



**U.S. NATIONAL SCIENCE FOUNDATION (NSF)  
SBIR/STTR Phase II Cooperative Agreement Financial & Administrative Terms  
and Conditions (SBIR/STTR-II-CA-FATC)**

**Effective for all new NSF SBIR/STTR Phase II cooperative agreements and  
funding amendments on existing awards made on or after October 1, 2024<sup>1</sup>**

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The primary purpose of the revision of the *SBIR/STTR Phase II Cooperative Agreement Financial & Administrative Terms and Conditions (SBIR/STTR-II-CA-FATC)* is to implement the revised 2 CFR published in the [Federal Register](#) on April 22, 2024 by the Office of Management and Budget.

**Summary of Changes**

**Overall Document**

- Editorial changes have been made to either clarify or enhance the intended meaning of a sentence or section.
- Website references have been updated to reflect current information.
- Updates have been made to ensure consistency with terminology contained in 2 CFR.
- The term “article” has been changed to “term and condition” throughout for consistency with Government-wide terminology.
- Numbering has been updated as a result of the reordering of certain terms and conditions.

**Changes to Individual Terms and Conditions**

- **Recipient Responsibilities and Federal Requirements, Term and Condition Number (No.) 2.**

The term and condition also has been updated to cross-reference Term and Condition Project Reporting Requirements for recipient responsibilities to notify NSF when a significant development that could impact the award occurs between project reporting dates.

The *National Policy Requirements Matrix* has been revised to solely list those requirements that are applicable to NSF awards and has been renamed *National Policy Requirements for Recipients of NSF Awards*.

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<sup>1</sup> Unless otherwise specified

- **Prior Approval Requirements, Term and Condition No. 4.** The previous Project Changes term and condition text has been revised to consolidate the prior approval requirements into the same location in the document. Specific information on flow down provisions has been removed, given that the recipient is responsible for addressing the relevant requirements in subaward instruments.

The *Prior Approval Matrix* has been updated for consistency with the revised 2 CFR part 200. The document also has been revised to solely list those requirements that are applicable to NSF awards and has been renamed the *NSF Prior Approval Matrix*.

- **Equipment, Term and Condition No. 8.** This term and condition has been streamlined by removing redundant coverage provided in 2 CFR §§ 200.310-316.

The term and condition also has been revised to specify that, unless specifically identified in the award as exempt property, title to equipment purchased or fabricated under the award conditionally vests upon acquisition in the recipient for consistency with 2 CFR § 200.313(a).

Unless NSF provides alternative disposition instructions no later than 120 days after the end date of the NSF-supported project for which it was acquired, NSF grants unconditional title to equipment in the recipient or subrecipient.

NSF reserves the right to transfer the title to the Federal Government or a third party named by the Federal Government at any time during the award period or in disposition instructions issued no later than 120 days after the end date of the NSF-supported project for which it was acquired.

- **Participant Support Costs, Term and Condition No. 9.** The term and condition also has been updated to incorporate the revised definition of participant support costs specified in 2 CFR § 200.1.
- **Payments, Term and Condition No. 14.** Coverage on recipient requests for payment has been updated to emphasize the requirements in 2 CFR § 200.305 regarding timing of payments.
- **Project Reporting Requirements, Term and Condition No. 15.** Language that addresses significant developments that occur has been added. In addition, the OMB designated integrity and performance system has changed from the Federal Awardee Performance and Integrity Information System to SAM.gov.
- **Expenditure Reports, Term and Condition No. 16.** A footnote has been added regarding the timeframe for completing final payment requests when all funds on an award will be canceling at the end of the Federal fiscal year.
- **Reporting Subawards and Executive Compensation, Term and Condition No. 20.** This term and condition has been updated to incorporate the revised award term from Appendix A to Part 170.
- **System for Award Management (SAM.gov) and Universal Identifier Requirements, Term and Condition No. 21.** This term and condition has been updated to incorporate

the revised award term from Appendix A to Part 25.

