

**The Department of Agriculture (USDA) – Foreign Agricultural Service (FAS)**  
**Office of Capacity Building and Development**  
**Notice of Funding Opportunity (NOFO)**  
**Improving World Trade Organization (WTO) Sanitary and Phytosanitary (SPS)**  
**Transparency in Georgia**

**A. Program Description**

**Background**

The Caucasus Agricultural Development Initiative (CADI) focuses on the need for Georgia to further strengthen its SPS regulatory system to maximize its rights and obligations under the WTO SPS Agreement, and it emphasizes the role of Good Regulatory Practices (GRP) as a key element in achieving the most appropriate SPS outcomes for Georgia. U.S. agricultural producers have expressed concern that ongoing efforts to effect the approximation of EU law could result in Georgia implementing revised laws and regulations that could restrict U.S. agricultural exports to Georgia.

USDA continues to engage in a dialogue with the Government of Georgia and other stakeholders to evaluate Georgia’s current roadmap for regulatory reform under the “Deep and Comprehensive Free Trade Agreement” with the European Union (DCFTA). This engagement on requires collaboration and sensitivities to Georgians’ interests including their competitiveness in new export markets – within the EU, the U.S. and regional markets.

While Georgia is gaining a more realistic view with time of the true costs vs benefits of adopting EU requirements, USDA recognizes that Georgia is encountering operational problems with the process when they are expected to adopt specific EU requirements. This situation gives the U.S. an opportunity to continue finding ways to guide Georgia in the process that is favorable to our trade interests and also voices our concerns about some of the EU’s non-scientific based SPS requirements.

USDA-Foreign Agricultural Service (FAS) seeks to support the provision of technical assistance to support WTO-compliant SPS transparency capacity building activities in Georgia.

**Objectives**

This project will result in (i) increased SPS transparency and effectiveness in notifying SPS measures to the WTO; and (ii) enhanced business engagement using the example of the U.S. and how U.S. industry and trade associations engage with U.S. government agencies to address draft SPS measures notified to the WTO by other countries, which are deemed to be more trade restrictive than necessary or lacking a scientific basis, and thus how these actions promote industry’s interests and trade objectives. The recipient will also deliver regional meetings among DCFTA countries (Georgia, Ukraine and

Moldova) to compare experiences and share effective strategies on ways to carrying out approximation in a science-based and WTO-consistent manner.

**Issued By**

Foreign Agricultural Service, Office of Capacity Building and Development, Trade and Scientific Capacity Building and Development, Science and Technology Capacity Building Branch

**Catalog of Federal Domestic Assistance (CFDA) Number and Title**

10.960 Technical Agricultural Assistance.

**Notice of Funding Opportunity Title**

*Caucasus Agricultural Development Initiative (CADI): Improving World Trade Organization (WTO) Sanitary and Phytosanitary (SPS) Transparency in Georgia*

**NOFO Number**

USDA-FAS-10960-0700-10.-19-0024

**Authorizing Authority for Program**

National Agricultural Research, Extension, and Teaching Policy Act of 1977, PL 95-113, as amended, 7 USC §§ 3291(a)(1)(B), 3291(a)(3), 3291(a)(7)(A)

**Appropriation Authority for Program**

Consolidated Appropriation Act, 2019, PL 116-6

**Announcement Type**

New

**B. Federal Award Information**

**Award Amounts, Important Dates, and Extensions**

**Estimated Award Amount:** Up to \$200,000

**Projected number of Awards:** 1 Total

**Period of Performance:** 25 Months

**Projected Period of Performance Start Date(s):** September 1, 2019

**Projected Period of Performance End Date(s):** September 30, 2021

**Pre-Award costs:** Not Authorized.

**Cost Share or Match requirements:** None/Not required

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**Funding Instrument: Cooperative Agreement**

The funding instrument for this award is a Cooperative Agreement, reflecting a relationship between the United States Government and the recipient where there will be substantial involvement between the Federal agency and recipient when carrying out the activities contemplated in the agreement.

FAS will be substantially involved in this project by:

- Coordinating a broad portfolio of activities in Georgia including convening meetings with the private sector to motivate their participation in the SPS notification and comment rulemaking process; coordinating with the USDA Offices of Agricultural Affairs in Tbilisi, Georgia, and Ankara, Turkey, to promote the exchange of information and lessons learned from the EU accession process from EU Member States like Poland; Latvia; Estonia and Czech Republic; and liaising with Georgia SPS regulatory authorities.
- Providing support to coordinate, plan, and implement technical work involving research, WTO SPS notification and comment rulemaking process, as well as teaching activities, and participating in the design of activities.
- Engaging in the development and understanding of notification and comment rulemaking process that are required at the national and international level.

Notwithstanding the above, FAS will not assume direction, prime responsibility, or a dominant role in the implementation of the activities covered by this Agreement. Consistent with this concept, the dominant role and prime responsibility will reside with the recipient, although specific tasks and activities may be shared among the recipient and FAS.

Procurement contracts and sub-awards may be awarded under this cooperative agreement if included in the original proposal.

**C. Eligibility Information****Eligible Applicants:**

NGOs and entities from the Republic of Georgia.

**Eligibility Criteria**

Pursuant to 2 CFR 415.1(d)(5), competition is limited to Georgian entities. The work assignment for the advertised activity on WTO SPS transparency as a counterpoint to Georgia's EU approximation program requires specific knowledge of both international law (the WTO obligations) as well as Georgian domestic law and policies related to the Georgian agricultural business landscape and Georgia's trade in agricultural products.

Notwithstanding the above, Georgian entities that apply must have an active registration in the SAM database at <https://www.sam.gov> – pending or expired registrants are not eligible. This requirement must be met by the closing date of the announcement and will not be waived. Please contact the program officer listed if you have questions about this requirement.

**Other Submission Requirements and Information**

None

**Maintenance of Effort (MOE)**

MOE is not allowable

**D. Application and Submission Information**

**Key Dates and Times**

**Application Start Date:** June 28, 2019

**Application Submission Deadline:** July 26, 2019 at 11:59:59 PM EDT

**Anticipated Funding Selection Date:** August 9, 2019

**Anticipated Award Date:** August 23, 2019

**Address to Request Application Package**

This document contains the entire application package.

Send applications to: [emanuela.mstephens@fas.usda.gov](mailto:emanuela.mstephens@fas.usda.gov); and  
[eric.brownstein@fas.usda.gov](mailto:eric.brownstein@fas.usda.gov)

**Content and Form of Application Submission**

All applications must be in Adobe PDF format, accompanied by the following documents in Adobe PDF format. Please ensure that the most current version of each required form is used by following the links provided.

