

**2013 HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS GRANT PROGRAM  
Additional Federal and State Terms and Conditions**

The requirements in this document provide a summary of some of the additional federal requirements which apply to these grant funds. The term “LEPC” and “Sub-grantee” are used interchangeably in this document, and usage of either term shall mean “LEPC and/or Sub-grantee”. The term “MOU” and “Agreement” are also used interchangeably in this document, and usage of either term shall mean “MOU and/or Agreement”.

1. **Federal Regulations and Circular:** The LEPC shall comply with the following federal Program Statute and Regulations, Administrative Requirements, Cost Principles, and Audit Requirements. A non-exclusive list of regulations commonly applicable to U.S. DOT grants are listed below:
  - A. Program Statute and Regulations: Authorizing language of 49 USC 5101 *et seq.* and 49 CFR Part 110, “Hazardous Materials Public Sector Training and Planning Grants”.
  - B. Administrative Requirements: 49 CFR Part 18, “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments”.
  - C. Cost Principles: For each kind of organization, there is a set of Federal principles for determining allowable costs. Allowable costs will be determined in accordance with the cost principles applicable to the organization incurring the costs. The following chart lists the kinds of organizations and the applicable cost principles.

<b>For the costs of a</b>	<b>Use the principles in—</b>
State, local or federal-recognized Indian tribal government	2 CFR part 225.
Private nonprofit organization other than an (1) Institution of higher education, (2) hospital, or (3) organization named in 2 CFR part 230, Appendix C, as not subject to that part	2 CFR part 230.
Institutions of Higher Education	2 CFR part 220.
For-profit organizations other than a hospital, commercial organization or a non-profit organization listed in 2 CFR part 230, Appendix C, as not subject to that part	48 CFR part 31. Contract Cost Principles and Procedures, or uniform cost accounting standards that comply with cost principles acceptable to the Federal agency.

- D. Audit Requirements: OMB Circular A-133, Audits of State, Local Governments, and Non-Profit Organizations.
2. **Federal Procurement and Contracting Requirements:** A Sub-grantee is required to follow its own procurement procedures which reflect applicable State and local laws and regulations, **provided that the procurements conform to applicable Federal law and the federal procurement standards established in 49 CFR 18.36.** A summary of some of these federal procurement requirements is included in **Attachment A** of this document.
3. **U.S. DOT Grant Agreement and Terms and Conditions:** Attachment B of this document.
4. **Federal Assurances – Non-Construction Programs:** Attachment C of this document.
5. **Federal Certifications Regarding Lobbying; Debarment, Suspension And Other Responsibility Matters; And Drug-Free Workplace Requirements:** Attachment D of this document.
6. **Assurance of Compliance with Title VI of the Civil Rights Act of 1964:** Attachment E of this document.
7. **Applicability and Transfer of Requirements to Subawardees:** If the Sub-grantee subawards funds provided under the Agreement to another eligible entity or purchases equipment or other property with these funds and transfers the title of the equipment or other property to another eligible entity; the Sub-grantee shall do so through a sub-grant agreement or other contractual instrument that makes the entity that is the recipient of the funds, equipment, or property legally obligated to comply with all of the applicable terms and conditions contained in or referenced by the Agreement that are applicable to the Sub-grantee.
8. **Requirements Applicable to Property/Equipment Purchased Using Grant Funds:** For all tangible, nonexpendable, personal property having a useful life of more than one year and a per unit cost of more than \$500 acquired in whole or in part with grant funds, the Sub-grantee must comply with the following requirements:

- A. Maintain records that include the following:
  - i. A description of the property;
  - ii. Manufacturer's model number;
  - iii. Manufacturer's serial number or other identification number;
  - iv. Vendor or other source of the property;
  - v. Identification of the title holder of the property;
  - vi. Acquisition date;
  - vii. Award number;
  - viii. Federal grant number;
  - ix. Percentage of Federal participation in the cost of the property;
  - x. Cost of the property;
  - xi. Physical location of the property;
  - xii. If the property was assigned to an individual, the name and title of the individual to whom the property was assigned;
  - xiii. Use of the property;
  - xiv. Condition of the property; and
  - xv. The ultimate disposition of the property, including the date of disposal how and to what entity property was disposed, and sale price of the property.
- B. Conducting a Physical Equipment Inventory. At least once every year, the Sub-grantee shall take a physical inventory of the property and the result reconciled with the property records. Any differences between quantities determined by the physical inspection and those in the accounting records shall be investigated to determine the cause of the difference. The Sub-grantee shall, in connection with the inventory, verify the existence, current utilization, current location, and continued need for the property. The Sub-grantee shall submit its property inventory report via iGMS with the quarterly progress report due on April 15th of each year to the State.
- C. Implementing Safeguards to Prevent Loss, Damage or Theft of Equipment. A control system shall be developed and implemented to ensure adequate safeguards to prevent loss, damage, or theft of the property. A sub-recipient must submit a description of its control system either in its grant application or when otherwise requested by IDHS. Any loss, damage, or theft shall be investigated and fully documented and made a part of the official project records. A copy of such documentation shall be promptly submitted to the State.
- D. Adequate maintenance procedures shall be developed and implemented to keep the property in good condition.
- E. The Sub-grantee shall not dispose of any property acquired in whole or in part with funds provided under this Agreement, except in accordance with 49 CFR 18.32(e), if applicable, and any applicable state and local laws, rules and regulations.
- F. For all property having an acquisition cost of over \$5,000, acquired in whole or in part with funds provided under the Agreement, the Sub-grantee must also comply with the applicable federal requirements pertaining to equipment in 49 CFR 18.32.
- G. The Sub-grantee agrees to the following:
  - i. The equipment and any required support personnel shall be made available to the State of Indiana if requested as part of a state incident response.
  - ii. The equipment shall be made available to other jurisdictions within the Homeland Security District as a district asset. The use of the equipment shall be addressed through existing inter-jurisdictional mutual aid, district mutual aid or equipment-specific use agreements.
  - iii. Personal use of the equipment is not permitted.
- H. If a Sub-grantee fails to comply with any part of this provision; the Sub-grantee may be required to repay to the State some or all of the funds provided to the Sub-grantee under the Agreement for the purchase of the property. In addition, such a failure to comply may jeopardize the Sub-grantee's ability to obtain future grants from the State.
- I. These requirements are on-going and survive the expiration or termination of the Agreement and will remain in effect until the property is disposed of in accordance with the Agreement and applicable federal

regulations.

