## GENERAL TERMS AND CONDITIONS

The Grantee agrees to comply with the conditions applicable to this Grant as set forth in this document.

1 **DEFINITIONS.** As used in these conditions:

1.1 **"DOT"** means the U.S. Department of Transportation, or the Pipeline and Hazardous Materials Safety Administration (PHMSA) or, as the context may require any other person duly authorized to assume the functions necessary to provide guidance for the activities to be performed under this Grant.

1.2 **"Project"** means a specific planning or training activity or initiative.

1.3 **"Program"** means those projects and activities described in or associated with the DOT Assistance Agreement, including any approved amendment to the agreement that has been made a part of this Grant.

2 **ACCOMPLISHMENT OF THE PROGRAM.**

2.1 **General Requirements.** The Grantee must commence, carry out, and complete the program with all practicable dispatch, in a sound, economical, and efficient manner, and in accordance with the terms of this document, the Application, Annual Plans and all applicable laws, regulations, project or program schedules, and published policies. The terms of 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments," apply to this Grant.

2.2 **Period of Performance.** The period of performance on this grant runs from the effective date of the grant through September 30, 2009 unless terminated earlier in writing by PHMSA.

2.3 **Compliance with Federal, State, and Local Law.** In performing its obligations under this Grant, the Grantee agrees to comply with all applicable provisions of Federal, State, and local laws, regulations, and DOT directives. The Grantee understands and agrees that Federal laws, regulations, policies, and related administrative practices in force and made applicable to this Grant on the date of execution may be modified, and that the most recent of such provisions will govern administration of this Grant, except if there is sufficient evidence in the Grant of a contrary intent. Likewise, new Federal laws, regulations, policies and administrative practices that are established after the date of execution may be applied to this Grant. To comply with these requirements, the Grantee must include notice of such requirements in all third party contracts, subcontracts, sub-grants, and other sub-assistance agreements financed with DOT assistance. All limits or standards set forth in this Grant are minimum requirements. If there is a conflict

between Federal and State or local requirements, the Grantee must inform DOT in order that an appropriate resolution may be arranged.

2.4 **Use of Program funds.** A grantee must use program funds only for those expenditures incurred for approved activities in accordance with the Grant Instructions, and the cost principles of OMB Circular A-87, Revised, which are incorporated by reference in 49 CFR Part 18.

3 **REPORTS, INFORMATION AND DELIVERABLES.**

3.1 **The Grantee must submit the following reports to DOT:**

3.1.1 End of Performance/Budget Period Progress Report. See the attached page titled "Reporting Requirements for HMEP Planning and Training Grantees" for additional information.

3.1.2 End of Performance/Budget Period Financial Status Report - SF 269. See the attached page titled "Reporting Requirements for HMEP Planning and Training Grantees" for additional information.

3.1.3 Special reports necessary by the nature of the Grant and agreed upon by DOT and the Grantee.

3.2 **Due Dates for Reports.** The Grantee must submit the End of Performance/Budget Period Progress Report and Financial Status Report (SF 269) to PHMSA/DOT no later than 90 days after the performance/budget period ends.

3.3 **Project Technical Reports.** The Grantee should prepare Project Technical Reports according to the Standards in DOT Order 1700.18B, "Acquisition, Publication and Dissemination of DOT Scientific and Technical Reports." The Grantee may use an alternative format for a Project Technical Report when appropriate for communicating the results of research to a particular audience, as may be the case with a technology sharing or management and policy report.

3.4 **Copyrightable Work.** If the Grant results in a book or other copyrightable work, the Grantee or author may copyright the work, provided that the Grantee or author provides DOT a royalty-free, nonexclusive and irrevocable license to reproduce, publish, or otherwise use the work, and to authorize others to do so, as set forth in Section 17 below.

3.5 **Published Training Materials.** If the Grantee publishes training materials that have been prepared with Grant funds, the Grantee must provide DOT reprints of the publication at no cost to DOT. The Grantee must acknowledge any publication based on work supported by DOT

essentially as follows:

> "Publication of training materials was supported by the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, Grant No._____."

4 **NON-FEDERAL SHARE.** A non-Federal share of not less than 20 percent of the total project cost is required as a condition of this Grant. The contributions that constitute this non-Federal share must equal (or exceed) the amount designated in the DOT Assistance Agreement and must be used directly in connection with the approved activities. Unless specifically permitted by Federal law, no portion of the non-Federal share shall be derived from other Federal sources or consist of services, property, or funds used as the non-Federal share under other projects, grants, or cooperative agreements. Federal funds may be expended before non-Federal matching funds, provided that total program costs at completion of the annual program reflect payment from the Federal and non-Federal shares in equal amounts.

5 **CHANGED CONDITIONS OF PERFORMANCE (Including Litigation).** The Grantee must immediately notify the DOT of any change in local law, conditions, or any other event, including any litigation challenging the validity of or seeking interpretation of any Federal law or regulation applicable to the Federal Hazardous Materials Transportation program, which may significantly affect the Grantee's ability to perform the program in accordance with the terms of this Grant. In addition, the Grantee must immediately notify the DOT of any decision pertaining to the Grantee's conduct of litigation that may affect DOT interests in the program or DOT administration or enforcement of applicable Federal laws or regulations. Before the Grantee joins (as a named party) in litigation that affects DOT interests in the program or DOT administration or enforcement of applicable Federal laws or regulations, the Grantee must inform DOT.

