

**DIVISION OF HOMELAND SECURITY AND EMERGENCY SERVICES**  
**Grant Assurances and Certifications for Federally-Funded Grants**

The certifications herein shall be treated as a material representation of fact upon which reliance will be placed when the State of New York and/or the Federal Emergency Management Agency (FEMA) determines to award the covered transaction, grant, or cooperative agreement.

*As the duly authorized representative of the applicant, I certify that the applicant agrees to comply with the following:*

**FOR U.S. DEPARTMENT OF HOMELAND SECURITY GRANTS AND U .S. DEPARTMENT OF TRANSPORTATION GRANTS:**

1. The administrative, cost principles, and audit requirements that apply to these funds originate from 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, as adopted by DHS at 2 CFR Part 3002.
2. Lobbying. As required by 31 USC §1352, and implemented at 44 CFR Part 18, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 44 CFR Part 18, the applicant certifies that:
  - a) 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 making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;
  - b) 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 grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, 'Disclosure of Lobbying Activities,' in accordance with its instructions;
  - c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) 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 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
3. Debarment, Suspension and other Responsibility Matters (Direct Recipient). Applicant agrees that it will not make any award or permit any award (subgrant or contract) to any party which is debarred or

suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549 and 12689, "Debarment and Suspension". As required by Executive Order 12549, Debarment and Suspension, and implemented at 44 CFR Part 17, for prospective participants in primary covered transactions, the applicant certifies that it and its principals:

- a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;
- b) Have not within a three-year period preceding this application been convicted of 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;
- c) 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 (1)(b) of this certification; and 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; and
- d) Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

4. Drug-Free Workplace (Grantees other than Individuals). Recipients are required to comply with the Drug-Free Workplace Act of 1988 (41 USC §701 et seq.), adopted at 2 CFR Part 3001, which requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. DHS has adopted the Act's implementing regulations at 2 CFR Part 3001.

5. Applicant agrees that it will comply with all applicable Federal statutes, regulations, policies, guidelines, and requirements, including Office of Management and Budget (OMB) Circular A-102, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments (also known as the "A-102 Common Rule"), found under FEMA regulations at Title 44, Code of Federal Regulations (CFR) Part 13, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." - OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, relocated to 2 CFR Part 215. The requirements for allowable costs/cost principles are contained in the A-102 Common Rule, OMB Circular A-110 (2 CFR § 215.27), DHS program legislation, Federal awarding agency regulations, and the terms and conditions of the award. The four costs principles circulars are as follows: - OMB Circular A-21, Cost Principles for Educational Institutions, relocated to 2 CFR Part 220. - OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, relocated to 2 CFR Part 225. - OMB Circular A-122, Cost Principles for Non-Profit Organizations, relocated to 2 CFR Part 230. - OMB Circular A-133, Audits of States, Local Governments and Non-Profit Organizations.

6. Applicant agrees that it has the legal authority to apply for federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay any required non-federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
7. Applicant agrees that it will comply with the provisions of the Hatch Act (5 U.S.C. Sections 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
8. Applicant agrees that it will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. Section 276a to 276a-7), the Copeland Act (40 U.S.C. Section 276c and 18 U.S.C. Sections 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. Sections 327-333), regarding labor standards for Federally-assisted construction sub-agreements.
9. Applicant agrees that it will give the awarding agency, the Comptroller General of the United States and the State, through any authorized representative, access to and the right to examine all paper or electronic records related to the financial assistance; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
10. Applicant agrees that it will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain for themselves or others, particularly those with whom they have family, business or other ties.
11. Applicant agrees that it will initiate and complete the work within the applicable time frame after receipt of approval from the awarding agency.
12. Applicant agrees that it will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. Section 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in OPM's Standards for a Merit System of Personnel Administration) 5 CFR Part 900, Subpart F.
13. All recipients must comply with Title VI of the *Civil Rights Act of 1964* (42 U.S.C. § 2000d *et seq.*), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. Implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.
14. All recipients must comply with the *Title VI of the Civil Rights Act of 1964* (Title VI) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. Providing meaningful access for persons with LEP may entail providing language assistance services, including oral interpretation and written translation. In order to facilitate compliance with Title VI, recipients are encouraged to consider the need for language services for LEP persons served or encountered in developing program budgets. Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (August 11,

2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations. DHS published the required recipient guidance in April 2011, *DHS Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons*, 76 Fed. Reg. 21755-21768, (April 18, 2011). The Guidance provides helpful information such as how a recipient can determine the extent of its obligation to provide language services; selecting language services; and elements of an effective plan on language assistance for LEP persons. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

15. Applicant agrees that planned expenditures utilizing grant funds are consistent with needs as identified in the State Homeland Security Strategy and will be deployed in conformance with that Strategy.