9. **Hatch Act:** The Sub-grantee or State Agency Recipient must comply with the Hatch Act (5 U.S.C. 1501-1508 and 7324-7328) which limits the political activities of employees whose principal employment activities are funded in whole or part with federal funds (Coverage is not dependent on the source of an employee's salary, nor is it dependent upon whether the employee actually administers the funds or has policy duties with respect to them). State and local employees subject to the Hatch Act continue to be covered while on vacation leave, annual leave, sick leave, leave without pay, administrative leave or furlough.

- **Political Do's and Don't's For State and Local Employees:** An individual principally employed by a state or local executive agency in connection with a program financed in whole or in part by federal loans or grants.

<b>Allowed Political Activity</b>	<b>Prohibited Political Activity</b>
May be a candidate for public office in a nonpartisan election	May not be a candidate for public office in a partisan election
May campaign for and hold elective office in political clubs and organizations	May not use official authority or influence for the purpose of interfering with or affecting the results of an election or nomination for office
May actively campaign for candidates for public office in partisan and nonpartisan elections	May not directly or indirectly coerce contributions from subordinates in support of a political party or candidate
May contribute money to political organizations or attend political fundraising functions	
May participate in any activity not specifically prohibited by law or regulation	

- An election is partisan if any candidate for an elective public office is running as a representative of a political party whose presidential candidate received electoral votes at the preceding presidential election. The Office of the Special Counsel is responsible for investigating reports or complaints of Hatch Act violations by covered employees of state and local governments. (<http://www.osc.gov/hatchact.htm>)

**ATTACHMENT A**  
**MAKING PURCHASES USING FEDERAL GRANT FUNDS**  
**Federal Procurement and Contracting Requirements**

**Federal Procurement and Contracting Requirements:** A Sub-grantee is required to follow its own procurement procedures which reflect applicable State and local laws and regulations, **provided that the procurements conform to applicable Federal law and the federal procurement standards established in 49 CFR 18.36.** A brief summary of some of these federal requirements is as follows:

**A. Procurement Methods (49 CFR 18.36(d))**

**i. Small Purchase Procedure (49 CFR 18.36(d)(1))**

To purchase services and supplies of \$100,000 or less

- Relatively simple and informal method
- Cannot exceed simplified acquisition threshold of \$100,000
- Must obtain price or rate quotation from adequate number of qualified sources (usually 3)
- Awarded based on lowest documented price quote

**ii. Sealed Bids (Formal Advertising) (49 CFR 18.36(d)(2))**

- For sealed bidding to be feasible, all of the following conditions should be present (generally used for construction and debris removal contracts):
  - A complete, adequate and realistic specification or description of project is available.
  - Two or more responsible bidders are willing and able to compete effectively.
  - Bids publicly solicited and advertised and a firm-fixed-price contract (lump sum or unit price) awarded
  - The procurement lends itself to a firm fixed price contract.
- If the sealed bid procurement method is used, the following requirements are applicable:
  - The invitation for bids will be publicly advertised and bids shall be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids.
  - The invitation for bids, which will include any specifications and pertinent attachments, shall define the items or services in order for the bidder to properly respond.
  - All bids will be publicly opened at the time and place prescribed in the invitation for bids.
  - A firm fixed-price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs shall be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of.
  - Any or all bids may be rejected if there is a sound documented reason
- Contract awarded to the responsible bidder whose bid conforms with invitation for bid and whose bid is lowest in price

**iii. Competitive Proposals (49 CFR 18.36(d)(3))**

Generally used to purchase Architectural, engineering or professional and personal services when conditions are not appropriate for the use of sealed bids.

- Requests for proposals will be publicized and identify all evaluation factors and their relative importance.
- Any response to publicized requests for proposals shall be honored to the maximum extent practical.
- Proposals will be solicited from an adequate number of qualified sources.
- The Sub-grantee must have a method for conducting technical evaluations of the proposals received and for selecting awardees
- Awards will be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered
- The Sub-grantee may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in

procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

**iv. Noncompetitive (Sole Source) proposals (49 CFR 18.36(d)(4))**

The following conditions are applicable to all sole source or noncompetitive procurements:

- (1) **Competitive Procurement must be infeasible:** A noncompetitive procurement can only be used when the award of a contract is infeasible under small purchase order procedures, sealed bids or competitive proposals and one (1) of the following circumstances apply:
  - (A) The item is available only from a single source;
  - (B) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
  - (C) The awarding agency (IDHS) authorizes noncompetitive proposals; or
  - (D) After solicitation of a number of sources, competition is determined inadequate.
- (2) **Cost analysis required:** Cost analysis, i.e., verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits, is required.
- (3) **Awarding agency review may be required:** A Sub-grantee is required to submit the proposed procurement to IDHS for pre-award review (in accordance with 49 CFR 18.36(g)).]

**B. General Federal Procurement Standards (49 CFR 18.36(b)):**

- Contracts must be monitored by the Sub-grantee to assure compliance with terms, conditions and specifications of contracts or purchase orders.
- The Sub-grantee must maintain written code of standards governing award and administration of contracts (conflicts of interest, selection and award, etc.) and **the Sub-grantee must comply with the applicable federal conflict of interest requirements established in 49 CFR 18.36(b)(3)**
- The Sub-grantee will review proposed procurements to avoid unnecessary or duplicate purchases
- Intergovernmental agreements for procurement are encouraged
- Use of excess and surplus property is suggested when feasible
- Use of value engineering clauses in construction contracts of sufficient size is encouraged
- Contracts will be awarded only to responsible contractors possessing ability to perform
- Supporting documents must be maintained and include - rationale for method of procurement, selection of contract type, contractor selection or rejection and basis for contract price
- Use of time and material contracts is limited to situations where 1) no other contract is feasible, and 2) includes a ceiling price that the contractor exceeds at its own risk. (This must be documented)
- The Sub-grantee will have responsibility for settlement of all contractual and administrative issues arising out of procurements
- The Sub-grantee must have protest procedures to handle and resolve disputes relating to procurements