- **Copyrighted Material, Term and Condition No. 24.** The term “nontransferable” has been deleted and the royalty-free license rights language has been updated for consistency with the revised 2 CFR part 200.
- **Intangible Property, Term and Condition No. 27.** Links to the National Institute of Standards and Technology (NIST) Bayh-Dole Regulations for Federal Funding Inventions and the current Interagency Domestic Manufacturing Waiver Form have been added to this term and condition.
- **Audit and Records, Term and Condition No. 28.** Language has been added from 2 CFR § 200.337 regarding right of access to records of the recipient and subrecipient pertinent to the Federal award.
- **Termination and Enforcement, Term and Condition No. 30.** This term and condition has been updated for consistency with the suspension and termination requirements contained in the revised 2 CFR part 200.
- **Non-Discrimination Statutes, Term and Condition No. 33.** A reference to Executive Order (E.O.) 14096, *Revitalizing Our Nation's Commitment to Environmental Justice for All*, has been added. In addition, the full title of E.O. 13166 has been included.
- **Whistleblower Protection, Term and Condition No. 41.** Information on the overall requirements and applicability of 41 U.S.C. § 4712 has been incorporated for greater transparency.
- **Build America, Buy America, Term and Condition No. 43.** Updates have been made to this term and condition for consistency with 2 CFR part 184.
- **Resolution of Conflicting Conditions, Term and Condition No. 55.** This term and condition has been updated to indicate if SBIR/STTR-II-CA-FATC is silent on a specific area covered by 2 CFR (including 2 CFR part 200), 2 CFR applies.

A new provision also has been added indicating the order of precedence should there be an inconsistency between 2 CFR (including 2 CFR part 200) and the NSF *Proposal and Award Policies and Procedures Guide* (PAPPG).<sup>2</sup>

- **Use of SBIR/STTR Awards as Collateral, Term and Condition No. 57.** New Term and Condition to clarify the use of NSF funds as collateral in private loans.

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<sup>2</sup> The new provision was added because there will be an interim period where the PAPPG has not yet been updated to implement the revised 2 CFR.



**U.S. NATIONAL SCIENCE FOUNDATION (NSF)  
Small Business Innovation Research (SBIR)/Small Business  
Technology Transfer (STTR) Phase II Cooperative Agreement  
Financial & Administrative Terms and Conditions (SBIR/STTR-II-CA-FATC)**

**Effective for all new NSF SBIR/STTR Phase II cooperative agreements and funding  
amendments on existing awards made on or after October 1, 2024<sup>3</sup>**

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**U.S. National Science Foundation website address: <http://www.nsf.gov>  
Award Conditions website address:  
[https://www.nsf.gov/awards/managing/sbirsttr\\_conditions.jsp](https://www.nsf.gov/awards/managing/sbirsttr_conditions.jsp)**

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<sup>3</sup> Unless otherwise specified

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## 1. Type of Award

The award notice specifies a pre-determined fixed amount of NSF support for the project described in the referenced proposal. This amount is based upon the budget approved by NSF for the referenced proposal, as amended.

Payment of the award amount is subject to compliance with the award terms and conditions, including Term and Condition Allowable Costs, Term and Condition Payments, Term and Condition Project Reporting Requirement, Term and Condition Price Reduction for Defective Cost or Pricing Data, and NSF's acceptance of the reports submitted by the recipient under Term and Condition Project Reporting Requirements. On the basis of its review of these reports and/or other pertinent information, NSF reserves the right to modify the payment schedule or suspend or terminate the award, if NSF determines that such action is appropriate. If estimated total expenditures are less than the award amount (less the small business fee), the recipient shall contact NSF to renegotiate the scope of this award. Similarly, if the recipient expects that the full scope of work will be completed at a total cost less than the award amount (less the small business fee), it is the obligation of the recipient to promptly notify NSF.

## 2. Recipient Responsibilities and Compliance with Federal Requirements

a. The recipient has full responsibility for the conduct of the project or activity supported under this award and for adherence to the award terms and conditions. Although the recipient is encouraged to seek the advice and opinion of NSF on special problems that may arise, such advice does not diminish the recipient's responsibility for making sound scientific and administrative judgments and does not imply that the responsibility for operating decisions has shifted to NSF. The recipient is responsible for notifying NSF about: (1) any allegation of research misconduct that it concludes has substance and requires an investigation in accordance with NSF research misconduct regulations published at 45 Code of Federal Regulations (CFR) part 689; or (2) any significant problems relating to the administrative or financial aspects of the award. (See also paragraph a. of Project Reporting Requirements for further information regarding the requirement to notify NSF when a significant development that could impact the award occurs between project reporting due dates.)

b. The requirements of this award are set forth in these SBIR/STTR Phase II Cooperative Agreement Financial & Administrative Terms and Conditions unless otherwise specified in the award notice. The applicable Federal administrative standards are incorporated by reference and are contained in 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) Subparts A through D. 2 CFR part 200 Subparts A through D also apply to commercial organizations, including small businesses. These SBIR/STTR Phase II Cooperative Agreement Financial & Administrative Terms and Conditions (SBIR/STTR-II-CA-FATC) serve as the Foundation's implementation of 2 CFR part 200.