6 **ACCOUNTING RECORDS.**

6.1 **Program Accounts.** The Grantee must establish and maintain as separate, or within the framework of an established accounting system, accounts for the program in the manner consistent with OMB Circular A-87 and 49 CFR Part 18.

6.2 **Funds Received or Made Available for the Program.** As provided in 49 CFR Part 18, the Grantee must record in the program account, and deposit in a bank or trust company, all program payments the Grantee receives from DOT pursuant to this Grant and all other funds provided for, accruing to, or otherwise received on account of the program ("Program Funds").

6.2.1 Consistent with the national goal of expanding the

opportunities for minority business enterprises, the Grantee and its sub-recipients are encouraged to use minority banks. A list of minority owned banks can be obtained from the Minority Business Development Agency, Department of Commerce, Washington, D.C. 20230.

6.2.2 Allowable Costs. DOT will reimburse as allowable costs expenditures made by the Grantee to the extent that they meet all of the following requirements. Expenditures must:

6.2.2.1 Be made in conformance with the Grant Instructions, the program budget and all other provisions of this Grant;

6.2.2.2 Be necessary to accomplish the program objectives;

6.2.2.3 Be reasonable in amount for the goods or services purchased;

6.2.2.4 Be actual net costs to Grantee (i.e., price paid minus any refunds, rebates, or other value received by the Grantee that have the effect of reducing the cost actually incurred, excluding program income as defined in OMB Circular A-87, Revised);

6.2.2.5 Be incurred (and be for work performed) after the date of this Grant, unless specific authorization from DOT to the contrary is received;

6.2.2.6 Be in conformance with the standards for allowability of costs set forth in OMB Circular A-87, Revised;

6.2.2.7 Be satisfactorily documented; and

6.2.2.8 Be treated uniformly and consistently under accounting principles and procedures approved or prescribed by DOT for the Grantee; and those approved or prescribed by the Grantee for its contractors, subcontractors, or sub-grantees.

6.3 **Documentation of Program Costs and Income.** The Grantee must support all costs charged to the program, including any approved services contributed by the Grantee or others, by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in detail the nature and propriety of the charges. The Grantee must maintain accurate records of all program funds derived from the implementation of the program. This

provision does not apply to income of the Grantee that DOT has determined is private.

6.4 **Checks, Orders, and Vouchers.** A Grantee may draw a check or order for any item that is or will be chargeable against the program account only if a properly signed voucher is on file with the Grantee. The voucher must state in detail the purpose for which such check or order is drawn. A Grantee must clearly identify, make readily accessible, and keep separate all accounting documents that pertain to the program from all other such documents. Accounting documents include, but are not limited to, checks, payroll documents, invoices, contracts, vouchers and orders.

6.5 **Audit and Inspection.**

6.5.1 The Grantee must permit the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives to inspect all work, materials, payrolls, and other data and records that pertain to the program, and to audit the books, records, and accounts of the Grantee and its sub-grantees or contractors that pertain to the program.

6.5.2 For contracts or sub-grants awarded under other than competitive bidding procedures as defined by the Secretary and the Comptroller General of the United States, the Grantee is responsible for meeting the audit requirements of OMB Circular A-128, or any revision or supplement to the circular.

6.5.3 Closeout of the program will not alter the Grantee's audit responsibilities.

7 **PAYMENTS.**

7.1 In order to receive payment of the Federal share during the performance/budget period, the Grantee must submit the Request for Advance or Reimbursement form (SF 270) to PHMSA/DOT. Once the performance/budget period has ended, Grantee is also required to submit the End of the Performance/Budget period financial status report (SF 269) within 90 days. (See Section 3 regarding required Reports.)

To receive federal assistance payments during the performance/budget period, the following steps must be taken:

7.1.1 Grantee must ensure that a completed form, "Automated Clearing House Vendor Miscellaneous Payment Enrollment Form is on file with DOT's finance office. (See "Payment Procedures" on the attached page titled "Reporting Requirements for HMEP Planning and Training Grantees.")

7.1.2 Grantee must complete and submit the form SF 270,

"Request for Advance or Reimbursement" to PHMSA/DOT.

7.2 After receiving the properly completed forms identified in Section 7.1, DOT will authorize payment by the Automated Clearing House Network (ACH) if the Grantee:

7.2.1 Is in compliance with its obligations under the Grant;

7.2.2 Has satisfied DOT of the appropriateness of the expenditures for the requisition period; and

7.2.3 Is making satisfactory progress toward Program goals and objectives.

7.3 If all the conditions of Subsection 7.2 are met, then DOT will reimburse allowable costs incurred by the grantee up to the maximum amount of Federal funding allowable.