16. All recipients who receive awards made under programs that prohibit supplanting by law must ensure that Federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-Federal sources. Where federal statutes for a particular program prohibits supplanting, applicants or recipients may be required to demonstrate and document that a reduction in non-Federal resources occurred for reasons other than the receipt of expected receipt of Federal funds.

17. All recipients who collect Personally Identifiable Information (PII) are required to have a publicly-available privacy policy that describes what PII they collect, how they use PII, whether they share PII with third parties, and how individuals may have their PII corrected where appropriate. Award recipients may also find as useful resources the DHS Privacy Impact Assessments: visit [www.dhs.gov/policy](http://www.dhs.gov/policy).

18. Unless otherwise provided by law, recipients are subject to the Bayh-Dole Act, Pub. L. No. 96-517, as amended, and codified in 35 U.S.C. § 200 et seq. All recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from financial assistance awards are in 37 C.F.R. Part 401 and the standard patent rights clause in 37 C.F.R. § 401.14.

19. Any cost allowable to a particular Federal award provided for in 2 CFR Part 200, Subpart E may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations or terms and conditions of the Federal awards or for other reasons. However, this prohibition would not preclude the non-Federal entity from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations or the terms and conditions of the Federal awards.

20. All recipients must comply with the requirements of 42 USC §6201 which contain policies relating to energy efficient that are defined in the state energy conservation plan issues in compliance with this Act.

21. All recipients must report each action that obligations \$25,000 or more in Federal funds that does not include Recovery Funds (as defined in §1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L 111-5) for a subaward to an entity, unless provided in paragraph D as required by 2 CFR

part 170, "Reporting Subaward and Executive Compensation Information" and the Federal Funding Accountability and Transparency Act 2006 (FFATA). Recipients must register at [www.sam.gov](http://www.sam.gov) and report information about each obligating action in accordance with the submission instructions posted at [www.fsrcs.gov](http://www.fsrcs.gov).

22. All recipients must maintain the currency of the information in the SAM until submission of the final financial report required under the award or receive final payment, whichever is later, as required by 2 C.F.R. Part 25.

23. All recipients must comply with the requirements of 31 USC §3729 which set forth that no recipient of federal payments shall submit a false claim for payment. See also 38 USC §3801-3812 which details the administrative remedy for false claims and statements made.

24. All recipients are required to be non-delinquent in their repayment of any Federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowance and benefit overpayments. See OMB Circular A-129 and form SF-424B, item number 17 for additional information and guidance.

25. All recipients must comply with Preference for U.S. Flag Air Carriers: (air carriers holding certificates under 49 USC §41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974 (49 USC §40118) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981 amendment to the Comptroller General Decision B-138942.

26. In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 USC §2225a, all recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with Federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, as amended, 15 USC §2225.

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

28. Applicant agrees that it will comply with all provisions of 48 CFR §31.2, Federal Acquisition Regulations (FAR), Contracts with Commercial Organizations.

29. All recipients who have contracts exceeding the acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by Civilian Agency Acquisition Council and the Defense Acquisition Regulation Council as authorized by 41 U.S.C. §1908, must address administrative, contractual, or legal remedies in instance where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.

30. All recipients that have contracts exceeding \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

31. Applicant agrees that it will comply with all lawful requirements imposed by the awarding agency, specifically including any applicable regulations, such as 28 C.F.R. pts. 18, 22, 23, 30, 35, 38, 42, 61, and 63.

32. Applicant agrees that it will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

33. All recipients who receive awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

34. All recipients must comply with U.S. Executive Order 13224 and U.S. law that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of recipients to ensure compliance with the E.O. and laws.

35. Applicant agrees that it will comply with requirements that publications or other exercise of copyright for any work first produced under Federal financial assistance awards hereto related unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations). For any scientific, technical, or other copyright work based on or containing data first produced under this award, including those works published in academic, technical or professional journals, symposia proceedings, or similar works, the recipient grants the Government a royalty-free, nonexclusive and irrevocable license to reproduce, display, distribute copies, perform, disseminate, or prepare derivative works, and to authorize others to do so, for Government purposes in all such copyrighted works. The recipient shall affix the applicable copyright notices of 17 U.S.C. §§401 or 402 and an acknowledgement of Government sponsorship (including award number) to any work first produced under an award.