c. By acceptance of this award, the recipient agrees to comply with the applicable Federal requirements and to the prudent management of all expenditures and actions affecting the award, including the monitoring of subrecipients (if applicable). Specific guidance on subrecipient monitoring and management can be found in [2 CFR §§ 200.331-332](#). A listing of National Policy Requirements the recipients must adhere to, where applicable, is located at: <https://nsf.gov/awards/managing/rtc.jsp>.

d. Documentation for each expenditure or action affecting this award must reflect appropriate organizational reviews or approvals made in advance of the action. Organizational reviews are intended to help assure that expenditures are allowable, necessary, and reasonable for the conduct of the project and that the proposed action:

1. is consistent with the award terms and conditions;
2. is consistent with NSF and recipient policies;
3. represents effective utilization of resources; and
4. does not constitute a project change which requires NSF prior written approval (see Term and Condition Prior Approval Requirements).

Nothing in this term and condition shall be construed to require administrative reviews or documentation that duplicates those already required by existing organizational systems or by applicable Federal requirements, e.g., 2 CFR part 200.

e. The recipient is responsible for ensuring that the Principal Investigator(s) (PIs)<sup>4</sup> and co-PIs receive a copy of the award terms and conditions, including: the award notice, the budget, these general terms and conditions, any special or award specific terms and conditions and any subsequent changes in the award terms and conditions. These award terms and conditions are made available to the recipient by NSF in [electronic form](#), and may be duplicated, copied or otherwise reproduced by the recipient as appropriate. This provision does not alter the recipient's full responsibility for conduct of the project and compliance with all award terms and conditions. Award notices are available electronically via Research.gov.

### **3. NSF Responsibilities**

a. The recipient has overall responsibility for NSF-funded cooperative agreements, including providing award oversight for technical/programmatic, financial, and administrative performance. The cognizant NSF Program Officer may participate in discussions of programmatic, technical, managerial and/or scheduling concerns; provide guidance and/or advice; review and, where required by the Agreement, approve technical or programmatic reports and requests submitted by the recipient; and may schedule desk and/or on-site reviews as necessary to resolve any NSF award questions or resolve follow-up audit issues.

b. The recipient shall submit all requests for prior approval in accordance with the procedures identified in Term and Condition Prior Approval Requirements.

c. The cognizant NSF Program Officer will only request additional work within the scope of the award; will only issue instructions that do not require prior approval as defined in Term and Condition Prior Approval Requirements; and will only suggest changes that will not increase or decrease the estimated cost or time required for performance under the Cooperative Agreement (see Term and Condition Limitation of Funds).

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<sup>4</sup> For purposes of the terms and conditions, the term Principal Investigator (PI) and co-PI also includes the term Project Director and co-Project Director.

#### 4. Prior Approval Requirements

a. Unless otherwise stated in the award notice, SBIR/STTR Phase II recipients must obtain NSF prior written approval as specified in these terms and conditions and in the [NSF Prior Approval Matrix](#).

b. Requests for NSF prior written approval specified in accordance the applicable NSF Prior Approval Matrix must be submitted via the use of NSF's electronic systems. Those prior approval requirements that do not already have a specific request type in NSF's electronic systems must be submitted via use of the "Other" category in Research.gov.

c. The *NSF Proposal & Award Policies & Procedures Guide* (PAPPG) reference that specifies the applicable processing instructions for certain significant prior approval requirements is provided below:

1. Changes in Objectives or Scope – PAPPG Chapter VII.B.1.a;
2. Change of PI or co-PI – PAPPG Chapter VII.B.2;
3. Long-Term Disengagement of the PI or co-PI ([PAPPG Chapter VII.B.2.a](#)) or Changes in Person Months Devoted to the Project ([PAPPG Chapter VII.B.2.b](#)); and
4. Subawarding or Transferring Part of an NSF Award (Subaward) - PAPPG Chapter VII.B.4.

a. If it becomes necessary to subaward or transfer part of an NSF award after an award has been made, notification of this intent must be submitted via Research.gov. NSF approval of such changes will be by an amendment to the award.

b. The recipient remains responsible for monitoring the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations and the terms and conditions of the subaward as outlined in [2 CFR §§ 200.331-332](#). This includes ensuring necessary documentation for all subawards is maintained for the same retention period as the recipient's and making it available to NSF upon request. The recipient shall include subaward activities in the annual and final annual project reports that are submitted to NSF.

c. Consistent with the requirements specified in [2 CFR § 200.332](#), the recipient must adhere to the requirements for pass-through entities in establishing and managing subawards issued under the award. In addition, the recipient must ensure that the requirements specified in these terms and conditions (if applicable) are appropriately addressed in the subaward instrument. If the recipient issues contracts under the award, the appropriate clauses identified in [2 CFR part 200, Appendix II, "Contract Provisions for Non-Federal Entity Contracts Under Federal Awards,"](#) also must be included in applicable contracts.