Institutions should apply following the guidelines below:

- Required forms and certifications, including:
- [SF-424 version 2.1](#), with an OMB Expiration Date of 10/31/2019 and signed by the applicant
- [SF-424A version 1.0](#), revised July 1997. This should be accompanied by a detailed budget and a detailed budget narrative (NOTE: A budget narrative must be provided). All line items should be described in sufficient detail that would enable FAS to determine that the costs are reasonable and allowable for the project per federal regulations. The cost categories should be explained in this manner:

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- **Personnel**: Costs of employee salaries and wages. For each staff person, provide the name (if known), title, time commitment to the project as a percentage of a full-time equivalent (FTE), annual salary, and grant funded salary. Do not include the costs of consultants. Consultants are to be included under “Contractual.”
- **Fringe Benefits**: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate. Provide the method used to calculate the proposed rate amount. If a fringe benefit has been negotiated with, or approved by, a cognizant federal agency, attach a copy of the negotiated fringe benefit agreement. If no rate agreement exists, provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc. Identify the base for allocating these fringe benefit expenses. (Attach the agreement to the application package.) For foreign entities this may not apply.
- **Travel**: Costs of project-related travel by employees of the applicant organization (do not include costs of sub-contractor or consultant travel). For each proposed trip, provide the purpose, number of travelers, travel origin and destination, number of days, and a breakdown of costs for airfare, lodging, meals, car rental, and incidentals. The basis for the airfare, lodging, meals, car rental, and incidentals must be provided, such as past trips, current quotations, Federal Travel Regulations, etc.
- **Equipment**: Equipment is defined as any article of nonexpendable, tangible personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for financial statement purposes, or (b) \$5000.
- **Supplies**: Supplies are tangible personal property other than that included in the equipment category if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or \$5,000, regardless of the length of its useful life. Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested. A computing device is a supply.
- **Contractual**: Costs of all contracts for services and goods that further the work of the project. Do not put sub-contractors, sub-awardees, and/or sub-grantees that do not perform work to further the project. These types of sub-contractors, sub-awardees, and/or sub-grantees that work for the Prime awardee exclusively, (i.e., landscapers, trash collectors, etc.) These costs belong under other cost categories such as equipment, supplies, construction, other, etc. Include third party evaluation contracts (if applicable) and contracts with secondary recipient organizations.
  - Demonstrate that all procurement transactions will be conducted in a manner to provide, to the maximum extent practical, open and free competition. Identify proposed sub-contractor work and the cost of each sub-contractor. Provide a detailed budget for each sub-contractor

that is expected to perform work estimated to be \$25,000 or more, or 50% of the total work effort, whichever is less.

- Identify each planned subcontractor and its total proposed budget. Each subcontractor's budget and supporting detail should be included as part of the applicant's budget narrative.
- Provide the following information for each planned subcontract: a brief description of the work to be subcontracted; the number of quotes solicited and received, if applicable; the cost or price analysis performed by the applicant; names and addresses of the subcontractors tentatively selected and the basis for their selection; e.g., unique capabilities (for sole source subcontracts), low bidder, delivery schedule, technical competence; type of contract and estimated cost and fee or profit; and, affiliation with the applicant, if any.
- All required flow down provisions in the award must be included in any subcontract.
  - **Other Direct Costs:** Any other items proposed as direct costs. Provide an itemized list with costs and state the basis for each proposed item.
  - **Indirect Costs:** Those costs incurred for a common or joint purpose benefiting more than one cost objective and not readily assignable to the cost objectives specifically benefited without effort disproportionate to the results achieved.
- [Certification Regarding Lobbying](#). If paragraph two of the certification applies, then complete and submit the [SF-LLL Disclosure of Lobbying](#).
- A narrative description of the proposed activities, no longer than (7) seven pages how it will be administered, the role(s) of proposed personnel, and how it fits in with the recipient's broader programs.

*Please be aware that OMB Memorandum 18-24: Strategies to Reduce Grant Recipient Reporting Burden has been approved. After January 1, 2020, the following forms will need to be completed in SAM on an annual basis and will no longer be required to be submitted as part of your application package:*

- The [Certification Regarding Lobbying](#)

### **Unique Entity Identifier and System for Award Management (SAM)**

The link below provides information on 2 CFR §25.110. Please read.

<https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&SID=7a45f973880240465cd255471f1380ef&ty=HTML&h=L&mc=true&n=pt2.1.25&r=PART>

Before you can apply, you must have a DUNS number, and be registered in SAM.

**Applicants are encouraged to register early. Due to recent changes in the SAM platform, the registration process can take 6-8 weeks to be completed. Therefore,**

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**registration should be done in sufficient time to ensure it does not impact your ability to meet required submission deadlines.**

**DUNS number.** Instructions for obtaining a DUNS number can be found at the following website: <http://www.dnb.com/duns-number.html>

The DUNS number must be included in the data entry field labeled "Organizational DUNS" on the Standard Forms (SF)-424 forms submitted as part of this application.

**System for Award Management.** In addition to having a DUNS number, applicants applying electronically through ezFedGrants must register with SAM. Step-by-step instructions for registering with SAM can be found here:

[www.sam.gov](http://www.sam.gov)

Failure to register with SAM will result in your application being rejected during the submissions process.

### **Electronic Signatures**

FAS accepts electronic signatures on all proposal and award documents. FAS will use only electronic signatures on award documents unless the proposal specifically states that institutional policy precludes the use of electronic signatures.

The Federal awarding agency may not make a Federal award to an applicant until the applicant has complied with all applicable DUNS and SAM requirements and, if an applicant has not fully complied with the requirements by the time the Federal awarding agency is ready to make a Federal award, the federal awarding agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

### **Intergovernmental Review**

E.O. 12372 is not applicable.

### **Funding Restrictions**

Generally, funds may not be used in any manner that is prohibited by 2 CFR Part 200 and 2 CFR Part 400.

Compensation for personal services (whether classified as personnel, contractual services, or any other form) may not exceed the pro-rated equivalent of Step III of the Executive Schedule. For calendar year 2019, this is \$176,900 per year; \$680.38 per day; or \$85.05 per hour. Non-monetized fringe benefits are generally excluded from this ceiling, however, a federally-negotiated fringe benefits rate agreement may be required if fringe benefits appear to be unusually high.

FAS agreement funds may only be used for the purpose set forth in the award and must be consistent with the statutory authority for the award. Agreement funds and non-

monetary support may not be used for matching contributions for other federal grants or cooperative agreements, lobbying, or intervention in federal regulatory or adjudicatory proceedings. Federal employees are prohibited from serving in any capacity (paid or unpaid) on any proposal submitted under this program. Federal employees may not receive funds under this award. In addition, federal funds may not be used to sue the Federal Government or any other government entity.