**C. Competition (49 CFR 18.36(c)):**

- All procurement transactions will provide full and open competition. Examples of restrictive competition include:
  - a. Unreasonable requirements on firms in order for them to qualify
  - b. Requiring unnecessary experience or excessive bonding
  - c. Noncompetitive pricing practices between firms or between affiliated companies
  - d. Noncompetitive awards to consultants on retainer
  - e. Organizational conflicts of interest
  - f. Specifying only brand name products
  - g. Any arbitrary action in the procurement process
- Geographical preferences in evaluation of bids is prohibited
- Written selection procedures must be in place for all procurements identifying all requirements offerors must fulfill
- Ensure all pre-qualified lists of persons, firms or products are current and include enough qualified sources to ensure maximum open and free competition

**D. Affirmative Action (49 CFR 18.36(e)):**

- The Subgrantee will take all necessary affirmative action steps to ensure that minority firms, women's business enterprises, and labor surplus area firms are used when possible

**E. Contract Cost and Price: (49 CFR 18.36(f))**

- The Sub-grantee must perform cost or price analysis in connection with every procurement action including contract modifications.
- The Sub-grantee must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed.
- Costs and prices based on estimated costs will be allowable only to the extent that they are consistent with Federal cost principles.
- Cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be used.

**F. State Review: (49 CFR 18.36(g))**

- The Sub-grantee must make available to the State technical specifications on proposed procurements and, on request, make pre award documents available i.e. requests for proposals or invitations for bids, independent cost estimates.
- Review is required in all cases when a Sub-grantee's procurement procedure fails to comply with standards, procurement exceeds simple acquisition threshold and is awarded without competition or only one bid or offer is received, or is awarded to other than low bidder or brand name is specified.
- The Sub-grantee may request that its procurement system be reviewed to determine whether its system meets these standards, or the Sub-grantee may self-certify its procurement system

**G. Types of Contracts**

Lump sum:	Contract for work within a prescribed boundary with a clearly defined scope and total price
Unit price	Contract for work done on an item-by-item basis with cost determined on a unit basis
Cost + fixed fee	Either a lump sum or unit price contract with a fixed contractor fee added into price
Time & materials	Should be avoided, but may be allowed for work necessary immediately after disaster and after a determination that no other contract is suitable; include a cost ceiling or "not to exceed" provision [49 CFR 18.36(b)(10)]
Cost plus % of cost	Not allowed by US DOT Regulations

**H. Contract Provisions: (49 CFR 18.36(i)) Contracts must contain these provisions:**

- Administrative, contractual or legal remedies in instances where contractors violate or breach contract terms—Contracts for more than \$100,000.
- Termination clause for cause and termination for convenience—All contracts for more than \$10,000.
- Compliance with Equal Employment Opportunity regulations—All construction contracts awarded in excess of \$10,000.
- Compliance with Anti-Kickback regulations—All contracts for construction or repair
- Compliance with Davis-Bacon Act—Construction contracts in excess of \$2,000
- Compliance with Contract Work Hours and Safety Standards Act—Construction contracts in excess of \$2,000, and in excess of \$2,500 for contracts which involve the employment of mechanics or laborers
- Notice of reporting requirements and regulations pertaining to reporting—All contracts
- Notice of requirements pertaining to patent rights—All contracts
- Notice of requirements pertaining to copyrights and rights in data—All contracts
- Access of any records by grantee, sub grantee, Federal grantor, Comptroller or any duly authorized representatives—All contracts
- Retention of records for at least three years after final payments are made—All contracts
- Compliance with CAA, CWA, EPA regulations—Contracts in excess of \$100,000.
- Mandatory standards relating to energy efficiency—All contracts
- Section 3(a)(2)(C) of the UMT Act of 1964, as amended, prohibits the use of grant or loan funds to support procurements utilizing exclusionary or discriminatory specifications.
- The Lobbying Certification—All contracts
- Federal Debarment and Suspension Requirements—All contracts
- U.S. DOT Assurance of Compliance with Title VI of the Civil Rights Act of 1964—All Contracts (required language in Appendix B of Attachment E of this document).

## ATTACHMENT B - Grant Agreement and Terms and Conditions

 <p><b>U.S. Department of Transportation</b> <b>Pipeline and Hazardous Materials Safety Administration</b></p>	<h1 style="font-size: 2em;">Grant Agreement</h1>		
1. RECIPIENT NAME AND ADDRESS INDIANA DEPARTMENT OF HOMELAND SECURITY Planning Division 302 W Washington St Indianapolis, IN 46204-4701	2. AGREEMENT NUMBER: HM-HMP-0312-12-01-00	3. AMENDMENT NO. 0	
	4. PROJECT PERFORMANCE PERIOD: FROM 09/30/2012 TO 09/30/2013		
	5. FEDERAL FUNDING PERIOD: FROM 09/30/2012 TO 09/30/2013		
1A. IRS/VENDOR NO. 356000158	6. ACTION New		
1B. DUNS NO. 087173519	FUNDING	TOTAL	
7. CFDA#: 20.703	9. TOTAL FEDERAL AMOUNT OF THIS AGREEMENT	536,745.00	
8. PROJECT TITLE 2013 HMEP Public Sector Training and Planning Grants	10. TOTAL MATCHING AMOUNT OF THIS AGREEMENT	134,186.00	
	11. TOTAL AMOUNT OF THIS AGREEMENT	670,931.00	
12. GRANTEE PROGRAM MANAGER Mr. John Steel	12A. GRANTEE PROGRAM MANAGER EMAIL jsteel@dhs.in.gov		
	12B. GRANTEE PROGRAM MANAGER PHONE NUMBER 317-233-6519		
12C. GRANTEE PROGRAM MANAGER ADDRESS 302 West Washington, E208 Indianapolis, IN 46204-2261			
13. GRANT PROGRAM OFFICER Emmanuel Ekwo-GMO	13A. GRANT PROGRAM OFFICER EMAIL Emmanuel.Ekwo@dot.gov		
	13B. GRANT PROGRAM OFFICER PHONE NUMBER 2023661634		
14. INCORPORATED ATTACHMENTS			
15. STATUTORY AUTHORITY FOR GRANT/COOPERATIVE AGREEMENT Federal Hazardous Materials Transportation Law , 49 U.S.C. 5101 et seq			
16. REMARKS Award Amounts: Federal Share: Planning \$252,229 + Training \$284,516 = Fed Total \$536,745 Non-Federal Share: Planning \$63,057 + Training \$71,129 = Non-Fed Total \$134,186 Total Budget: \$670,931			
<b>GRANTEE ACCEPTANCE</b>		<b>AGENCY APPROVAL</b>	
17. NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL <i>Joseph E. Wain Scott Exe Dir</i>		19. NAME AND TITLE OF AUTHORIZED PHMSA OFFICIAL	
18. SIGNATURE OF AUTHORIZED GRANTEE OFFICIAL <i>VT</i>	18A. DATE <i>9-30-12</i>	20. SIGNATURE OF AUTHORIZED PHMSA OFFICIAL	20A. DATE
<b>AGENCY USE ONLY</b>			
21. OBJECT CLASS CODE: 41000		22. ORGANIZATION CODE: 50D0308EP0	
23. ACCOUNTING CLASSIFICATION CODES			
DOCUMENT NUMBER HM-HMP-0312-12-01-00	FUND 5282XXXDA0	BY 2012	BPAC EPGRT010
			AMOUNT 536,745.00