**7.4 Disallowed Costs.**

7.4.1 To determine the amount of Federal assistance DOT will provide, DOT will exclude:

7.4.1.1 All program costs incurred by the Grantee prior to the date of this Grant or the approved program budget (whichever is earlier) unless otherwise permitted by Federal law or regulations or unless an authorized representative of DOT advises in writing to the contrary;

7.4.1.2 Any costs incurred by the Grantee which are not provided for in the latest approved budget for the program; and

7.4.1.3 Reimbursement of any cost in accordance with this section is not a final DOT decision about the allowability of such cost and is not a waiver of any violation by the Grantee of the terms of this Grant. DOT will make a final determination of allowability only after an audit of the program has been conducted. If DOT determines that the Grantee is not eligible to receive any or all of the Federal funds requested, DOT will notify the Grantee stating the reasons for DOT's determination.

7.4.2 Unless prohibited by law, DOT may offset any

Federal assistance funds to be made available under this program to satisfy any monetary claims that DOT may have outstanding against the Grantee.

**7.4.3** Program closeout will not alter the Grantee's obligation to return any funds due to DOT as a result of later refunds, corrections, or other transactions. Program closeout will not alter DOT's right to disallow costs and recover funds on the basis of a later audit or other review.

8 **Prohibition Against Use of Federal Funds for Lobbying.** The Grantee must comply with the provisions of 31 U.S.C. § 1352 as implemented by DOT regulations in 49 CFR Part 20, "New Restrictions on Lobbying" and must furnish the required DOT certification.

9 **Interest.** The following requirements apply to Grantees:

**9.1 Any interest earned on Federal funds** by the Grantee must be remitted to DOT, except as provided by the Intergovernmental Cooperation Act, 31 U.S.C. § 6503(a), and the Indian Self-Determination Act, 23 U.S.C. § 450. The Grantee may retain interest amounts of up to $100 per year for administrative expenses.

**9.2 If DOT notifies** the Grantee of specific amounts due DOT, the Grantee must promptly remit any excess payment of amounts or disallowed costs to DOT.

10 **Deobligation of Funds.** In order to ensure reimbursement, the required financial forms must be submitted to DOT within 90 days after the end of the current performance/budget period. PHMSA/DOT will deobligate unspent Federal funds at program closeout. PHMSA/DOT reserves the right, if circumstances warrant it, to deobligate unspent Federal funds prior to program closeout.

11 RECORDS.

**11.1 The Grantee must maintain records** for the Grant to comply with 49 CFR § 18.42. Section 18.42 provides that the Grantee must for 3 years retain financial records, supporting documents, statistical records, records for non-expendable property, and all other records pertinent to the Grant. The retention period for this grant starts from the date of the submission of the final Financial Status Report (SF 269). The following exceptions apply to the 3-year period:

**11.1.1.** Records associated with any litigation, claim or audit started before the expiration of the 3-year period, must be retained until all litigation, claims or audit findings involving the records have been resolved; and

11.1.2 When records are transferred to or maintained by DOT, the 3-year retention requirement is not applicable to the Grantee.

12 **RIGHT OF DOT TO SUSPEND OR TERMINATE THE GRANT.** Pursuant to 49 CFR 18.43, DOT may by written notice to the Grantee, suspend or terminate all or part of the financial assistance provided under this agreement if DOT determines that the grantee materially fails to comply with the terms of the grant. DOT will deem any failure to make reasonable progress or other violation of the Grant that significantly endangers substantial performance of the program a breach of this Grant.

13 **INTEREST OF CERTAIN FEDERAL OFFICIALS.** A grantee must not offer to a member of, or delegate to, the Congress of the United States of America, or to a resident Commissioner, any portion of the grant or financial benefit.

14 **EQUAL EMPLOYMENT OPPORTUNITY.**

14.1 **In carrying out the approved program, the Grantee will not discriminate** against any employee, applicant for employment, fellow or scholarship recipient because of race, color, age, creed, sex, sexual orientation, or national origin.

14.2 **The Grantee will take steps** to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, age, creed, sex, or national origin. There shall be no discrimination in actions such as employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

14.3 **The Grantee agrees to post** in conspicuous places, available to employees, applications for employment, names of students, fellows and recipients of scholarships, fellowships and assistantships, and notices setting forth the provisions of this Equal Opportunity clause.

14.4 **The Grantee must send to each labor union** or representative of workers with which it has a collective bargaining or other agreement or understanding, a notice, advising the labor union or workers' representative of the Grantee's commitments under this Equal Opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

14.5 **The Grantee must comply** with all provisions of Executive Order No. 11246 (September 24, 1965), and of the rules, regulations, and relevant orders of the Secretary of Labor.

14.6 **The Grantee must furnish all information** and reports required by Executive Order No. 11246 (September 24, 1965), or by the rules, regulations, and orders of the Secretary of Labor. The Grantee must also

permit DOT and the Secretary of Labor access to the Grantee's books, records and accounts for DOT and the Labor Secretary to determine the Grantee's compliance with the Executive Orders, rules and regulations.

**14.7 If the Grantee does not comply** with the Equal Opportunity provision of this grant or with any of the said rules, regulations, or orders, this grant may be canceled, terminated, or suspended, in whole or in part, and the Grantee may be declared ineligible for further Federal Grants, Cooperative Agreements, or Contracts.

