

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

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature on this form provides for compliance with certification requirements under 44 CFR Part 18, "New Restrictions on Lobbying; and 28 CFR Part 17, "Government-wide Debarment and suspension (Nonprocurement), Government-wide Requirements for Drug-Free Workplace (Grants)," Part 67 and Part 69 and other certifications. The certifications 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:

1. Lobbying. As required by Section 1352, Title 31 of the U.S. Code, 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.

2. 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.

3. Drug-Free Workplace (Grantees other than Individuals). As required by the Drug-Free Workplace Act of 1988, and implemented at 44 CFR Part 17, Subpart F, for grantees, as defined at 44 CFR Part 17, Sections 17.615 and 17.620. The applicant certifies that it will continue to provide a drug- free workplace by:

- a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- b) Establishing an on-going drug-free awareness program to inform employees about
 - 1) The dangers of drug abuse in the workplace;
 - 2) The grantee's policy of maintaining a drug-free workplace;
 - 3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - 4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:
 - 1) Abide by the terms of the statement; and

- 2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
 - e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: the applicable FEMA awarding office, i.e., regional office or FEMA office.
 - f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:
 - 1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - 2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;
 - g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).
4. 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.
5. 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.

6. 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.
7. Applicant agrees that funds awarded under this grant will be used to supplement existing funds for program activities, and will not supplant (replace) non-Federal funds.
8. 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.
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 initiate and complete the work within the applicable time frame after receipt of approval from the awarding agency.
11. Applicant agrees that it will comply with all provisions of 48 CFR, 31.2, Federal Acquisition Regulations (FAR), Contracts with Commercial Organizations.
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. 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.
14. 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.
15. 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.

16. 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.

17. 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.

18. 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.

19. 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).

20. 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.

21. 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).

22. 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; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. Sections 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of

1973, as amended (29 U.S.C. Section 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. Sections 6101-6107), 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. Section 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (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.

23. 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.

24. 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.

25. 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.

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

27. 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.

28. 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.

29. Applicant agrees that it will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

30. 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.

31. 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.

32. 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.

33. 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.

34. 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. The act also establishes restrictions on access to specified materials. "Restricted persons," as defined by the act, may not possess, ship, transport, or receive any biological agent or toxin that is listed as a select agent.

35. 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.

36. 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.

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

38. 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).

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: _____