5. Changes to any of the "key personnel". Changes could include removal, substitution, or significantly reduced involvement (25% or more reduction in effort). Key personnel include any company employees listed on line A of the approved budget, any consultants listed on line G.5 of the approved budget, any subaward personnel listed on line A of a subaward budget, and/or anyone so named as a key person in the NSF award notice.



6. Expenditure of any funds listed in the approved award budget for “Technical and Business Assistance” (TABA) activities, unless said activities were fully documented (including pricing documentation and information about the specific vendors to be used) in the Phase II proposal budget and included in the Phase II Administrative and Financial Capability review (see Term and Condition Technical and Business Assistance Costs).
  7. Reallocation of funds from TABA activities to other project costs (see Term and Condition Technical and Business Assistance Costs).
- d. NSF approval requirements (Conflicts of Interest). NSF must approve allocations of funds or the addition of new personnel and/or organizations where certain pre-existing relationships are in place between the small business and the proposed new personnel and/or organizations. Cases where NSF approval is required include, but are not limited to:
1. New commitment (or reallocation) of funds to any employee or consultant who is a relative of any company owner, officer, director, or employee. In this context and as noted below, “relative” means an individual who is related as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or half-sister.
  2. New commitment (or reallocation) of funds to any organization with an owner, officer, director, or employee who is a relative of any owner, officer, director, or employee of the small business.
  3. New commitment (or reallocation) of funds to any organization where a company owner, officer, director, or employee (or a relative thereof) is an owner, officer, director, employee, or otherwise has a significant financial interest.

## **5. Pre-award Costs**

- a. The recipients may approve pre-award costs incurred within the 90-calendar day period before the start date of the award. Requests for approval of pre-award costs for periods greater than 90 calendar days must be submitted electronically via NSF’s electronic systems.
- b. Pre-award costs must be necessary for the effective and economical conduct of the project and the costs must be otherwise allowable in accordance with Term and Condition Allowable Costs.
- c. Pre-award expenditures are made at the recipient’s risk. Approval of pre-award costs does not impose an obligation on NSF: (1) in the absence of appropriations; (2) if an award is not subsequently made; or (3) if an award is made for a lesser amount than the recipient anticipated.
- d. In accordance with [2 CFR § 200.458](#), if pre-award costs are charged to the award, these costs must be charged to the initial budget period, unless otherwise specified in the award notice.

## **6. No-Cost Extensions**

No-cost extensions to the project must be approved by NSF. Requests for no-cost extensions should be submitted to NSF at least 45 days prior to the expiration date of the award and must be submitted through NSF’s electronic systems. The request must explain the need for the extension and include an estimate of the unobligated funds remaining and a plan for their use.

## 7. Professional Service Costs

Costs for professional and consultant services, rendered by persons who are members of a particular profession or possess a special skill and who are not officers or employees of the recipient or subrecipient, are allowable subject to paragraphs (b) and (c) of [2 CFR § 200.459](#) when reasonable in relation to the services rendered and when not contingent upon recovery of costs from NSF.

If not included in the award budget, anticipated services must be justified and information furnished on each individual's expertise, primary organizational affiliation, normal daily compensation rate and number of days of expected service. The consultants' travel costs, including subsistence, may be included. The recipient must be able to justify that the proposed rate of pay is reasonable.

Additional information on professional service costs is available in 2 CFR § 200.459.

## 8. Equipment

Equipment falls under the umbrella of property, which consists of real property and personal property. The standards for managing, tracking, and disposing of property funded by NSF or any property acquired for a project under an NSF award are outlined in [2 CFR §§ 200.310-316](#). See also [2 CFR § 200.439](#).

Unless specifically identified in the award as exempt property, title to equipment purchased or fabricated under the award will conditionally<sup>5</sup> vest upon acquisition in the recipient subject to the conditions identified in 2 CFR § 200.313(a).

Consistent with 2 CFR § 200.316, property acquired under or improved with the NSF award must be held in trust by the recipient or subrecipient for the beneficiaries of the project or program under which the property was acquired or improved.