These funds cannot be used for construction purposes, general purpose equipment (no particular scientific, technical, or programmatic purpose), scientific equipment exceeding \$5,000 or more, entertainment, capital improvements, thank you gifts, or other expenses not directly related to the project

**Management and Administration (M&A) Costs:**

M&A costs are not allowable.

**Indirect Facilities & Administrative (F&A) Costs**

Indirect F&A costs means those costs incurred for a common or joint purpose benefiting more than one cost objective and not readily assignable to the cost objectives specifically benefited without effort disproportionate to the results achieved.

In general, USDA Departmental Regulation 2255-001 requires that indirect costs be paid pursuant to a Negotiated Indirect Cost Rate Agreement (NICRA) that the recipient has in place with a cognizant U.S. Government agency. If the recipient does not have a NICRA, USDA will authorize an indirect cost rate of up to 10% of Modified Total Direct Costs.

**Other Submission Requirements**

Application should be sent to [emanuela.mstephens@fas.usda.gov](mailto:emanuela.mstephens@fas.usda.gov) with a copy to [eric.brownstein@fas.usda.gov](mailto:eric.brownstein@fas.usda.gov).

**E. Application Review Information**

**Application Evaluation Criteria**

Prior to making a Federal award, the Federal awarding agency is required by 31 U.S.C. 3321 and 41 U.S.C. 2313 to review information available through any OMB-designated repositories of government-wide eligibility qualification or financial integrity information. Therefore, application evaluation criteria may include the following risk-based considerations of the applicant: (1) financial stability; (2) quality of management systems and ability to meet management standards; (3) history of performance in managing federal award; (4) reports and findings from audits; and (5) ability to effectively implement statutory, regulatory, or other requirements.

**Review and Selection Process**

In all cases, the Program Manager will ensure application is submitted on time as specified in this announcement. Also, the Program Manager will ensure the organization



is capable of delivering the program/activities as described in the announcement based on the applicant's project narrative.

*Factor 1: Technical Approach and Feasibility (30 points)*

- i. The overall program plan and design should be relevant to the specified training objectives outlined in the program objectives section of this NOFO. The program plan should be thorough, well thought out, and expected to achieve the desired post-program deliverables. Site visits and meetings should be meaningful to the content of the program.
- ii. The applicant's proposal must describe a realistic, effective and sound approach, including a description of high-quality methods and analytical rigor for achieving the project's requirements.
- iii. The applicant's proposal must contain specific outputs, outcomes, and a proposed timeline.
- iv. The applicant's proposal must address how they will approach logistical hurdles of planning and implementing activities in Georgia.

*Factor 2: Experience and Expertise (40 points)*

- i. The Principal Investigator must be able to provide trainers/subject matter experts with the appropriate technical background to provide the desired activities. Subject matter experts identified as trainers must have significant experience in their related field and scope of the specific activity. As these trainings' participants are geared towards foreign ministries of agriculture, access to trainers who have significant familiarity with WTO, OIE, IPPC, Codex Alimentarius, SPS enquiry/notification point, experience in managing phytosanitary issues, knowledge of EU approximation and harmonization, and an ability to convey this experience to interested parties. The trainers must also be able to offer expert technical guidance on international phytosanitary measures and an in-depth understanding of the policies and regulations provided by USDA and other federal agencies, or state or international equivalents. Experience working with Government of Georgia and/or other Eastern European Nations. The proposal should indicate how the applicant can provide such technical services.

*Factor 3: Past Performance (30 points)*

- i. Evidence of implementation of prior programs with similar objectives, especially developing plant health plans for improved risk-based planning, plant and pest disease control and regional stakeholder engagement.
- ii. Evidence of prior work with the Government of Georgia and/or other Eastern European countries especially providing/facilitating training on approximation processes and overcoming difficulties, drafting SPS measures, WTO notification, and building dialog across the region.

*Factor 4: Cost effectiveness (20 points)*

- i. The agency will consider the “value for money” in its evaluation of the program. This factor does not consider the cost alone, but rather the cost relative to the value for the work to be performed. Note that the agency’s available funding may not exceed the amount shown in part B.

### **Review and Selection Process**

Qualified applications will be referred to a panel of 2-3 program staff and/or technical experts, and adjudicated among the criteria described above. In general, the highest-rated proposal will be selected, however, FAS may occasionally select out of score order for policy reasons, such as geographic distribution, incorporation of minority-serving institutions, past experience, etc.

In all cases, the Program Manager will ensure application is submitted on time as specified in this announcement. Also, the Program Manager will ensure the organization is capable of delivering the program/activities as described in the announcement based on the applicant’s project narrative.

In addition, the following applies:

- i. Prior to making a Federal award with a total amount of Federal share greater than the simplified acquisition threshold as defined by 48 CFR § 2.101, is required to review and consider any information about the applicant that is in the designated integrity and performance system accessible through SAM (currently FAPIIS).
- ii. An applicant, at its option, may review information in the designated integrity and performance systems accessible through SAM and comment on any information about itself that a Federal awarding agency previously entered and is currently in the designated integrity and performance system accessible through SAM.
- iii. will consider any comments by the applicant, in addition to the other information in the designated integrity and performance system, in making a judgment about the applicant’s integrity, business ethics, and record of performance under Federal awards when completing the review of risk posed by applicants as described in 2 CFR §200.205 Federal awarding agency review of risk posed by applicants.

### **Confidentiality and Conflict of Interest**

Technical and cost proposals submitted under this funding opportunity will be protected from unauthorized disclosure in accordance with applicable laws and regulations. FAS may use one or more support contractors in the logistical processing of proposals. However, funding recommendations and final award decisions are solely the responsibility of FAS personnel.

FAS screens all technical reviewers for potential conflicts of interest. To determine possible conflicts of interest, FAS requires potential reviewers to complete and sign conflicts of interest and nondisclosure forms. FAS will keep the names of submitting institutions and individuals as well as the substance of the applications confidential

except to reviewers and FAS staff involved in the award process. FAS will destroy any unsuccessful applications after three years following the funding decision.

**F. Federal Award Administration Information**

**Notice of Award**

Notice of award will be given to the institution via email. This email is not an authorization to begin performance. The notice of Federal award signed by the grants officer (or equivalent) is the authorizing document through electronic means. It should also indicate if there are any pass-through obligations that successful applicants are required to meet upon receiving award funds, including specific timeline requirements.

**Administrative Policy Requirements**

All successful applicants for all grant and cooperative agreements are required to comply with Standard Administrative Terms and Conditions for International Organizations, which are attached to this NOFO.

Before accepting the award, the Recipient should carefully read the award package for instructions on administering the grant award and the terms and conditions associated with responsibilities under Federal Awards. Recipients must accept all conditions in this NOFO as well as any Special Terms and Conditions in the Notice of Award to receive an award under this program.