36. Applicant agrees that it will comply with the requirements of the assistance awarding agency with regard to the drafting, review and approval of construction plans and specifications.

37. Applicant agrees that it will provide and maintain competent and adequate engineering supervision at the construction site to ensure that the complete work conforms to the approved plans and specifications and will furnish progress reports and such other information as may be required by such other information as may be required by the assistance awarding agency or state.

38. Applicant agrees that it will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. Section 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

39. Applicant agrees that it will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. Section 1451 et seq.); (f) conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. Section 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

40. Applicant agrees that it will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. Section 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

41. Applicant agrees that it will assist the awarding agency (if necessary) in assuring compliance with section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. § 470), Ex. Order 11593 (identification and protection of historic properties), the Archeological and Historical Preservation Act of 1974 (16 U.S.C. § 469 a-1 et seq.), and the National Environmental Policy Act of 1969 (42 U.S.C. § 4321).

42. Applicant agrees that it will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin (implementing regulations are found at 6 CFR Part 21 and 44 CFR Part 7); (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. Sections 1681-1683, and 1685-1686; Implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19), which prohibits discrimination on the basis of sex from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794, as amended), which provides that no otherwise qualified handicapped individual in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance (these requirements pertain to the provision of benefits or services as well as to employment) ; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101 *et seq.*), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) Sections 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290-dd-3 and 290-ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Acts of 1968 (42 U.S.C. § 3601 et seq.), as amended, which prohibits discrimination in the sale, rental or

financing of housing on the basis of race, color, national origin, religion, disability, familial status and sex (implementing regulations are found at 24 CFR Part 100). The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units – i.e., the public and common use areas and individual apartment units (all units in building with elevators and ground-floor units in buildings without elevators\_ - be designed and constructed with certain accessible features (see 24 CFR §100.201); (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

43. All recipients must comply with the requirements of the government-wide award term which implements Section 106(g) of the *Trafficking Victims Protection Act (TVPA) of 2000*, as amended (22 U.S.C. § 7104). This is implemented in accordance with OMB Interim Final Guidance, *Federal Register*, Volume 72, No. 218, November 13, 2007. Full text of the award term is located at 2 CFR § 175.15.

44. All recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 USC §§12101-12213).

45. Applicant agrees that it will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act (29 U.S.C. 201), as they apply to employees of institutions of higher education, hospitals, and other non-profit organizations.

46. Applicant agrees that it will comply with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq. [P.L. 91-646]) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or Federally assisted programs. These requirements apply to all interested in real property acquired for project purposes regardless of Federal participation in purchases.

47. Applicant agrees that will comply with Title 44 CFR, Part 25, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-assisted programs.

48. Applicant agrees that, to the extent contractors or subcontractors are utilized, will use small, minority-owned, women-owned, or disadvantaged business concerns and contractors or subcontractors to the extent practicable.

49. Applicant agrees that it will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996, and OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations.”

50. Applicant agrees that it will obtain approval by the appropriate Federal agency of the final working drawings and specifications before the project is advertised or placed on the market for bidding; that it will construct the project, or cause it to be constructed, to final completion in accordance with the application and approved plans and specifications; that it will submit to the appropriate Federal agency for prior approval, changes that alter the cost of the project, use of space, or functional layout, that it will

not enter into a construction contract(s) for the project or undertake other activities until the conditions of the construction grant program(s) have been met.

51. Applicant agrees that it will operate and maintain the facility in accordance with the minimum standards as may be required or prescribed by the applicable Federal, State, and local agencies for the maintenance and operation of such facilities.

52. Applicant agrees that it will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

53. Applicant agrees that it will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

54. Applicant agrees that it will comply with the requirements of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act (USA PATRIOT Act), which amends 18 U.S.C. §§ 175-175c. Among other things, it prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose.

55. All recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C §2409, 41 U.S.C. 4712, and 10 U.S.C. § 2324, 41 U.S.C. §§ 4304 and 4310.

56. Applicant agrees that it will require the facility to be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," Number A117. - 1961, as modified (41 CFR 101-17.703). The applicant will be responsible for conducting inspections to ensure compliance with these specifications by the contractor.

57. Applicant agrees that if any real property or structure thereon is provided or improved with the aid of Federal financial assistance extended to the applicant, this assurance shall obligate the applicant, or in the case of any transfer of such property, any transfer, for the period during which the real property or structure is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits.