**14.8 The Grantee must include the provisions** of TITLE VI of the Civil Rights Act of 1964 in every sub-agreement or purchase order, unless exempted by the Secretary of Labor, so that such provisions will be binding upon each sub-grantee or contractor. The Grantee must take such action with respect to any sub-agreement or purchase order as DOT may direct as a means of enforcing such provisions, including sanctions for noncompliance. However, if the Grantee becomes involved in, or is threatened with, litigation with a sub-grantee or contractor as a result of such direction by DOT, the Grantee may request DOT to enter into such litigation to protect the interests of DOT.

**15 COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964.** The Grantee must comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d), with DOT regulations entitled, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. Part 21, and any other applicable regulations. The Grantee must submit, in compliance with Title VI, the DOT Title VI assurances which are provided as part of the application for this Grant.

**16 PATENT RIGHTS.**

**16.1 In arrangements between the Grantee and DOT** and in all third-party Agreements at any tier with any small business firm, non-profit organization, or university, the patent rights clause of Attachment A of OMB Circular No. A-124, (implementing the Patent and Trademark Amendments of 1980, 35 U.S.C. § 200 et. seq.) and any subsequent amendments will apply, when the purpose is to perform experimental, development, or research work.

**16.2 The Grantee must notify DOT** promptly if any patentable invention(s) (i.e., processes, compositions of matter, or items thought to be new) is produced in the course of work done under this Grant. Except as stated in 37 CFR § 401.3(a), the Grantee's given the right to retain title to any patents issued for work performed under this grant.

**17 COPYRIGHTS.**

**17.1 Except as otherwise provided** in the terms and conditions of this agreement, the author or the Grantee organization may copyright any

books, publications, or other copyrightable materials developed in the course of or under this Grant. However, DOT reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use the work for Federal Government purposes.

18 **The Grantee must not incorporate material** copyrighted by others into any work product delivered under this Grant unless it has acquired for DOT a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use the work for Government purposes.

18.1 **The Grantee may arrange for publication** of initial reports of original research, supported in whole or in part by DOT grant funds, in primary scientific journals and copyright by the journal unless the journal's copyright policy would preclude individuals from making or having made by any means available to them, without regard to the copyright of the journal and without royalty, a single copy of any such article for their own use.

19 RIGHTS IN DATA.

19.1 **The term "subject data"** as used in this agreement means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this Agreement. The term includes graphic or pictorial delineations in media such as drawings or photographs; audio-visual recordings such as films and videotapes; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory.

19.1.1 **Examples of "subject data" include,** but are not limited to: engineering drawings and associated lists; specifications; standards; process sheets; manuals; technical reports; catalog item identifications; and related information.

19.1.2 **The term does not include** financial reports, costs analyses, and similar information incidental to program administration.

19.2 **With respect to all subject data first produced in the performance of this Agreement,** DOT reserves a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes:

19.2.1 Any work developed under the grant, sub-grant, or third-party contract, irrespective of whether or not a copyright has been obtained; and

19.2.2 Any rights of copyright to which the Grantee, sub-grantee, or a third-party contractor purchases ownership with DOT

assistance.

19.3 **When DOT provides assistance to a Grantee** for a program involving emergency planning and training, it is DOT's intent to increase the body of transportation knowledge, rather than to limit the benefit of the program to the parties to the agreement. Therefore, the Grantee that has received assistance to support research, financed under the Federal Hazardous Material Transportation Law (49 U.S.C. Section 5101 et. seq.), understands and agrees that, in addition to the rights set forth in Subsection 19.2 of this Agreement, DOT may make available to any DOT Grantee, sub-grantee, sub-recipient, third-party contractor, or third-party subcontractor, either DOT's license in the copyright to the "subject data" derived under this Agreement or a copy of the "subject data" first produced under this Agreement.

19.4 **The Grantee must indemnify, save and hold harmless DOT,** officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Grantee of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under this Agreement.

19.5 **Nothing contained in this clause implies a license** to DOT under any patent or can be construed as affecting the scope of any license or other right otherwise granted to DOT under any patent.

19.6 **Subsections 19.2 through 19.4 of this document are not applicable** to material furnished to the Grantee by DOT and incorporated in the work furnished under the Agreement, provided that the Grantee identifies the incorporated material when the work is delivered.

19.7 **If the program, which is the subject of this Agreement, is not completed,** for any reason whatsoever, all data developed under that program becomes subject data as defined in Subsection 19.1 of this Agreement and must be delivered as DOT may direct.

19.8 **The requirements of Subsections 19.1 through 19.7 of this document must be included** in all third-party contracts of the Grantee under this program.

## 20 COLLECTION OF DATA

20.1 **The Grantee may use DOT grant funds to collect** information under the following conditions:

20.1.1 When the collection of information is not a primary objective of the grant, but is incidental to a grant supported activity;

and

20.1.2 When the collection of information is the primary objective of the grant, but such information is not intended primarily for the use of the Government or a party designated by the Government.

20.2 **Persons collecting information** under either of the two conditions above, are prohibited from representing to their respondents that the information is being collected for, or in association with, the Federal Government unless DOT has given prior written approval. DOT is responsible for obtaining any necessary prior clearance by OMB.

20.3 **OMB clearance is required** whenever DOT sponsors the use of a reporting form or plan to collect identical kinds of information or data from 10 or more persons. A reporting form or plan used by a Grantee is considered to be sponsored by DOT when one or more of the following circumstances exist:

20.3.1 DOT authorizes the recipient to represent to respondents that the information is being collected for, or in association with, DOT; or,

20.3.2 The recipient uses the report form to collect information that the DOT has requested for the planning, operation, or evaluation of its program.