**Federal Financial Reporting Requirements**

The Federal Financial Reporting Form (FFR), as known as the SF-425, must be submitted for each quarter ending March 31, June 30, September 30, and December 31. Reporting must be filed by 30 days after the end of each reporting period, and within 90 days of the end of the agreement. The required form is available online at:

<https://www.gsa.gov/portal/forms/download/149786>

**Program Performance Reporting Requirements**

Performance Progress Reporting is required for each quarter ending March 31, June 30, September 30, and December 31. Reporting must be filed by 30 days after the end of each reporting period and within 90 days of the end of the agreement and should include details the activities undertaken, and progress made during the reporting period

**Monitoring**

FAS through its authorized representatives, has the right, at all reasonable times, to make site visits to review project accomplishments and management control systems and to provide such technical assistance as may be required. During site visits, FAS will review grant recipients' files related to the grant-funded program.

As part of any monitoring and program evaluation activities, grant recipients must permit FAS, upon reasonable notice, to review grant-related records and to interview the

organization's staff and clients regarding the program, and to respond in a timely and accurate manner to FAS requests for information relating to their grant program.

**Close Out Reporting Requirements.**

Within 90 days after the end of the period of performance, or after an amendment has been issued to close out a grant, whichever comes first, recipients must submit a final FFR and final progress report detailing all accomplishments and a qualitative summary of the impact of those accomplishments throughout the period of performance.

After these reports have been reviewed and approved by OCBD, a close-out notice will be completed to close out the grant. The notice will indicate the period of performance as closed, list any remaining funds that will be de-obligated, and address the requirement of maintaining the grant records for three years from the date of the final FFR.

The recipient is responsible for returning any funds that have been drawn down but remain as unliquidated on recipient financial records.

**G. Awarding Agency Contact Information**

**Contact and Resource Information**

Prospective applicants with questions are encouraged to reach out via email to the following contacts.

Emanuela Montanari-Stephens  
International Program Specialist  
Phone: 202-720-1061  
Email: [Emanuela.mstephens@fas.usda.gov](mailto:Emanuela.mstephens@fas.usda.gov)

Eric Brownstein  
International Program Specialist  
Phone: 202-649-3872  
Email: [Eric.Brownstein@fas.usda.gov](mailto:Eric.Brownstein@fas.usda.gov)

1400 Independence Ave, SW  
Room 3832; Stop 1032  
Washington, DC 20250-1033

Hours of Operation: 8:30AM – 5:00PM EDT

Inquiries will be returned within 24 working hours (3 business days). All questions must be received no later than 16 working hours (2 business days) prior to submission deadline. The point of contact will confirm receipt of proposals upon request.

**H. Additional Information**

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### **1. Extensions**

Extensions to this program are allowed. Applicants may request a no-cost extension in order to complete all project activities. The request must be submitted 60 days prior to the expiration of the performance period. Requests for extensions are subject to approval.

### **2. Pre-Award Costs**

The Recipient shall not request reimbursement for costs incurred pertaining to the operation of the project, program, or activities prior to the approved project period.

### **3. Budget Revisions**

a. Transfers of funds between direct cost categories in the approved budget when such cumulative transfers among those direct cost categories exceed ten percent of the total budget approved in this Award require prior written approval.

b. The Recipient shall obtain prior written approval for any budget revision that would result in the need for additional resources/funds.

c. The Recipient is not authorized at any time to transfer amounts budgeted for direct costs to the indirect costs line item or vice versa, without prior written approval.

### **4. Post-award program income**

In the event program income becomes available to the recipient post-award, it is the recipient's responsibility to notify the FAS Program Manager to explain how that development occurred, as part of their request for guidance and/or approval. The Program Manager will review approval requests for program income on a case-by-case basis; approval is not automatic. Consistent with the policy and processes outlined in 2 C.F.R. Part 200, pertinent guidance and options, as determined by the type of recipient and circumstances involved, may be approved by the Grant Officer. If approval is granted, an award modification will be issued with an explanatory note.

**The United States Department of Agriculture  
STANDARD TERMS AND CONDITIONS FOR PUBLIC INTERNATIONAL  
ORGANIZATIONS (PIO) TABLE OF CONTENTS**

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**I. Introduction**

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

**II. Order of Precedence**

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

- (a) Applicable laws and statutes of the United States, including any specific legislative provisions mandated in the statutory authority for the award.
- (b) 2 CFR Part 200, Subparts A-E, as adopted by the United States Department of Agriculture (USDA) at 2 CFR Part 400
- (c) Award Specifics
- (d) Standard Terms and Conditions
- (e) Application for Federal Assistance dated

**III. Controlling Language**

In accordance with 2 CFR 200.111, it is the United States Department of Agriculture’s policy that all award documents must be in the English language and in terms of U.S. dollars, including correspondence and supporting documents. If an award or any supporting documents are provided in both English and a foreign language, it must be stated in each version that the English language version is the controlling version.

**IV. Foreign Agricultural Service (FAS) Responsibilities**

The *Deputy Administrator (DA)* of USDA’s FAS/Office of Capacity Building and Development (OCBD) or his/her designee, is responsible for all actions on behalf of FAS, including entering into, changing, or terminating an award. Except as otherwise provided in the Agreement, the DA is responsible for administrative coordination and liaison with the Recipient. Except as otherwise provided in the Agreement, the DA is the only person authorized to approve changes in any of the requirements in the award. Except as otherwise provided in the Agreement, in the event the Recipient effects any change at the direction of any person other than the DA, the change(s) will be considered to have been made without authority and no adjustment will be made in the amount of the award to cover any increase in costs incurred as a result thereof.

**V. Recipient Responsibilities**

The Recipient is responsible for notifying FAS of any significant problems relating to the administrative, programmatic or financial aspects of the award.

The Recipient has full responsibility for the management of the project or activity supported under the award and for adherence to Federal regulations and the award terms and conditions. Although the Recipient is encouraged to seek the advice and opinion of the FAS Program Manager (PM) or FAS’ Grants Management Officer (GMO) on special problems that may arise, such advice does not diminish the Recipient’s responsibility for making prudent and sound administrative judgments under the circumstances prevailing at the time the decision was made and should not imply that the responsibility for operating decisions has shifted to FAS.

**VI. Award Term (2 CFR part 25) System for Award Management and Universal Identifier Requirements**

1) Requirement for System for Award Management

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 SAM 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.

2) Requirement for unique entity identifier

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

- a) Must notify potential subrecipients that no entity (*see* definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its unique entity identifier to you.
- b) May not make a subaward to an entity unless the entity has provided its unique entity identifier to you.