58. Any cost allocable to a particular Federal award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude the non-Federal entity from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal awards.

59. Applicant agrees that it will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

60. All recipients must acknowledge their use of federal funding when issuing statements, press releases, and requests for proposals, bid invitations and other documents describing projects or programs funded in whole or in part with Federal funds.

61. All recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits or approvals are obtained.

62. Applicant agrees that in making subgrants with nonprofit institutions under this Comprehensive Cooperative Agreement, it agrees that such grants will be subject to OMB Circular A-122, "Cost Principles for Non-profit Organizations" included in Vol. 49, Federal Register, pages 18260 through 18277 (April 27, 1984).

**FOR U.S. DEPARTMENT OF HOMELAND SECURITY GRANTS:**

63. All recipients must acknowledge and agree—and require any sub-recipients, contractors, successors, transferees, and assignees acknowledge and agree—to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff:

- Recipients must cooperate with any compliance review or complaint investigation conducted by DHS.
- Recipients must give DHS access to and the right to examine and copy records, accounts, and other documents and sources of information related to the grant and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations *and* other applicable laws or program guidance.
- Recipients must obtain DHS's approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.
- Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
- Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
- If, during the past three years, the recipient has been accused of discrimination on the grounds of race, color, national origin (including limited English proficiency), sex, age, disability, religion, or familial status, the recipient must provide a list of all such proceedings, pending or completed, including outcome and copies of settlement agreements to the DHS awarding office and the DHS Office of Civil Rights and Civil Liberties. In the event any court or administrative agency makes a finding of discrimination on grounds of race, color,

national origin (including limited English proficiency), sex, age, disability, religion, or familial status against the recipient, or the recipient settles a case or matter alleging such discrimination, recipients must forward a copy of the complaint and findings to the DHS Component and/or awarding office.

- The United States has the right to seek judicial enforcement of these obligations.

#### **FOR U.S. DEPARTMENT OF TRANSPORTATION HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS GRANTS:**

- Title VI of the Civil Rights Act of 1964 (42 USC §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR Part 21 (entitled Non-discrimination In Federally-Assisted Programs of the Department of Transportation – Effectuation of the Civil Rights Act of 1964);
- 28 CFR §50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);
- Section 504 of the Rehabilitation Act of 1973, (29 USC §794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 USC §6101 *et seq.*), (prohibits discrimination on the basis of age);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and §504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the program or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation and certain testing entities (42 USC §12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discrimination because of sex in education programs or activities (20 USC §1681 *et seq.*)

The preceding statutory and regulatory cites hereinafter are referred to as the “Acts” and “Regulations,” respectively.

#### **General U.S. DOT Assurances**

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

“No person in the United States shall, on the grounds of race, color, national origin, gender, age, or disability be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity,” for which the Recipient receives Federal financial assistance from DOT, including the Pipeline and Hazardous Materials Safety Administration.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age of Discrimination Act of 1975, and §405 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

### Specific U.S. DOT Assurances

More specifically, and without limiting the above General Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted Hazardous Materials Emergency Preparedness Grant Program:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23(b) and 21.23(e) of 49 CFR §21 will be (with regard to an “activity”) facilitated, or will be (with regard a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all Hazardous Materials Emergency Preparedness Grant Program and, in adapted from, in all proposals for negotiated agreements regardless of funding source:

“The [Entity Name], in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 USC §§2000d to 2000d-4) and the Regulations, hereby notified all bidders that it will affirmatively ensure that with respect to any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin in consideration for an award.”

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United State effecting or recording a transfer of real property, structures, use or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.

7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permit or similar instruments entered into by the Recipient with other parties:
  - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
  - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures to improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
  - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
  - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipient, subrecipients, subgrantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all required imposed or pursuant to the Acts, the Regulations and this Assurance.
10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under these Acts, the Regulations, and this Assurance.

By signing this Assurance, the Grantee also agrees to comply (and require any subrecipients, subgrantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the Pipeline and Hazardous Materials Safety Administration access to records, accounts, documents, information, facilities and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the Pipeline and Hazardous Materials Safety Administration. You must keep records, reports, and submit the material for review upon request to the Pipeline and Hazardous Materials Safety Administration, or its designee in a timely, complete and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

The Grantee give this Assurance in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the Hazardous Materials Emergency Preparedness Grant Program. This Assurance is binding on Grantee, other recipients, subrecipients, subgrantees, contractor, subcontractors and their subcontractors, transferees, successors in interest, and any other participants in the Hazardous Materials Emergency Preparedness Grant Program.