## AWARD ATTACHMENTS

INDIANA DEPARTMENT OF HOMELAND  
SECURITY

HM-HMP-0312-12-01-00

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1. PHMSA FY12-13 HMEP States and Territories Terms and Conditions

# PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION

*Hazardous Materials Emergency Preparedness Grant Program*

*Catalog of Federal Domestic Assistance Program No. 20.703*

TERMS AND CONDITIONS PROGRAM

YEAR 2012-2013

October 1, 2012 -September 30, 2013

General Terms and Conditions of Award

This award by the U.S. Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA) 1200 New Jersey Avenue, SE Washington, D.C. 20590 is made pursuant to Funding Opportunity Title: "2012 PHMSA HMEP States & Territories," Funding Opportunity Number: HM-HMP-13-004.

## 1. Effect of Award

The Recipient, which is the organization named in block 1 of the Notice of Grant Award (NGA), is legally responsible for and accountable to PHMSA for the funds provided. By acceptance of this award, which is accomplished by the signature of the authorized Recipient official shown in blocks 17 and 18 of the NGA, the Recipient agrees to comply with the terms and conditions detailed or referenced below.

The award may be modified only by the PHMSA Agreement Officer, either at PHMSA's initiation, with Recipient acceptance, as appropriate, or upon the request of, and subsequent approval by, the Agreement Officer. This includes any request by a Request to deviate from non-statutory provisions of 49 CFR 110.

If the Recipient materially fails to comply with the terms and conditions of this award, whether stated in full text herein or incorporated by reference, the Agreement Officer may suspend, terminate, or take other remedies as may be legally available and appropriate in the circumstances as provided in 49 CFR 18.43.

## 2. Award information

The total amount of HMEP funding is shown in block 9 of the NGA. It must be matched in the amount shown in block 10; however, the amounts for planning and training are considered two separate grants and must be accounted for and reported on separately. Those separate amounts and the required matching share are shown in the Remarks section (block 16 of the NGA).<sup>1</sup>

The Recipient is responsible for any commitments or expenditures it incurs in excess of the funds provided by this award. Expenditures incurred prior to the effective date of an award cannot be charged against this award.

### 3. Incorporation of approved application by reference

The Recipient's application, including the narrative and budget as approved by PHMSA prior to award, is incorporated by reference in this award. Changes to the approved application are governed by 49 CFR 18.30 and paragraph 15 of these terms and conditions.

### 4. Governing statutes and regulations

The administration of this award by PHMSA and the Recipient will be based on the following federal statutory and regulatory requirements:

- the authorizing language of 49 U.S.C. 5101 *et seq*
- program regulations found at 49 CFR 110, Hazardous Materials Public Sector Training and Planning Grants. 49 CFR 110 is available at [www.gpoaccess.gov/ecfr/](http://www.gpoaccess.gov/ecfr/) by clicking on 49 CFR 110.
- administrative regulations at 49 CFR 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State, and Local, and Tribal Governments. 49 CFR 18 is available at <http://www.dot.gov/ost/m60/grant/49cfr18.htm> (unless 49 CFR 19 <http://www.dot.gov/ost/m60/grant/49cfr19.htm> applies as provided in paragraph 11 of these terms and conditions)
- the cost principles in 2 CFR 225, Cost Principles for State, Local and Indian Tribal Governments, which are incorporated by reference in 49 CFR 18 or other applicable cost principles (see paragraphs 10 and 11 of these terms and conditions)
- Office of Management and Budget Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, which is incorporated by reference in 49 CFR 18. (See paragraph 19 of these terms and conditions)
- any other applicable federal statutes and regulations, including, but not limited to the following:

The Recipient must comply with 49 CFR 20, "New Restrictions on Lobbying." 49 CFR 20 is incorporated by reference in this award. 49 CFR 20 is available at: <http://www.dot.gov/ost/m60/grant/49cfr20.htm>

The Recipient must comply with Title VI of the Civil Right Act of 1964, which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, be subject to discrimination under any program or activity receiving Federal financial assistance.

The Recipient must comply with 49 CFR 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act of 1964." 49 CFR 21 is

incorporated by reference into this award. 49 CFR 21 is available at:  
<http://www.dot.gov/ost/m60/grant/regs.htm>.

The Recipient must comply with 49 CFR 32, "Government wide Requirements for Drug- Free Workplace (Financial Assistance)," which implements the requirements of Public Law 100-690, Title Subtitle D, "Drug-Free Workplace Act of 1988." 49 CFR 32 is incorporated by reference in this award. 49 CFR 32 is available at:  
<http://www.dot.gov/ost/m60/grant/regs.htm>.

No term or condition of this award is intended to require the Recipient to violate any applicable State or Territorial law.

The Recipient must immediately notify the PHMSA Agreement Administrator 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 hazmat program, which may significantly affect the Recipient's ability to perform the program in accordance with the terms of this award. The Recipient must also immediately notify the Agreement Administrator (AA) of any decision pertaining to the Recipient's conduct of litigation that may affect DOT interests.

#### 5. Order of precedence

Any inconsistency or conflict in the terms and conditions specified in this award will be resolved according to the following order of precedence:

- The federal statute authorizing this award or any other federal statutes, laws, regulations or directives directly affecting performance of this award.
- Any special terms and conditions of this award
- General terms and conditions of this award.