3) Definitions

For purposes of this award term:

- a) *System for Award Management (SAM)* 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 SAM Internet site (currently at <http://www.sam.gov>).
- b) *Unique entity identifier* means the identifier required for SAM registration to uniquely identify business entities.
- c) *Entity*, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:
  - i) A Governmental organization, which is a State, local government, or Indian Tribe;
  - ii) A foreign public entity;
  - iii) A domestic or foreign nonprofit organization;
  - iv) A domestic or foreign for-profit organization; and
  - v) A Federal agency, but only as a subrecipient under an award or subaward to a non- Federal entity.
- d) *Subaward*:
  - i) 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.
  - ii) The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.330).
  - iii) A subaward may be provided through any legal agreement, including an agreement that you consider a contract.
- e) *Subrecipient* means an entity that:
  - i) Receives a subaward from you under this award; and
  - ii) Is accountable to you for the use of the Federal funds provided by the subaward.



**VII. Recipient Key Personnel:**

Within thirty (30) days after the date of execution of the award, the Recipient must furnish names, titles, and brief biographical sketches (if these have not been previously furnished), including information on the education and experience of key personnel in charge of the award project and other key professional and supervisory personnel; i.e., the members of the professional staff in a program supervisory position engaged for or assigned to duties under the award to the PM. The Recipient must also provide similar information for Executive Officer personnel that may subsequently be assigned by the Recipient to perform duties in connection with the award. Any changes, prolonged absences, or significant adjustments of total time devoted to the award project of any listed personnel should be brought to the attention of the PM and requires prior written approval.

**VIII. Sub-Recipient Flow Down Requirement:**

This Agreement's terms and conditions flow down to all sub recipients and contractors, and must be appropriately addressed in the performing organization's sub-award instrument. All cost reimbursement sub-awards (sub-grants, subcontracts, etc.) are subject to those Federal cost principles applicable to the particular organization concerned.

**IX. Administrative and Allowable Cost Requirements:**

All Recipients shall comply with the following terms and conditions unless otherwise specified in the award.

Certain applicable Federal administrative standards are incorporated by reference. Appropriate officials are made aware that electronic copies containing the complete text of the circulars are available on the Government Printing office [www.ecfr.gov](http://www.ecfr.gov) website and specifically at: [http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200\\_main\\_02.tpl](http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl)

The principal investigator(s) or project director(s) shall receive a copy of the terms and conditions, including the award -specific requirements, and any subsequent changes in the terms and conditions.

The appropriate Recipient officials shall be made aware of the terms and conditions. These terms and conditions may be duplicated, copied or otherwise reproduced as appropriate.

This provision does not alter the Recipient's full responsibility for conduct of the project and compliance with all terms and conditions.

**X. Mandatory Disclosure**

Consistent with 2 CFR 200.113, the Recipient must disclose, in a timely manner, in writing to the FAS Deputy Administrator, with a copy to the Program Manager and Grants Management Officer, all violations of Federal criminal law involving fraud, bribery, or illegal gratuities potentially affecting the Federal award.

Sub recipients must disclose, in a timely manner, in writing to the FAS Deputy Administrator, with copies to the Program Manager and Grants Management Officer and to the prime recipient (pass-through entity) all violations of Federal criminal law involving fraud, bribery, or illegal gratuities potentially affecting the Federal award.

Failure to make required disclosures can result in any of the remedies described in 2 CFR 200.338 “Remedies for Noncompliance”, including suspension or debarment. Send the disclosure to:

Program Manager: (see Award Document)

Grants Management Specialist: [mckinley.posely@fas.usda.gov](mailto:mckinley.posely@fas.usda.gov)

#### **XI. Confidentiality of Information**

Confidential information, as used in this Provision, means:

- a. Information or data of a personal nature about an individual that, if released, would constitute a clearly unwarranted invasion of personal privacy.

In addition to the types of confidential information described above, information which might require special consideration with regard to the timing of its disclosure may derive from studies or research, during which public disclosure of preliminary invalidated findings could create erroneous conclusions, which might threaten public health or safety if acted upon.

The Deputy Administrator and the Recipient may, by mutual consent, identify elsewhere in this award specific information and/or categories of information which the U.S. Government (Government) will furnish to the Recipient or that the Recipient is expected to generate which is confidential. Similarly, the Deputy Administrator and the Recipient may, by mutual consent, identify such confidential information from time to time during the performance of the agreement.

If it is established that information to be utilized under this award is subject to the Privacy Act, the Recipient will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, and implementing regulations and policies, with respect to systems of records determined to be subject to the Privacy Act.

Written advance notice of at least 45 calendar days will be provided to the Program Manager and Grants Management Officer of the Recipient’s intent to release findings of studies or research, which have the possibility of adverse effects on the public or the Federal agency, as described above. If the Program Manager or Grants Management Officer does not pose any objections in writing within the 45-calendar day period, the Recipient may proceed with disclosure.

Whenever the Recipient is uncertain with regard to the proper handling of material under the Federal award, or if the material in question is subject to the Privacy Act or is confidential information subject to this Provision, the Recipient shall obtain a written determination from the Program Manager or Grants Management Officer prior to any release, disclosure, dissemination, or publication.

#### **XII. Conflict of Interest and Federal Assistance Awards**

The Recipient must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of sub-awards and sub-contracts. No employee, officer, or agent may participate in the selection, award, or administration of a sub-award or subcontract

supported by a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from another Recipient considered for a sub-award or subcontract. The officers, employees, and agents of the Recipient must neither solicit nor accept gratuities, favors, or anything of monetary value from sub non-Federal entities, subcontractors, or parties to sub-awards and subcontracts. However, Recipients may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the Recipient.

If the Recipient has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the Recipient must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest are those where, because of relationships with a parent company, affiliate, or subsidiary organization, the Recipient is unable or appears to be unable to be impartial in conducting an award or procurement action involving a related organization.

The Recipient must disclose in writing any potential conflict of interest to the FAS or pass-through entity. If the effects of the potential or actual conflict of interest cannot be avoided, neutralized, or mitigated before award, the employee, officer or agent must recuse themselves from participating in the award. Where there is an organizational conflict, the prospective Recipient is not eligible for the award.

If a potential or actual conflict of interest is identified after award and the effects cannot be avoided, neutralized or mitigated, the FAS will terminate the award unless continued performance is determined to be in the best interest of the Federal government.

**XIII. Liability**

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

**XIV. Protocol and Decorum**

During the term of an award, the Recipient will be associated with the Government in such a manner that the Recipient's actions will reflect upon the Government and the United States. Therefore, the Recipient will be held accountable for appropriate protocol and decorum during the award period of performance.

**XV. Financial Management System (FMS) Requirements**

Recipients must adhere to the Code of Federal Regulations (2 CFR 200 Subpart D) standards for financial management systems and methods for making payments, and rules for satisfying cost sharing and matching requirements, accounting for program income, budget revision approvals, making audits, determining allow ability of costs,

and establishing funds availability.