20.4 **DOT and OMB approval are required** if the use of a report form or plan presents a relatively high risk of unwarranted invasion of privacy.

21 **TITLE TO SUPPLIES AND EQUIPMENT.** Pursuant to the Authority of 31 U.S.C. § 6306, the Administrator of PHMSA has determined that:

21.1 **Title to equipment** purchased or fabricated under this grant vests in the Grantee, without further obligation to DOT except as provided in Subsection 21.2; and

21.2 **DOT reserves the right to require** the Grantee to transfer title to items of equipment to DOT or to a third-party named by DOT, where such third-party is otherwise eligible under existing statutes. This reservation may be exercised at any time, but no later than 120 days after DOT has received a final fiscal report (or special equipment acquisition report, if required) from the Grantee after completion or termination of the grant. Such right to require transfer of title does not apply to any items of equipment with an acquisition cost of less than $5,000.

22 **PRIVACY.** Should the Grantee, or any of its third-party contractors, sub-grantees, or their employees administer any system of records on behalf of DOT, the Privacy Act of 1974, 5 U.S.C. § 552a (the Act),

imposes information requirements on the party administering the system of records.

22.1 **When the Agreement involves the operation of a system of records on individuals** to accomplish a DOT function, the Grantee and any third-party contractors, sub-Grantees, and their employees involved in the function are considered, for purposes of the Privacy Act, to be DOT employees with respect to the DOT function. The requirements of the Act, including the civil and criminal penalties for violations of the Act, apply to those individuals involved. Failure to comply with the Privacy Act or this Section 22 subjects this agreement to termination.

22.2 **Definitions.** As used in Section 22:

22.2.1 **"Operation of a system of records"** means performance of any of the activities associated with maintaining the system of records on behalf of DOT including the collection, use and dissemination of records.

22.3 **"Records"** means any item, collection, or grouping of information about an individual that is maintained by the Grantee on behalf of DOT including, but not limited to, his or her education, financial transactions, medical history, and criminal or employment history and that contains his or her name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

22.3.1 **"System of records"** on individuals means a group of any records under the control of the Grantee on behalf of DOT from which information is retrieved by the name of the individual or by some identifying number, symbol or other identifying particular assigned to the individual.

22.4 **The Grantee agrees:**

22.4.1 **To comply with the provisions of the Privacy Act of 1974,** 5 U.S.C. § 552a and, implementing regulations when performance under the program involves the design, development, or operation of any system of records on individuals to be operated by the Grantee, its third-party contractors, subcontractors, sub-grantees, or their employees to accomplish a DOT function;

22.4.2 **To notify DOT** when the Grantee or any of its third-party contractors, subcontractors, sub-grantees, subrecipients, or their employees anticipate operating a system of records on behalf of DOT in order to implement the program, if such system contains information about an individual's name or other identifier assigned to the individual. The Grantee may not use a system of records subject to the Act in performing this Agreement until the necessary and applicable approval and publication requirements have been met. The Grantee, its

third-party contractors, subcontractors, sub-grantees, and their employees agree to correct, maintain, disseminate, and use such records in accordance with the terms of the Act, and to comply with all applicable terms of the Act;

**22.4.3 To include in every solicitation** and in every third-party contract, sub-grant, when the performance of work under that proposed third-party contract, sub-grant, or sub-agreement may involve the design, development, or operation of a system of records on individuals to be operated under that third-party contract, sub-grant, or to accomplish a DOT function, a Privacy Act notification informing the third-party contractor, or sub-grantee, that it will be required to design, develop, or operate a system of records on individuals to accomplish a DOT function subject to the Privacy Act of 1974, 5 U.S.C. § 552a, and applicable DOT regulations, and that a violation of the Act may involve the imposition of criminal penalties; and

**22.4.4 To include the text** of Subsections 22.4.1 through 22.4.3 in all third-party contracts, and sub-grants under which work for this Agreement is performed or which is awarded pursuant to this Agreement or which may involve the design, development, or operation of such a system of records on behalf of DOT.

23 **DRUG-FREE WORKPLACE REQUIREMENTS.** The Grantee agrees to comply with DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 C.F.R. Part 29, Subpart F, and to submit the required certification.

24 **DEBARMENT AND SUSPENSION.**

**24.1 The Grantee must furnish the certification** required by DOT regulations, "Government Debarment and Suspension (Non-procurement)" (49 CFR Part 29).

**24.2 The Grantee must obtain** from its third-party contractors, subcontractors and sub-grantees the certification required by 49 CFR Part 29.

25 **FALSE OR FRAUDULENT STATEMENTS OF CLAIMS.** The Program Fraud Civil Remedies found in 49 C.F.R. Part 31 apply to this program. The Grantee acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to DOT in connection with this program, DOT has the right to pursue and impose on the Grantee civil and criminal penalties.

26 **WAIVERS OR REVISIONS.** To be valid, a waiver of any condition to this Grant, or any revision to the approved Program Plan and budget must be in writing from a duly authorized official of DOT.