*The undersigned represents that he/she is authorized by the above named applicant to enter into this agreement for and on behalf of the said applicant.*

APPLICANT/GRANTEE ACCEPTANCE OF CERTIFIED ASSURANCES (Signature of Chief Executive of Unit of Local Government or Community Organization, or State Agency Head)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

## APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, as they may be amended from time to time, which are herein incorporated by reference and make a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations including employment practices when the contract covers any activity, project, or program set forth in Append B of 49 CFR Part 21 (Including Modal Operating Administration specific program requirements).
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and Regulations relative to non-discrimination on the grounds of race, color or national origin. (Including Modal Operating Administration specific program requirements).
4. **Information and Reports:** The Contractor will provide all information and reports required by the Acts, the Regulations and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Pipeline and Hazardous Materials Safety Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Nondiscrimination provisions of this Contract, the Recipient will impose such contract sanctions as it or the Pipeline and Hazardous Materials Safety Administration may determine to be appropriate, including but not limited to:
  - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
  - b. Cancelling, terminating or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the Pipeline

Hazardous Materials Safety Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

**Appendix B**  
**Clauses for Deeds Transferring United States Property**

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

**NOW, THEREFORE**, the U.S. Department of Transportation as authorized by law and upon the condition that the (Title of Recipient) will accept title to the lands and maintain the project constructed thereon in accordance with (Name of Appropriate Legislative Authority), the Regulations of the Administration (Name of Appropriate Program), and the policies and procedures prescribed by the Pipeline and Hazardous Materials Safety Administration of the U.S. Department of Transportation in accordance and compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 USC sections 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the (Title of Recipient) all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

**(HABENDUM CLAUSE)**

**TO HAVE AND TO HOLD** said lands and interests therein unto (Title of Recipient) and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on (Title of Recipient), its successors and assigns.

The (Title of Recipient), in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds or race, color, or national origin, be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]\* (2) that the (Title of Recipient) will use the lands and interest in lands and interest in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to such and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interested existed prior to this instruction].\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

**Appendix C**  
**Clauses for the Transfer of Real Property Acquired or Improved Under the Activity, Facility or Program**

The following clauses will be added in deeds, leases, permits, or similar instruments entered into by the (Title of Recipient) pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, Permittee, etc. as appropriate) for himself/herself, his/her heirs, person representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:
  - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, Permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds or race, color, or national origin, be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc. in the event of breach of any of the above Non-discrimination covenants, (Title of Recipient) will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued. \*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the (Title of Recipient) will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the (Title of Recipient) and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

## **Appendix D**

### **Clauses for the Construction of Real Property Acquired or Improved Under the Activity, Facility or Program**

The following clauses will be added in deeds, leases, permits, or similar instruments entered into by the (Title of Recipient) pursuant to the provisions of Assurance 7(b):

- A. The (grantee, lessee, Permittee, etc. as appropriate) for himself/herself, his/her heirs, person representatives, successors in interest, and assigns, as part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add “as a covenant running with the land” that (1) no person on the grounds or race, color, or national origin, be excluded from participation in, be denied the benefit of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the grounds or race, color, or national origin, be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, Permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and the Regulations, as amended, set forth in this Assurance.
- B. With respect to licenses, leases, permits, etc. in the event of breach of any of the above Non-discrimination covenants, (Title of Recipient) will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued. \*
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the (Title of Recipient) will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the (Title of Recipient) and its assigns.\*

(\*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

## Appendix E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following Non-discrimination statutes and authorities, including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 USC §2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 *et seq.* [P.L. 91-646]) which provides for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or Federally assisted programs;
- Federal-Aid Highway Act of 1973 (23 USC section 324 *et seq.*), which prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 USC §794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 USC §6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement act of 1982 (49 USC section 471, section 47123), as amended which prohibits discrimination based on race, creed, color, national origin, or sex;
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and §504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the program or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibits discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation and certain testing entities (42 USC §12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR Parts 37 and 38;
- Federal Aviation’s Non-discrimination statute (49 USC section 47123) which prohibits discrimination on the basis of race, color, national origin and sex;
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, *Improving Access to Services for Persons with Limited English Proficiency* (August 11, 2000), requires federal agencies to issue guidance to recipients, assisting such organizations and entities in understanding their language access obligations for persons with limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discrimination because of sex in education programs or activities (20 USC §1681 *et seq.*)