**XVI. Payments**

Payment methods shall minimize the time elapsing between the transfer of funds from the U.S. Treasury and the issuance or redemption of checks, warrants, or payment by other means by the Recipient. Payment methods of State agencies or instrumentalities shall be consistent with Treasury-State Cash Management Improvement Act (CMIA) agreements or default procedures codified at 31 CFR Part 205. Approval of payment requests will be based on the Recipient's progress towards achieving the award objectives, the amount of unexpended cash on-hand as reported in the SF-425 and SF-270, and the Recipient's adherence to the terms and conditions of the award, particularly in terms of timely submission of required financial, program and other reports. Delinquency in submitting reports may result in payment delays.

**XVII. Requirements and Procedures**

Unless otherwise specified in these Terms and Conditions, only the following forms shall be authorized for the Recipients in requesting advances and reimbursements.

- (a) FAS funds provided pursuant to this Agreement will be kept in a separate account for each Program of Activities. The RECIPIENT must submit a completed (i.e., boxes 1 through 13) SF-270 form to receive each payment. If the request is for an advance, the RECIPIENT must complete box 11 or 12 of the SF-270 form. The RECIPIENT must submit each completed SF-270 to the following invoice mailbox(es):  
SF-270InvoicesMailbox@fas.usda.gov (see Award Document)  
FAS shall pay the RECIPIENT its request for advance funding or reimbursement (actual), not to exceed FAS' obligation as shown in the Budget, in accordance with the Prompt Payment Act. Each request for payment from the RECIPIENT must contain the agreement number, account reference of the RECIPIENT, and a separate detail expenditure report that break out the charges by cost element according to the SF- 424A. Third party in-kind contributions and voluntary committed cost sharing, if applicable, must be displayed as separate line item and shall not be included in the total project costs available for advance of funds or reimbursement. NOTE: PAYMENTS WILL ONLY BE PAID THROUGH REQUESTS FOR ADVANCES OR REIMBURSEMENT.
- (b) Request for payment shall be submitted as needed on Standard Form SF-270, Request for Advance or Reimbursement. In no case shall the RECIPIENT submit an invoice more than monthly or less frequently than annually (when work was performed within the budget period). Payment requests must comply or otherwise be consistent with award terms and conditions. Failure to provide timely performance progress and financial reports may result in a delayed payment. The RECIPIENT must retain adequate documentation supporting the payment request, e.g. contracts, timesheets, invoices, etc. and provide upon FAS', or its designee's request.
- (c) The payments under this Agreement shall be made in United States Dollars.

- (d) The SF-270 must be completed by the RECIPIENT and submitted to [SF-270InvoicesMailbox@fas.usda.gov](mailto:SF-270InvoicesMailbox@fas.usda.gov), with a courtesy copy sent to the Program Manager (see Award Document).
- (e) The RECIPIENT shall confirm in writing to FAS the necessary detail of RECIPIENT's financial institution and interest-bearing account to receive the Award and transfer funds to this account. FAS shall deposit the requested reimbursement amounts into the RECIPIENT's account, clearly stating the Agreement reference numbers.

#### **XVIII. Prior Approval Requirements**

Unless otherwise specified in the Agreement, provisions of the applicable Federal cost principles and other Federal administrative requirements for prior approval apply only to the activities and expenditures specified in the Agreement. Recipients must request prior approvals from FAS for one or more of the following program or budget-related reasons:

- (a) The disengagement from the project for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.
- (b) The inclusion, unless waived by the FAS, of costs that require prior approval.
- (c) The transfer of funds budgeted for participant support costs as defined in 2 CFR §200.75 "Participant support costs" to other categories of expense.
- (d) Unless described in the application and funded in the approved Federal awards, the sub-awarding, transferring or contracting out of any work under a Federal award. This provision does not apply to the acquisition of supplies, material, equipment or general support services.
- (e) Changes in the approved cost-sharing or matching provided by the Recipient.
- (f) Rebudgeting more than 10% of the total approved award between direct cost categories.
- (g) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).
- (h) Change in a key personnel specified in the application or award document.
- (i) The need for additional Federal funding.
- (j) Extension of the period of performance.
- (k) The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.

#### **XIX. Period of Availability of Funds**

This Agreement is executed as of the date of the last signature and is effective through the end-date specified on the Award Document, at which time it will expire, unless extended by an executed modification.

A party may terminate this Agreement before such date in accordance with the Termination provisions in the Notice of Award.

The Recipient may charge to the award only allowable costs resulting from obligations incurred during the project period. However, the funds shall be available-- barring cancellation of the relevant appropriation-- for closeout activities that occur after the project period, and the Recipient shall liquidate all obligations incurred under the award no later than 90 days after the project period.

**XX. Indirect Costs**

Indirect costs will not be allowable charges against this Agreement unless specifically included as a line item in the approved budget for this award. Indirect cost recovery for any actual indirect costs incurred by the Recipient which are greater than the indirect cost line item in the approved award budget is limited up to the award amount.

**XXI. Publication for Professional Audiences**

Any publications or articles resulting from the award must acknowledge the support of FAS and include a disclaimer of official endorsement as follows: "This [article] was funded [in part] by a cooperative agreement from FAS. The opinions, findings and conclusions stated herein are those of the author[s] and do not necessarily reflect those of FAS". The Recipient must ensure that this disclaimer be included on all brochures, flyers, posters, billboards, or other graphic artwork that are produced under the terms of the award.

**XXII. Travel**

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

- 1) The United States – European Open Skies Air Transport Agreement (U.S.-E.U. Open Skies Agreement) is a bilateral/multilateral agreement that allows federal funded transportation services to use foreign air carriers under specific circumstances.
- 2) The modified agreement allows travelers to:
  - a) Use EU carriers if the travelers are not eligible to use City Pair Fares.
  - b) Use EU carriers between points in the United States and points OUTSIDE of the EU when there is no City Pair Fare on the route or the traveler is not eligible to use the fare. In essence, this allows travelers to compare costs and select between an EU and U.S. flag carrier when the flight originates, arrives in, or stops in any of the EU countries.

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

Refer to the electronic Code of Federal Regulations as codified published in Title 41 CFR 301-10, "Public Contracts and Property Management, Transportation Expenses" to obtain entire Fly America Act regulatory guidance on following website address: [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html)

**XXIII. Prohibition Against Assignment**

Notwithstanding any other provision of an award, the Recipient must not transfer, pledge, mortgage, or otherwise assign the award, or any interest therein, or any claim arising thereunder, to any party or parties, bank trust companies, or other financing or financial institutions.