27 **MODIFICATIONS.** A modification to the General Terms and Conditions of the Grant Agreement must be made by formal amendment. An amendment is

not valid until signed by both parties and made a part of the Grant Agreement. A Grantee's request to reallocate funds among budget items of fiscal years does not require formal amendment, if the reallocation does not increase the amount of the Grant. The Grantee may submit such a request to the HMEP Grants Manager for approval.

**28 MISCELLANEOUS.**

**28.1 Bonus or Commission.** The Grantee warrants that it has not paid, and also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for a grant under the HMEP grant program.

**28.2 Application Assurances and Certifications.** The Grantee must comply with all assurances and certifications executed and submitted as part of the application for this Grant.

**28.3 State or Territorial Law.** Nothing in the grant requires the Grantee to observe or enforce compliance with any provision thereof, perform any other act, or do any other thing in contravention of any applicable State or Territorial law. However, if any provision of the Grant violates any applicable State or Territorial law or if compliance with any provision of the grant would require the Grantee to violate any applicable State or Territorial law, the Grantee must notify DOT immediately.

**28.4 Severability.** If any provision of this grant is held invalid, the remaining provisions of this grant are not affected.

OMB Approval No.: 4040-0007
Expiration Date: 04/30/2008

# ASSURANCES - NON-CONSTRUCTION PROGRAMS

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0040), Washington, DC 20503.

**PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET. SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.**

NOTE: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant, I certify that the applicant:

1. Has the legal authority to apply for Federal assistance and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States and, if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. 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.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. 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.§§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. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§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) §§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 Act of 1968 (42 U.S.C. §§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.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide 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 interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply, as applicable, with provisions of the Hatch Act (5 U.S.C. §§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.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§276a to 276a-7), the Copeland Act (40 U.S.C. §276c and 18 U.S.C. §874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§327-333), regarding labor standards for federally-assisted construction subagreements.

10. 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.

11. 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. §§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. §§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).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §§469a-1 et seq.).

14. 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.

15. 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.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

| * SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL | * TITLE |
|---|---|
| Completed on submission to Grants.gov | Executive Director |
| * APPLICANT ORGANIZATION | * DATE SUBMITTED |
| Indiana Department of Homeland Security | Completed on submission to Grants.gov |

## Combined Assurance

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 of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Agency determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, 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 Form to Report Lobbying," 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 subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 --

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, 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 judgement 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 offences enumerated in paragraph (2)(b) of this certification; and

d) Have not within a three-year period preceding this application had one or more public transaction (Federal, State, or local) terminated for cause or default; and

B. 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.

Add Attachment | Delete Attachment | View Attachment

3. DRUG-FREE WORKPLACE
(GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. The applicant certifies that it will or 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 address provided in the application instructions. Notice shall include the identification number(s) of each affected grant;

(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).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

*Address

302 West Washington Street

*City

Indianapolis

County

*State

IN: Indiana

Zip

46204

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE
(GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to the address provided in the application instructions. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

* NAME OF APPLICANT

Indiana Department of Homeland Security

* PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE

Prefix: * First Name: Joseph

Middle Name:

* Last Name: Wainscott Suffix:

* Title: Executive Director

SIGNATURE

This field will be completed on submission to Grants.gov

DATE

This field will be completed on submission to Grants.gov

## APPENDIX A

## ASSURANCE OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 DEPARTMENT OF TRANSPORTATION

The State/Territory/Native American Tribe of Indiana (hereinafter referred to as the "Recipient") HEREBY AGREES THAT as a condition to receiving any Federal financial assistance from the Department of Transportation it will comply with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-42 U.S.C. 2000d-4 (hereinafter referred to as the Act) and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964 (hereinafter referred to as the Regulations) and other pertinent directives, to the end that in accordance with the Act, Regulations, and other pertinent directives, no person in the United States shall , on the grounds of race, color, sex or national origin, 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 the Department of Transportation, and HEREBY GIVES ASSURANCE THAT it will promptly take any measures necessary to effectuate this agreement. This assurance is required by subsection 21.7(a) (1) of the Regulations.

More specifically and without limiting the above general assurance, the Recipient hereby gives the following specific assurance with respect to the project:

1. That the Recipient agrees that each "program" and each "facility" as defined in subsections 21.23(e) and 21.23(b) of the Regulations, will be (with regard to a "program") conducted, or will be (with regard to "facility") operated in compliance with all requirements imposed by, or pursuant to, the Regulations.

2. That the Recipient shall insert the following notification in all solicitations for bids for work or material subject to the Regulations and, in adapted form in all proposals for negotiated agreements:

   The Recipient, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d-4 and Title 49 Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in regard to any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, sex or national origin in consideration for an award.

3. That the Recipient shall insert the clauses of Appendix B of this assurance in every contract subject to the Act and the Regulations.

4. That this assurance obligates the Recipient for the period during which Federal financial assistance is extended to the project.

5. The Recipient shall provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he delegates specific authority to give reasonable guarantee that it, other recipients, subgrantees, contractors, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Act, the Regulations and this assurance.

6. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Act, and Regulations, and this assurance.