#### 6. General PHMSA responsibilities

*Authorizing Official Agreement Officer (AO)*

The AO is the individual who signed this award on behalf of PHMSA (blocks 19 and 20 of the NGA) and is the only PHMSA official

- with authority to obligate the Government to the expenditure of federal funds under this award.
- authorized to make formal changes to the award, e.g., through approval of post-award requests for a change to the scope, approved budget, schedule, or any other terms or conditions of this award.

The AO is:

Dr. Magdy El-Sibaie  
Associate Administrator for Hazardous Materials Safety  
U.S. Department of Transportation Pipeline and Hazardous Materials Safety Administration

1200 New Jersey Avenue, SE, E21-316 Washington, D.C. 20590-0001  
Telephone: (202) 366-0656  
Fax: (202) 366-3753  
E-mail: magdy.el-sibaie@dot.gov

*Agreement Administrator/Grants Management Specialist*

The Agreement Administrator named in block 13 of the NGA is responsible for oversight and monitoring of the award. The Agreement Administrator is the point of contact for recipients for submission of required reports and requests for advice and interpretation of these terms and conditions. The Agreement Administrator is not authorized to make any commitments that obligate the Government or authorize changes which affect the award budget, period of performance, or other terms and conditions of the award. This can be done only by the Agreement Officer.

**7. General recipient responsibilities**

In accepting a PHMSA financial assistance award (grant or cooperative agreement), the recipient assumes legal, financial, administrative, and programmatic responsibility for administering the award. In accordance with the laws, rules, and regulations governing grants and cooperative agreements, these general terms and conditions, and any special conditions included in this award.

The Recipient is responsible for monitoring grant, subaward, and contractual activities under this award to ensure compliance with federal requirements and that performance objectives are being achieved.

The Recipient is required to advise subrecipients of requirements imposed on them by federal laws, regulations, and the terms and conditions of this award. These include grant administrative requirements, audit requirements under OMB Circular A-133, and the applicable federal cost principles according to recipient type (see paragraphs 10, 11, and 19 of these terms and conditions for additional detail).

Failure to comply with these requirements may result in suspension or termination of the award and PHMSA recovery of funds.

*Recipient Program Manager*

The Recipient's Program Manager (PM) is the individual designated by the recipient and approved by PHMSA who is responsible for the technical direction of the project. The PM is considered a key person under this award and, pursuant to 49 CFR 18.30(d) (3), cannot be replaced without prior written approval of the PHMSA Agreement Officer.

Under the terms of this award, the recipient, through the Recipient's PM, is responsible for

- accomplishing the objectives and tasks specified in the approved application within the approved budget amounts (federal plus matching)
- providing required reports that are complete, accurate, and timely.

**8. Central Contractor Registration and Universal Identifier Requirements (Appendix A to 2 CFR 25)**

### *Requirement for Central Contractor Registration CCR*

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your Information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

### *Requirement for Data Universal Numbering System (DUNS) Numbers*

If you are authorized to make subawards under this award, you:

- Must notify potential subrecipients that no entity (see definition below) may receive a subaward from you unless the entity has provided its DUNS number to you.
- May not make a subaward to an entity unless the entity has provided its DUNS number to you.

### **Definitions**

For purposes of this award term:

*Central Contractor Registration (CCR)* means the federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the CCR Internet site (currently at <http://www.ccr.gov>).

*Data Universal Numbering System (DUNS) number* means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).

*Entity, as it is used in this award term, means all of the following, as defined at 2 CFR Part 25, subpart C:*

- A Governmental organization, which is a State, local government, or Indian Tribe;
- A foreign public entity;
- A domestic or foreign nonprofit organization;
- A domestic or foreign for-profit organization; and
- A federal agency, but only as a subrecipient under an award or subaward to a non-federal entity.

### *Subaward*

- This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
- The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. 210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
- A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

*Subrecipient* means an entity that:

- Receives a subaward from you under this award; and
- Is accountable to you for the use of the federal funds provided by the subaward.

#### 9. Government wide Debarment and Suspension (Non-procurement)

The Recipient must comply with 2 CFR 1200, "Nonprocurement Suspension and Debarment" which generally prohibits entities that have been debarred, suspended, or voluntarily excluded from participating in federal non-procurement transactions either through primary or lower-tier covered transactions. 2 CFR 1200 is incorporated by reference in this award and is available at [www.gpoaccess.gov/ecfr/](http://www.gpoaccess.gov/ecfr/) by clicking on 2 CFR 1200.

Before entering into a subaward or contract under the grant, the Recipient must verify that the entity/individual is not excluded or disqualified from participation in federal nonprocurement or procurement programs. This can be done by:

- Checking the Excluded Parties List System (<http://www.epls.gov>), or
- Collecting a certification from that entity/individual, or
- Adding a clause or condition to the covered transaction with that entity/individual:

The Recipient must include a term or condition in lower-tier transactions requiring lower-tier participants to comply with subpart C of the OMB guidelines in 2 CFR 180, as supplemented by 2 CFR 1200.

The Recipient must inform the PHMSA Agreement Officer when the Recipient suspends or debar a contractor or subrecipient.

#### 10. Allowable costs

The allowability of costs incurred by the Recipient will be determined using the OMB cost principles in 2 CFR 225 (OMB Circular A-87) and HMEP-specific program requirements. If 2 CFR 225 specifies that a direct cost requires prior approval of the awarding agency and the cost was included in the approved budget, no additional PHMSA approval is required. Otherwise, prior approval is required as specified in paragraph 15 of these terms and conditions.

#### 11. Flow-Down of Requirements under Subawards

The requirements of this award that apply to the Recipient also apply to subrecipients, i.e., entities that are carrying out part of the substantive programmatic activity, unless an exception is specified.

In making subawards under the award, the Recipient must apply the federal cost principles applicable to the particular type of organization concerned. Therefore,

if a subaward is to a governmental unit (other than a college, university or hospital), 2 CFR 225 (OMB Circular A-

87) will apply;

if a subaward is to a college or university, 2 CFR 220 (OMB Circular A-21) will apply;

if a subaward is to another type of non-profit organization, 2 CFR 230, Cost Principles for Non-Profit Organizations (OMB Circular A-122}, will apply.