**XXIV. Monitoring and Reporting Requirements**

The Recipient is responsible for oversight of the operations of the Federal award supported activities. The Recipient must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the Recipient must cover each program, function or activity per 2 CFR 200.328

**XXV. Annual Reconciliation of Continuing Assistance Awards**

FAS must reconcile multi-year awards at least annually and evaluate program performance and financial reports. Items to be reviewed include a comparison of the Recipient's work performance to its progress reports and project expenditures.

**XXVI. Post-Award Requirements for Closeout**

Closeout procedures require:

- (a) submission by the grant Recipient of final financial and program reports within ninety (90) calendar days after the project period end date or the date specified in the Agreement, whichever is less;
- (b) reconciliation of all cost or expenditure discrepancies;
- (c) prompt payment of allowable costs;
- (d) immediate collection of any unexpended funds or disallowed costs;
- (e) de-obligation of excess funds; and
- (f) disposition of property and/or equipment acquired under the award.

**XXVII. Retention and Access Requirements for Records**

The Recipient must maintain financial records, supporting documents, statistical records, and all other records pertinent to an award for a period of three years from the date of submission of the final expenditure report. Exceptions to the three-year rule are referenced in 2 CFR 200.333. For awards that are renewed quarterly or annually, the retention period is from the date of the submission of the quarterly or annual financial report as authorized by the Department. The Department must request transfer of certain records to its custody from Recipients when it determines that the records possess long-term retention value. However, in order to avoid duplicate recordkeeping, FAS may arrange for Recipients to retain any records that are continuously needed for joint use.

**XXVII. Audits Requirements**

Reports and Information, Agreement Books and Records, Audits, and Inspections.

- a) Reports and Information. The Recipient shall furnish USDA FAS accounting records and such other information and reports relating to the Agreement as USDA FAS may reasonably request.
- b) Recipient Agreement Books and Records. The Recipient shall maintain accounting books, records, documents and other evidence relating to the Agreement, adequate to show, without limitation, all costs incurred by the Recipient under the Agreement, the receipt and use of goods and services acquired under the Agreement by the Recipient, agreed-upon cost sharing requirements, the nature and extent of solicitations of prospective suppliers of goods and services acquired by the Recipient, the basis of award of Recipient contracts and orders, and the overall progress of the Agreement toward completion ("Agreement books and records"). The Recipient shall maintain Agreement books and records in accordance with generally accepted accounting principles prevailing in the United States, or at the Recipient's option, with approval by USDA FAS, other accounting principles, such as those (1) prescribed by the [International Accounting Standards Board](#) (an affiliate of the a subsidiary of the International Financial Reporting Standards Foundation) or

- (2) prevailing in the country of the Recipient. Agreement books and records shall be maintained for at least three years after the date of last disbursement by USDA FAS or for such longer period, if any, required to resolve any litigation, claims or audit findings.
- c) Recipient Audit. If \$300,000 or more of USDA FAS funds are expended directly by the Recipient in its fiscal year under the Agreement, the Recipient shall have financial audits made of the expenditures in accordance with the following terms, except as the Parties may otherwise agree in writing:
- i) With USDA FAS approval, the Recipient shall use its Supreme Audit Institution or select an independent auditor in accordance with the "Guidelines for Financial Audits Contracted by Foreign Recipients" issued by the USAID Inspector General ("Guidelines"), and the audits shall be performed in accordance with the "Guidelines"; and
  - ii) The audit shall determine whether the receipt and expenditure of the funds provided under the Agreement are presented in accordance with generally accepted accounting principles agreed to in section (b) above and whether the Recipient has complied with the terms of the Agreement. Each audit shall be completed no later than nine months after the close of the Recipient's year under audit.
- d) Subrecipient Audits. The Recipient, except as the Parties may otherwise agree in writing, shall submit to USDA FAS, in form and substance satisfactory to USDA FAS, a plan for the audit of the expenditures of "covered" subrecipients, as defined below, that receive funds under this Agreement pursuant to a direct contract or agreement with the Recipient.
- i) A "covered" subrecipient is one who expends \$300,000 or more in its fiscal year in "USDA FAS awards" (i.e., as recipients of USDA FAS cost reimbursable contracts, grants or cooperative agreements and as sub-recipients under USDA FAS strategic objective and other grant agreements with foreign governments).
  - ii) The plan shall describe the methodology to be used by the Recipient to satisfy its audit responsibilities for covered subrecipients. The Recipient may satisfy such audit responsibilities by relying on independent audits of the subrecipients; expanding the scope of the independent financial audit of the Recipient to encompass testing of subrecipients' accounts; or a combination of these procedures.
  - iii) The plan shall identify the funds made available to covered sub-recipients that will be covered by audits conducted in accordance with other audit provisions that would satisfy the Recipient's audit responsibilities. (A nonprofit organization organized in the United States is required to arrange for its own audits. A for-profit contractor organized in the United States that has a direct contract with USDA FAS is audited by the cognizant U.S. Government Agency. A private voluntary organization organized outside the United States with a direct grant from USDA FAS is required to arrange for its own audits. A host-country contractor should be audited by the Recipient's auditing agency.)
  - iv) The Recipient shall ensure that covered sub-recipients under direct contracts or agreements with the Recipient take appropriate and timely corrective actions; consider whether sub-recipients' audits necessitate adjustment of its own records; and require each such sub-recipient to permit independent auditors to have access to records and financial statements as necessary.



- e) Audit Reports. The Recipient shall furnish or cause to be furnished to USDA FAS an audit report for each audit arranged for by the Recipient in accordance with this Section within 30 days after completion of the audit and no later than nine months after the end of the period under audit.
- f) Other Covered Sub-recipients. For "covered" sub-recipients who receive funds under the Agreement pursuant to direct contracts or agreements with USDA FAS, USDA FAS will include appropriate audit requirements in such contracts or agreements and will, on behalf of the Recipient, conduct the follow-up activities with regard to the audit reports furnished pursuant to such requirements.
- g) Cost of Audits. Subject to USDA FAS approval in writing, costs of audits performed in accordance with the terms of this Section may be charged to the Agreement.
- h) Audit by USDA FAS. USDA FAS retains the right to perform the audits required under this Agreement on behalf of the Recipient by utilizing funds under the Agreement or other resources available to USDA FAS for this purpose, conduct a financial review or otherwise ensure accountability of organizations expending USDA FAS funds regardless of the audit requirement.
- i) Opportunity to Audit or Inspect. The Recipient shall afford authorized representatives of USDA FAS the opportunity at all reasonable times to audit or inspect activities financed under the Agreement, the utilization of goods and services financed by USDA FAS, and books, records and other documents relating to the Agreement.
- j) Sub-recipient Books and Records. The Recipient will incorporate paragraphs (a), (b), (d), (e), (g), (h) and (i) of this provision into all sub-agreements with non-U.S. organizations which meet the \$300,000 threshold of paragraph (c) of this provision. Sub-agreements with non-U.S. organizations, which do not meet the \$300,000 threshold, shall at a minimum incorporate paragraphs (h) and (i) of this provision. Sub-agreements with U.S. organizations shall state that the U.S. organization is subject to the audit requirements contained in OMB Circular A-133.