THIS ASSURANCE is given in consideration of and for the purpose of obtaining any and all Federal grants, loans, contracts, property, discounts or other Federal financial assistance extended after the date hereof to the Recipient by the Department of Transportation and is binding on it, other recipients, subgrantees, contractors, subcontractors, transferees, successors in interest and other participants in the Department of Transportation Program. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the Recipients.

Indiana Department of Homeland Security
Recipient

Signature of Authorized Official

7-2-08
Date

## APPENDIX B

## ASSURANCE OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 DEPARTMENT OF TRANSPORTATION

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 shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

2. Nondiscrimination: The contractor, with regard to the work preformed by it during the contract, shall not discriminate on the grounds of race, color, sex, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3. Solicitation for Subcontractors, 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 shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, sex, or national origin.

4. Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State/Territory/Native American Tribe of Indiana or the Pipeline and Hazardous Materials Safety Administration (PHMSA) to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the State/Territory/Native American Tribe of Indiana or the Pipeline and Hazardous Materials Safety Administration as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance: In the event of the contractor's noncompliance with nondiscrimination provisions of this contract, the State/Territory/Native American Tribe of Indiana shall impose contract sanctions as it or the Pipeline and Hazardous Materials Safety Administration may determine to be appropriate, including, but not limited to:

   (a) Withholding of payments to the contractor under the contract until the contractor complies; and/or

   (b) Cancellation, termination, or suspension of the contract, in whole or in part.

6. Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurements as the State/Territory/Native American Tribe of Indiana or the Pipeline and Hazardous Materials Safety Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontract or supplier as a result of such direction, the contractor may request the State/Territory/Native American Tribe of Indiana to enter into such litigation to protect the interests of the State/Territory/Native American Tribe of Indiana, and, in addition the contractor may request the United States to enter into such litigation to protect the interest of the United States.

## APPENDIX C

## ASSURANCE OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 DEPARTMENT OF TRANSPORTATION

The following clauses shall be included in all deeds, licenses, leases, permits, or similar instruments entered into by the State/Territory/Native American Tribe of Indiana.

The [grantee, licensee, lessee, permittee, etc., as appropriate] for herself/himself, his/her heirs, personal representatives, successors in interest, and assigns, as a 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 in the event facilities are constructed, maintained, or otherwise operated on the said property described in this [deed, license, lease, permit, etc.] for a purpose for which a Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the [grantee, licensee, lessee, permittee, etc.] shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination of Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of the above non discrimination covenants, State/Territory/Native American Tribe of Indiana shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess said land and the facilities thereon, and hold the same as if said [licenses, lease, permit, etc.] had never been made or issued.

[Include in deeds]*

That in the event of breach of any of the above nondiscrimination covenants, State/Territory/Native American Tribe of Indiana shall have the right to re-enter said lands and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of State/Territory/Native American Tribe of Indiana and it's assigns.

The following shall be included in all deeds, licenses, leases, permits, or similar agreements entered into by State/Territory/Native American Tribe of Indiana.

The [grantee, licensee, lessee, permittee, etc., as appropriate] for herself/himself, his/her personal representatives successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in case of deeds, and leases add "as a covenant running with the land"] that (1) no person on the grounds of race, color, sex, or national origin shall be excluded from participation in, be denied the benefits 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 services thereon, no person on the grounds of race color, sex, or national origin shall be excluded from the participation in, be denied the benefits of, or be otherwise subjected to discrimination, and (3) that the [grantee, licensee, lessee, permittee, etc.] shall use the premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.

[Include in licenses, leases, permits, etc.]*

That in the event of breach of any of the above nondiscrimination covenants, State/Territory/Native American Tribe of Indiana shall have the right to terminate the [license, lease, permit, etc.] and to re-enter and repossess aid land and the facilities thereon, and hold the same as if said [license, lease, permit, etc.] had never been made or issued.

[Include in deeds]*

That in the event of breach of any of the above nondiscrimination covenants, State/Territory/Native American Tribe of Indiana have the right to re-enter said land and facilities thereon, and the above described lands and facilities shall thereupon revert to and vest in and become the absolute property of State/Territory/Native American Tribe of Indiana 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 effectuate the purpose of Title VI of the Civil Rights Act of 1964.

# 2008 HMEP SPECIAL CONDITIONS (continued)

**1. Lobbying Certification**

A. As required by Section 1352, Title 31 of the U.S. Code and implemented at 28 CFR 69, for persons entering into an Agreement over $100,000, as defined at 28 CFR 69, the Sub-grantee certifies that:

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal 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 Sub-grantee shall completed and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions (see 28 CFR Part 69, Appendix B for a copy of this form).

(3) The Sub-grantee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

B. 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 prerequisite for making or entering into this transaction imposed by section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

**2. Debarment and Suspension**

A. State Debarment and Suspension Requirements

A. The Sub-grantee certifies, by entering into this Agreement, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this Agreement by any federal agency or by any department, agency or political subdivision of the State of Indiana. The term "principal" for purposes of this Agreement means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Sub-grantee.

B. Federal Debarment and Suspension Requirements

(1) Prior to signing this Agreement, the Sub-grantee must notify the State if the Sub-grantee knows that the Sub-grantee or any of the principals of the Sub-grantee are presently excluded or disqualified from participation in this transaction by any Federal department

or agency.

(2) Sub-grantee shall 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 by any Federal department or agency.