The administrative requirements that must be flowed down to subrecipients are those that apply to the type of organization concerned. Therefore, if a subaward is made to a university, the requirements of 49 CFR 19 rather than 49 CFR 18 apply.

## 12. Matching requirement

The Recipient must provide 20 percent of the allowable direct and indirect planning costs of all activities covered under this award from non-federal sources. The Recipient must also provide 20 percent of the allowable direct and indirect training costs of all activities covered under this award from non-federal sources. Recipients may either use cash (hard match), in-kind (soft-match) contributions, or a combination of both to meet this requirement. The types of contributions allowed are listed in 49 CFR 110.60. Matching costs and contributions also must meet the requirements of 49 CFR 18.24, including that the costs must meet the same requirements of allowability as apply to HMEP funds.

Federal funds may be expended before non-federal matching funds, provided that total program costs at completion of the program year reflect the 80 percent federal/20 percent non-federal allocation of costs. The matching requirement is in addition to the maintenance of effort required of Recipients of HMEP awards under 49 U.S.C. 5116(a)(2)(A) and (b)(2)(A) and 49 CFR 110.30(b) (2) and (c) (2).

## 13. Performance and financial reporting requirements

### ***Federal Financial Reports***

#### *Quarterly reports*

Each recipient is required to submit a quarterly Federal Financial Report (SF 425) to report the status of funds in the approved budget (federal plus matching) as of the end of the reporting quarter. This report is cumulative. Quarterly reports are due no later than 30 days after the end of each reporting quarter, i.e., January 31, April 30, and July 31.

#### *Final report*

Each recipient is required to submit a final Federal Financial Report (SF 425) within 90 days after the end of the program year, i.e., not later than December 31, that provides the financial results of the award, including the expenditure of both HMEP funds and required matching.

### **Address for submission**

Each required report must be submitted by e-mail to the Agreement Administrator named in Block 13 of the NGA.

**Requests for extension and effect of late reporting**

A request for extension of the due date for a quarterly report must be made in writing by the Recipient's PM to the Agreement Administrator no later than 30 days before the end of the reporting quarter. The request must include the reason for the request and the requested due date. Approval is not automatic.

A request for extension of the due date for a final report must be made in writing by the Recipient's PM to the Agreement Administrator no later than 30 days before the end of the performance period. The request must include the reason for the request and the requested due date. Approval is not automatic.

Failure to provide required reports by the due dates specified above or any extended due date approved by PHMSA may result in a delay in processing payment requests, delay in the award of new funding, or, as appropriate, an enforcement action.

**14. Reporting Subawards and Executive Compensation**

**Reporting of first-tier subawards**

Unless you are exempt as provided in the paragraph entitled "Exemptions" of this award term, you must report each action that obligates \$25,000 or more in federal funds that does not include Recovery funds (as defined in section 1512(a) (2) of the American Recovery and Reinvestment Act of 2009, Public Law 111-5) for a subaward to an entity (see paragraph entitled "Definitions," in this award term).

**Where and when to report**

You must report each obligating action described in the previous paragraph of this award term to <http://www.fsrs.gov>.

For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

**What to report**

You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

***Reporting Total Compensation of Recipient Executives***

**Applicability and what to report**

You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, **if-**

- i. The total federal funding authorized to date under this award is \$25,000 or more;
- ii. In the preceding fiscal year, you received-
  - (A) 80 percent or more of your annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
  - (B) \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
- iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m (a), 78o (d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>)

Where and when to report

You must report executive total compensation described in the paragraph entitled "Applicability and what to report" for recipient executives of this award term:

- As part of your registration profile at <https://www.ccr.gov/>
- By the end of the month following the month in which this award is made, and annually thereafter.

**Reporting of Total Compensation of Subrecipient Executives**

Applicability and what to report

Unless you are exempt as provided in the paragraph entitled "Exemptions," of this award term below, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, **if**-

- i. in the subrecipient's preceding fiscal year, the subrecipient received-
  - (A) 80 percent or more of its annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
  - (B) \$25,000,000 or more in annual gross revenues from federal procurement contracts (and subcontracts), and federal financial assistance subject to the Transparency Act (and subawards); and
- ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public

has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>

#### Where and when to report

You must report subrecipient executive total compensation described in "applicability and what to report" for subrecipient executives of this award term:

- To the recipient.
- By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

#### **Exemptions**

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- Subawards, and
- The total compensation of the five most highly compensated executives of any subrecipient.

#### **Definitions**

For purposes of this award term:

*Entity* means all of the following, as defined in 2 CFR 25:

- A Governmental organization, which is a State, local government, or Indian tribe;
- A foreign public entity;
- A domestic or foreign nonprofit organization;
- A domestic or foreign for-profit organization;
- A federal agency, but only as a subrecipient under an award or subaward to a non-federal entity.

*Executive* means officers, managing partners, or any other employees in management positions.

#### *Subaward*

- This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

- The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. \_\_.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
- A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

*Subrecipient* means an entity that:

- Receives a subaward from you (the recipient) under this award; and
- Is accountable to you for the use of the federal funds provided by the subaward.

*Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

- Salary and bonus.
- Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- Change In pension value. This is the change in present value of defined benefit and actuarial pension plans.
- Above-market earnings on deferred compensation which is not tax-qualified.
- Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

#### 15. Changes to the approved application and budget

The Recipient must submit a written request and receive formal approval before making any of the changes for non-construction grants specified in 49 CFR 18.30. The request must be signed by the Recipient's Program Manager and submitted to the Agreement Administrator no later than 30 days prior to the requested effective date of the proposed change. PHMSA will not approve any change to the award during the last 30 days of the performance period.

The actions requiring prior approval include, but are not limited to the following:

- Any revision that would result in the need for additional funding

- Cumulative transfers among direct cost categories, or, if applicable, among separately budgeted programs, projects, functions, or activities which exceed or are expected to exceed ten percent of the current total approved budget, whenever the awarding agency's share exceeds \$100,000.
- Changes in the scope or objectives in the approved application. If a Recipient has a question about whether a change represents a change in scope, the recipient should contact PHMSA.
- Change in the performance period, which must be requested no later than 30 calendar days prior to the end of the project period.
- Rebudgeting of HMEP funds from training to planning or from planning to training
- Change in the Recipient Program Manager.