#### **XXVIII. Certification Regarding Lobbying**

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 2 CFR Part 418, for persons entering into a grant or cooperative agreement over \$100,000, the Recipient certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal Cooperative Agreement, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Recipient shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

3. The Recipient shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all Recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, United States Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**XXIX. Religious Persecution**

The Recipient must ensure that its personnel take into account in their work the considerations reflected in the International Religious Freedom Act, 22 U.S.C. 6401, et al. concerning country-specific conditions, the right to freedom of religion, methods of religious persecution practiced in foreign countries, and applicable distinctions within a country between the nature of and treatment of various religious practices and believers.

**XXX. Prohibition on Abortion Related Activities**

The Recipient agrees that none of the funds provided by this award shall be used to issue grant funds to lobby for or against abortion. The Recipient agrees that none of the funds provided by this award shall be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions.

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

Executive Order 13224 designated certain individuals and entities that commit or pose a significant risk of committing terrorist acts and authorized the Secretary of State to designate additional individuals and entities.

The Order also authorized the Secretary of the Treasury to designate additional individuals and entities that provide support or services to, are owned or controlled by, act for or on behalf of, or are "otherwise associated with," an individual or entity who has been designated in or under the order. All property and interests in property of the individual or entity in the United States or in the possession or control of United States persons are blocked. The order prohibits all transactions and dealings in blocked property or interests in the United States or by United States persons, and also prohibits transactions with, and provision of support for, individuals or entities listed in or subject to the Order.

Recipients should be aware of Executive Order 13224 and the names of the individuals and entities designated thereunder. A list of these names can be found in the exclusions section of the SAM.gov. The web site is: <http://www.sam.gov>.

Recipients are reminded that U.S. Executive Orders and U.S. laws prohibit transactions with, and the provision of resources and support to, individuals and organizations associated with terrorism. It is the legal responsibility of the Recipient/contractor to ensure compliance with these Executive Orders and laws.

### **XXXII. Drug-Free Workplace**

- 1) The Recipient agrees to comply with 2 CFR Part 182 “Government-wide Requirements for Drug- Free Workplace (Financial Assistance)” as supplemented by 2 CFR part 421. The Recipient will make a good faith effort, on a continuing basis, to maintain a drug-free workplace. As part of that effort, the Recipient will publish a drug-free workplace statement and provide a copy to each employee who will be engaged in the performance of any project/program that receives Federal funding. The statement must:
  - a) Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;
  - b) Specify the actions the Recipient will take against employees for violating that prohibition; and
    - (1) Let each employee know that, as a condition of employment under any instrument, he or she:
      - i) Must abide by the terms of the statement; and
      - ii) Must notify the Recipient in writing if he or she is convicted for a violation of a criminal drug statute occurring in the workplace, and must do so no more than five calendar days after the conviction.

The Recipient agrees that it will establish an ongoing drug-free awareness program to inform employees about:

- c) The dangers of drug abuse in the workplace;
  - d) The Recipient’s policy of maintaining a drug-free workplace;
  - e) Any available drug counseling, rehabilitation and employee assistance programs; and
  - f) The penalties that the Recipient may impose upon them for drug abuse violations occurring in the workplace.
- 2) The policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this Federal award, or the completion date of this Federal award, whichever occurs first, unless the Recipient obtains FAS’ express written approval.
  - 3) The Recipient agrees to immediately notify FAS if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee’s position title, the Recipient number of each instrument on which the employee worked. The notification must be sent to FAS within ten calendar days after the Recipient learns of the conviction.
  - 4) Within 30 calendar days of learning about an employee’s conviction, the Recipient must either:
    - a) Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended; or
    - b) Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program.

### **XXXIII. Trafficking in Persons**

a. *Provisions applicable to a recipient that is a private entity.*

- 1) You as the recipient, your employees, subrecipients under this award, and subrecipients’ employees may not—
  - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;

- ii. Procure a commercial sex act during the period of time that the award is in effect; or
  - iii. Use forced labor in the performance of the award or subawards under the award.
- 2) We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —
  - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
  - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
    - a. Associated with performance under this award; or
    - b. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at [*agency must insert reference here to its regulatory implementation of the OMB guidelines in 2 CFR part 180 (e.g., “2 CFR part XX”)*].

*b. Provision applicable to a recipient other than a private entity.*

We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

- 1) Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
- 2) Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
  - i. Associated with performance under this award; or
  - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at [*agency must insert reference here to its regulatory implementation of the OMB guidelines in 2 CFR part 180 (e.g., “2 CFR part XX”)*].

*c. Provisions applicable to any recipient.*

- 1) You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
- 2) Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
  - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
  - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
- 3) You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. *Definitions.* For purposes of this award term:

- 1) “Employee” means either:
  - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
  - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
- 2) “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
- 3) “Private entity”:
  - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
  - ii. Includes:
    - a. nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
    - b. A for-profit organization.
4. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

#### **XXXIV. Reporting Subawards and Executive Compensation**

##### *a. Reporting of first-tier subawards.*

- 1) *Applicability.* Unless you are exempt as provided in paragraph d. 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, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).
- 2) *Where and when to report.*
  - i. You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.
  - ii. 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.)
- 3) *What to report.* You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

##### *b. Reporting Total Compensation of Recipient Executives.*

- 1) *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. 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>.)
- 2) *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term:
- i. As part of your registration profile at <https://www.sam.gov>.
  - ii. By the end of the month following the month in which this award is made, and annually thereafter.

*c. Reporting of Total Compensation of Subrecipient Executives.*

- 1) *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, 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. 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>.)
- 2) *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
- i. To the recipient.
  - ii. ii. 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.

d. *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:

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

e. *Definitions*. For purposes of this award term:

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

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

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

3) *Subaward*:

- i. 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.
- ii. 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").
- iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4) *Subrecipient* means an entity that:

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

5) *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)):

- i. *Salary and bonus*.
- ii. *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.
- iii. *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.
- iv. *Change in pension value*. This is the change in present value of defined benefit and actuarial pension plans.
- v. *Above-market earnings on deferred compensation which is not tax-qualified*.

- vi. 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.

**XXXV. Disclaimer**

The Agreement is not an international agreement governed by international law. The Agreement shall be governed by U.S. law. Nothing in the Agreement shall be deemed a waiver, expressed or implied, of any of the privileges and immunities accorded to the United States, its agencies, instrumentalities, and personnel pursuant to customary international law, the Vienna Convention on Consular Relations, and any other international agreement.