(3) The Sub-grantee shall provide immediate written notice to the State if at any time the Sub-grantee learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

(4) The Sub-grantee shall comply with 28 CFR Part 67, Subpart C (28 CFR 67.300-67.365).

**3. U.S. Department of Homeland Security-Office of Grants and Training Assurances**

The Sub-grantee acknowledges that federal funds are the source of payments under this Agreement and hereby assures and certifies compliance with all Federal statutes, regulations, policies, guidelines and requirements, including OMB Circulars No. A-21, A-87, A-110, A-122, A-133; E.O. 12372 and Uniform Administrative Requirements for Grants and Cooperative Agreements - 28 CFR, Part 66, Common rule, that govern the application, acceptance and use of Federal funds for this federally-assisted project. Also the Sub-grantee assures and certifies that:

1. It possesses legal authority to apply for the grant; that a resolution, motion or similar action has been duly adopted or passed as an official act of the applicant's governing body, authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.
2. It will comply with requirements of the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (P.L. 91-646), which provides for fair and equitable treatment of persons displaced as a result of Federal and federally-assisted programs.
3. It will comply with provisions of the Hatch Act (5 U.S.C. Sections 1501-1508 and 7324-7328) which limit certain political activities of employees of a State or local unit of government whose principal employment is in connection with an activity financed in whole or in part by Federal grants.
4. It will comply with the minimum wage and maximum hours provisions of the Federal Fair Labor Standards Act.
5. It will establish safeguards to prohibit employees from using their positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
6. It will give the federal sponsoring agency or the Comptroller General, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the grant.
7. It will comply with all requirements imposed by the federal sponsoring agency concerning special requirements of law, program requirements, and other administrative requirements.
8. It will insure that the facilities under its ownership, lease or supervision which shall be utilized in the accomplishment of the project are not listed on the Environmental

Protection Agency's (EPA) list of Violating Facilities and that it will notify the federal grantor agency of the receipt of any communication from the Director of the EPA Office of Federal Activities indicating that a facility to be used in the project is under consideration for listing by the EPA.

9. It will comply with the flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973, Public Law 93-234, 87 Stat. 975, approved December 31, 1976, Section 102(a) requires, on and after March 2, 1975, the purchase of flood insurance in communities where such insurance is available as a condition for the receipt of any Federal financial assistance for construction or acquisition purposes for use in any area that has been identified by the Secretary of the Department of Housing and Urban Development as an area having special flood hazards. The phrase "Federal financial assistance" includes any form of loan, grant, guaranty, insurance payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal assistance.
10. It will assist the Federal grantor agency in its compliance with Section 106 of the National Historic Preservation Act of 1966 as amended (16 USC 470), Executive Order 11593, and the Archeological and Historical Preservation Act of 1966 (16 USC 569 a-1 et seq.) by (a) consulting with the State Historic Preservation Officer on the conduct of investigations, as necessary, to identify properties listed in or eligible for inclusion in the National Register of Historic Places that are subject to adverse effects (see 36 CFR Part 800.8) by the activity, and notifying the Federal grantor agency of the existence of any such properties, and by (b) complying with all requirements established by the Federal grantor agency to avoid or mitigate adverse effects upon such properties.
11. It will comply, and assure the compliance of all its subgrantees and contractors, with the applicable provisions of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, the Juvenile Justice and Delinquency Prevention Act, and the Victims of Crime Act, as appropriate; the provisions of the current edition of the Office of Justice Programs Financial and Administrative Guide for Grants, M7100.1; and all other applicable Federal laws, orders, circulars, or regulations.
12. It will comply with the provisions of 28 CFR applicable to grants and cooperative agreements including Part 18, Administrative Review Procedure; Part 20, Criminal Justice Information Systems; Part 22, Confidentiality of Identifiable Research and Statistical Information; Part 23, Criminal Intelligence Systems Operating Policies; Part 30, Intergovernmental Review of Department of Justice Programs and Activities; Part 42, Nondiscrimination/Equal Employment Opportunity Policies and Procedures; Part 61, Procedures for Implementing the National Environmental Policy Act; Part 63, Floodplain Management and Wetland Protection Procedures; and Federal laws or regulations applicable to Federal Assistance Programs.
13. It will comply, and all its contractors will comply, with the nondiscrimination requirements of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 USC 3789(d), or Victims of Crime Act (as appropriate); Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Subtitle A, Title II of the Americans with Disabilities Act (ADA) (1990); Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975; Department of Justice Non-Discrimination Regulations, 28 CFR Part 42, Subparts C, D, E, and G; and

Department of Justice regulations on disability discrimination, 28 CFR Part 35 and Part 39.

14. In the event a Federal or State court or Federal or State administrative agency makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, sex, or disability against a recipient of funds, the recipient will forward a copy of the finding to the Office for Civil Rights, Office of Justice Programs.
15. It will provide an Equal Employment Opportunity Program if required to maintain one, where the application is for $500,000 or more.
16. It will comply with the provisions of the Coastal Barrier Resources Act (P.L. 97-348) dated October 19, 1982 (16 USC 3501 et seq.), which prohibits the expenditure of most new Federal funds within the units of the Coastal Barrier Resources System.
17. It agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this project.