and Community Organizations

The recipient may not discriminate against any beneficiary or prospective beneficiary under this award on the basis of religion or belief:

- A. Accordingly, in providing services supported in whole or in part by this agreement or in its outreach activities related to such services, the recipient may not discriminate against current or prospective program beneficiaries on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.
- B. The Federal Government must implement Federal programs in accordance with the Establishment Clause and the Free Exercise Clause of the First Amendment to the Constitution. Therefore, if the recipient engages in explicitly religious activities, including activities that involve overt religious content such as *worship, religious instruction, and proselytization*, it must perform such activities and offer such services at a different time or location from any programs or services directly funded by this award, and participation by beneficiaries in any such explicitly religious activities must be voluntary.
- C. If the recipient makes sub-awards under this agreement, faith-based organizations should be eligible to participate on the same basis as other organizations, and should not be discriminated against on the basis of their religious character or affiliation.

XXIX. Minority Business Participation, Executive Order 12432

- A. In accordance with Executive Order 12432, Minority Business Enterprise Development, DOS encourages the recipients to utilize minority business enterprises in the performance of the award. When contracting for any supplies, services, research, or construction under the award, the recipients must make their best efforts to solicit bids, proposals, or quotations from minority business enterprises.
- B. A minority business enterprise is defined as a business that is at least 51 percent owned by one or more minority individuals, or in the case of any publicly owned business, at least 51 percent of the voting stock is owned by one or more minority individuals. The daily business operations are likewise managed by a minority owner. A minority individual is defined as a U.S. citizen who has been subjected to racial or ethnic prejudice or cultural bias because of his or her identity as a member of this group without regard to his or her individual qualities. Such groups include, but are not limited to: Black [African] Americans, Hispanic Americans, Native Americans, and Asian-Pacific Americans.

XXX. Blocking Property and Prohibiting Transactions Who Commit, Threaten To Commit, or Support Terrorism, Executive Order 13224

- A. Executive Order 13224 designated certain individuals and entities that commit or pose a significant risk of committing terrorist acts and authorized the Secretary of State to designate additional individuals and entities.
- B. The Order also authorized the Secretary of the Treasury to designate additional individuals and entities that provide support or services to, are owned or controlled by, act for or on behalf of, or are “otherwise associated with,” an individual or entity who has been designated in or under the order. All property and interests in property of the individual or entity in the United States or in the possession or control of United States persons are blocked. The order prohibits all transactions and dealings in blocked property or interests in the United States or by United States persons, and also prohibits transactions with, and provision of support for, individuals or entities listed in or subject to the Order.
- C. The recipients should be aware of Executive Order 13224 and the names of the individuals and entities designated thereunder. A list of these names can be found at the web site of the Excluded Parties List System (EPLS). The web site is: <http://www.epls.gov>.
- D. The recipients are reminded that U.S. Executive Order and U.S. laws prohibit transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the recipient/contractor to ensure compliance with these Executive Orders and laws.

XXXI. Trafficking in Persons

In accordance with Section 106(g) of the Trafficking Victims Protection Act, as amended, DOS is authorized to terminate the award, contract, or cooperative agreement, without penalty, if the recipients or any subrecipient; or the contractor or any subcontractor:

- A. Engages in severe forms of trafficking in persons or has procured a commercial sex act during the period of the time the award or, contract, or cooperative agreement is in effect, or :
 - i. Procure a commercial sex act during the period of time that the award is in effect; or
 - ii. Use forced labor in the performance of the award or sub-awards under the award.
- B. The Department may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —
 - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in this award term through conduct that is either—
 - Associated with performance under this award; or