If the proposed change affects the approved budget, the Recipient must submit a revised budget using the SF 424 budget form. If the request is for an extension of the period of performance, the Recipient must indicate the planned use of all unexpended funds during the extension period.

The AA will notify the Recipient in writing within 30 calendar days after receipt of the request for revision or adjustment whether the request has been approved. If a request is approved, the approval may be by letter or, if necessary, a formal amendment to this award signed by the Agreement Officer.

#### 16. Title to Equipment

Title to equipment purchased or fabricated under this award vests in the Recipient or subrecipients, respectively, upon acquisition except that DOT reserves the right to require the Recipient or subrecipient to transfer title to items of equipment to the federal government or a third party named by DOT, when such a third party is otherwise eligible under existing statutes. Such transfers are subject to the standards contained in 49 CFR 18.32.

#### 17. Copyrights

PHMSA reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government purposes:

- The copyright in any work developed under a grant, subaward, or contract under a grant or subaward; and
- Any rights of copyright to which a Recipient, subrecipient or a contractor purchases ownership with grant support.

#### 18. Payment

##### *Request for Advance or Reimbursement*

Payment to a Recipient may be made in advance, consistent with 49 CFR 18 and 31 CFR 205. To obtain an advance, the Recipient must comply with the requirements of 49 CFR 110.70(c). If these conditions are not met, payment will be made by reimbursement.

### ***Delphi Invoicing System for Department of Transportation (DOT) Financial Assistance Awardees***

Subject to the requirements in 49 CFR 18.21, payments will be made after receipt of required modal reporting forms. Each payment request must be made electronically via the Delphi Invoicing System.

PHMSA will promptly review the request and, upon approval, submit the request electronically through the Delphi Invoicing System for payment processing. PHMSA reserves the right to request supporting documentation upon receipt of payment requests. Failure to comply can result in a denial of payment.

The following are the procedures for accessing and utilizing the Delphi Invoicing System.

#### **A. Grant Recipient Requirements**

- Grantees must have internet access to register and submit payment requests through the Delphi invoicing system.
- Grantees must submit payment requests electronically and DOT Operating Administrations must process payment requests electronically.

#### **B. System User Requirements**

- Grantees should contact the DOT Operating Administration's grants office directly to sign up for the system. The Operating Administration awarding the grant will provide the grantee's name and email address to the DOT Financial Management Office. The DOT will then invite the grantee to sign up for the system.
- The DOT will send the grantee a form to verify the grantee's identity. The grantee must complete the form, and present it to a Notary Public for verification. The grantee will return the notarized form to:

DOT Enterprise Services Center  
FAA Accounts Payable, AMZ-100  
PO Box 25710  
Oklahoma City, OK 73125

- The DOT will validate the form and email a user ID and password to the grantee. Grantees should contact the Operating Administration's grants office with any changes to their system information.

Note: Additional information, including access forms and training materials, can be found on the DOT invoicing website (<http://www.dot.gov/cfo/delphi-invoicing-system.html>)

#### **C. Waivers**

DOT Financial Management officials may, on a case by case basis, waive the requirement to register and use the electronic grant payment system. Waiver request forms can be obtained on the DOT invoicing website (<http://www.dot.gov/cfo/delphi-invoicing-system.html>) or by contacting the Operating Administration's grants office. Recipients must explain why they are unable to use or access the internet to register and enter payment requests.

All waiver requests should be sent to the Director of the Office of Financial Management, US Department of Transportation, Office of Financial Management, B-30, room W93-431, 1200 New Jersey Avenue SE, Washington DC 20590-0001, [DOTElectronicInvoicing@dot.gov](mailto:DOTElectronicInvoicing@dot.gov). The Director of the DOT Office of Financial Management will confirm or deny the request within approximately 30 days.

If a grantee is granted a waiver, the grantee should submit all hard-copy invoices directly to:

DOT/FAA  
PO Box (OA specific- Needs to be modified)  
Oklahoma City, OK 73125

The requirements set forth in these terms and conditions supersede previous financial invoicing requirements for Financial Assistance awardees.

#### *Electronic funds transfer*

The Government will make all payments under this agreement by electronic funds transfer (EFT) unless the Recipient is notified to the contrary. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.

The Government will make payment to the Recipient using the EFT information contained in the CCR database. If the EFT information changes, the Recipient is responsible for providing the updated information to the CCR database. If the Recipient's EFT information in the CCR database is incorrect, the Government is not obligated to make payment to the Recipient until the correct EFT information is entered into the CCR database.

The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Federal Transfer System. The rules governing federal payments through the ACH are contained in 31 CFR 210.

If the Recipient has identified multiple payment receiving points (i.e., more than one remittance address and/or EFT information set) in the CCR database, and the Recipient has not notified the Government of the payment receiving point applicable to this agreement, the

Government will make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the CCR database.

If an uncompleted or erroneous transfer occurs because the Government used the Recipient's EFT information incorrectly, the Government remains responsible for making a correct payment and recovering any erroneously directed funds.

#### *EFT and assignment of claims*

If the Recipient assigns the proceeds of this agreement, the Recipient must require, as a condition of any such assignment, that the assignee register in the CCR database and be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this award term will apply to the assignee as if it were the Recipient. EFT information that shows the ultimate recipient of the transfer to be other than the Recipient, in the absence of a proper assignment of claims acceptable to the Government, will be

considered incorrect EFT information.

#### 19. Audit requirements

OMB Circular A-133, "Audits of States, Local Governments, and Nonprofit Organizations," includes specific guidance for conducting financial and compliance audits. The threshold for requiring an A-133 audit is \$500,000 in expenditures of federal funds in an entity's fiscal year. This amount is the aggregate of funds from all federal sources. OMB Circular A-133 is incorporated by reference into this award and is available at [http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133\\_revised\\_2007.pdf](http://www.whitehouse.gov/sites/default/files/omb/assets/a133/a133_revised_2007.pdf)

#### 20. Record retention and access to records

Grant-related financial and programmatic records, supporting documents, statistical records, and other records of Recipients or sub-recipients must be maintained as provided in 49 CFR 18.42(a) through (d) (or 49 CFR 19.53, if applicable)

Site visits, desk audits, or other reviews

PHMSA, through its staff or authorized representatives, may make site visits, at reasonable times; to review project accomplishments, management control systems and provide guidance as may be requested or required. If a site visit is made on the premises of the Recipient, the Recipient must provide reasonable facilities and assistance to PHMSA representatives in the performance of their duties.

PHMSA, through its authorized representatives, may request a desk audit, at reasonable times; to review project accomplishments, management control systems and provide guidance as may be requested or required. If a desk audit is conducted, the Recipient is required to provide; electronically or via postal service all records requested by PHMSA representatives. All desk audits and reviews will be performed in a manner to not unduly delay work activity under the award.

If PHMSA requires access to the records of a subrecipient or contractor under the grant, whether as part of a site visit or for another type of review, PHMSA will coordinate the request with the Recipient.

All site visits and evaluations will be performed in a manner to not unduly delay work activity under the award or other activities of the Recipient, subrecipient, or contractor.

#### 21. Contracting with Small and Minority Firms, Women's Business Enterprises, Veteran Owned, and HubZone Area Firms

DOT's policy is to award a fair share of contracts to small minority business, women-owned and HubZone firms. DOT is strongly committed to the objectives of this policy and encourages all Recipients of its grants and cooperative agreements to take affirmative steps to ensure such fairness on the awarding of any contracts under DOT grants or cooperative agreements.

The Recipient and any subrecipients are encouraged to take all necessary affirmative steps to assure that small, women-owned, minority disadvantaged businesses, veteran, and HUBZone business firms are used when possible. The Recipient shall include this award term in all subawards.

Affirmative steps include:

- Placing qualified small and minority-disadvantaged businesses, women owned business enterprises, veteran-owned and HUBZone business firms on solicitation lists;
- Ensuring that small and minority businesses, women's business enterprises, veteran- owned and HUB Zone business firms are solicited whenever they are potential sources;
- Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by small and minority businesses, women's business enterprises, veteran-owned, and HUBZone business firms;
- Establishing delivery schedules, when economically feasible, into small tasks or quantities to permit maximum participation by small and minority business, women's business enterprises, veteran-owned, and HUBZone business firms; and
- Using the services and assistance of the Small Business Administration and the DOT Office of Small and Disadvantaged Business Utilization, as appropriate.

## 22. Seat Belt Use Policies and Programs

In accordance with Executive Order 13043, the Recipient is encouraged to adopt on-the-job seat belt use policies and programs for its employees when operating government-owned, company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this presidential initiative. For information on how to implement such a program or for statistics on the potential benefits and cost-savings to your company or organization, please visit the Buckle up America section on NHTSA's website at [www.nhtsa.dot.gov](http://www.nhtsa.dot.gov). Additional resources are available from the Network of Employers for Traffic Safety (NETS), a public-private partnership headquartered in Washington, D.C. dedicated to improving the traffic safety practices of employers and employees. NETS is prepared to help with technical assistance, a simple, user-friendly program kit, and an award for achieving the President's goal of 85 percent seat belt use. NETS can be contacted at 1-888221-0045 or visit its website at [www.trafficsafety.org](http://www.trafficsafety.org).

## 23. Texting While Driving

In accordance with Executive Order, 13513, recipients, subrecipients, and their contractors are encouraged to adopt and enforce policies that ban text messaging while driving company- owned or -rented vehicles or government-owned vehicles, or while driving personally owned vehicles when on official Government business or when performing any work for or on behalf of the Government. These efforts may include conducting education, awareness, and other outreach for employees about the safety risks associated with texting while driving and should encourage voluntary compliance with the entity's text messaging policy while off duty.

## 24. Information Collection

Under the Paperwork Reduction Act (PRA), if a Recipient collects the same information from 10 or more respondents as part of carrying out this award, the Recipient is prohibited from representing to its respondents that information is being collected for, or in association with, the federal government unless

the Recipient is conducting the collection of information at the specific request of the agency; or the terms and conditions of the grant require specific approval by the agency of the collection of information or collection procedures. In those cases, the OMB PRA clearance procedures contained in 5 CFR 1320 must be followed. However, nothing in this award requires Recipients to collect information on PHMSA's behalf or to obtain PHMSA approval of any information collection a Recipient might deem necessary under this award.

#### 25. Fraud, Waste, or Abuse

The DOT Inspector General maintains a toll-free hotline for receiving information concerning fraud, waste, or abuse under grants and cooperative agreements. Such reports are kept confidential and callers may decline to give their names if they choose to remain anonymous. The telephone number is: (800) 424-9071. The mailing address is:

DOT Inspector General  
1200 New Jersey Avenue, SE West Bldg. 7<sup>th</sup> Floor  
Washington, DC 20590  
Phone: 1.800.424.9071

Email: [hotline@oig.dot.gov](mailto:hotline@oig.dot.gov)

Web: <http://www.oig.dot.gov/Hotline>

# ATTACHMENT C - FEDERAL ASSURANCES

OMB Number: 4040-0007  
Expiration Date: 06/30/2014

## 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.

<p>* SIGNATURE OF AUTHORIZED OFFICER</p> <p><i>[Signature]</i> <u>05-01-2012</u></p>	<p>* TITLE</p> <p>Executive Director</p>
<p>* APPLICANT ORGANIZATION</p> <p>Indiana Department of Homeland Security</p>	<p>* DATE SUBMITTED</p> <p>05/01/2012</p>

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## ATTACHMENT D - FEDERAL CERTIFICATIONS

### Certifications Regarding Lobbying; Debarment, Suspension And Other Responsibility Matters; And Drug-Free Workplace Requirements

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 Department of Education 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 offenses 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 transactions (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.

#### 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: Director, Grants Policy and Oversight Staff, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. 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)

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

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

NAME OF APPLICANT	PR/AWARD NUMBER AND / OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

**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: Director, Grants Policy and Oversight Staff, Department of Education, 400 Maryland Avenue, S.W. (Room 3652, GSA Regional Office Building No. 3), Washington, DC 20202-4248. Notice shall include the identification number(s) of each affected grant.

# ATTACHMENT E -Assurance of Compliance with Title VI of the Civil Rights Act of 1964

## 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 Dept. of Homeland Security  
Recipient

*[Handwritten signature]*

\_\_\_\_\_  
Signature of Authorized Official

>

5/27/11  
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.