In implementation of 2 CFR § 200.313(e), unless NSF provides alternative disposition instructions no later than 120 days after the end date of the NSF-supported project for which it was acquired, NSF grants unconditional title to equipment in the recipient or subrecipient, and the recipient or subrecipient may retain equipment, with no further obligation to the Federal Government. Prior to the 120-day deadline, NSF may identify items of equipment with a current fair market value in excess of \$10,000 for which NSF will provide alternative disposition instructions.

NSF reserves the right to transfer the title to the Federal Government or a third party named by the Federal Government at any time during the award period or in disposition instructions issued no later than 120 days after the end date of the NSF-supported project for which it was acquired.

## 9. Participant Support Costs

a. Participant support costs as defined in [2 CFR § 200.1](#) are direct costs for items that support participants (see definition for *Participant* in § 200.1) and their involvement in a Federal award, such

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<sup>5</sup> A conditional title means a clear title is withheld by NSF until the conditions and requirements specified in the terms and conditions of the award have been fulfilled.

as stipends, subsistence allowances, travel allowances, registration fees, temporary dependent care, and per diem paid directly to or on behalf of participants in connection with NSF-sponsored conference and training activities.

NSF prior written approval is required for funding of any additional categories of participant support costs, such as incentives, gifts, souvenirs, t-shirts and/or memorabilia and the request must be submitted via Research.gov. The recipient must account for participant support costs separately. Indirect costs are not allowed on participant support costs (see [PAPPG Chapter II.D.2.f\(v\)](#)).

b. Funds provided for participant support must not be used by the recipient for other categories of expense without specific NSF prior written approval. Such requests must be submitted electronically via Research.gov.

## **10. Procurement Standards**

a. The recipient (including for-profit organizations) is responsible for compliance with the procurement standards identified in [2 CFR §§ 200.317-327](#).

## **11. Travel**

### *a. Allowability of Travel Expenses*

1. Expenses for transportation, lodging, subsistence and related items incurred by project personnel and by outside consultants employed on the project (see [PAPPG Chapter II.D.2.f\(iv\)](#)) who are in travel status on business related to an NSF-supported project are allowable as prescribed in the governing cost principles. Except as noted in Term and Condition Prior Approval Requirements, the requirements for NSF prior written approval specified in [2 CFR § 200.475](#) are waived.

2. Except as provided in the governing cost principles, the difference between economy airfare and a higher-class airfare is unallowable. A train, bus or other surface carrier may be used in lieu of, or as a supplement to, air travel at the lowest first-class rate by the transportation facility used. If such travel, however, could have been performed by air, the allowance will not normally exceed that for jet economy airfare.

## **12. Technical and Business Assistance Costs**

a. The associated Phase II SBIR/STTR solicitation permits proposers to include up to \$50,000 for commercialization assistance to assist in technology commercialization efforts (as outlined in the current SBIR/STTR Policy Directive and the John S. McCain National Defense Authorization Act for Fiscal Year 2019). Specifically, this funding is for securing the services of one or more third-party service providers that will assist with one or more of the following commercialization activities:

1. the identification and development of customers for the NSF-funded technology;
2. providing advice on financing strategy and fundraising from private sector;
3. establishing strategic partnerships with relevant stakeholders; and/or
4. the evaluation and protection of intellectual property.

b. If the approved award budget includes funds for TABA activities, and these funds were

not allocated to specific cost items, each of which was documented with pricing documentation, and reviewed in-depth as part of the Phase II Administrative and Financial Capability review, then the following requirements apply:

1. Prior to expending funds for these purposes, the recipient will be required to submit the following documentation for approval from the cognizant NSF Program Officer:
  - The proposed commercialization-related activities to be undertaken with support from the service provider. These activities should be consistent with the Phase II commercialization plan submitted in the Phase II proposal.
  - The expected outcomes of the proposed activities.
  - A brief profile of the service provider, including a discussion of the provider's qualifications and track record.
  - Letter of commitment or statement of work from the service provider describing the services to be provided, cost for the services, and clearly defined, agreed-upon deliverables with measurable success metrics.
2. The recipient is obligated to track funds spent on TABA activities separately from other award expenses and report the cumulative amount of TABA funds spent as part of each interim report submitted to NSF, and as part of the final report.
3. Prior approval from NSF is required to reallocate budgeted TABA funds for other types of costs.

### **13. Allowable Costs**

- a. The allowability of costs<sup>6</sup> and cost allocation methods for work performed under this award, up to the amount specified in the award, shall be determined in accordance with the governing cost principles specified below and also must conform with NSF policies, award special provisions and recipient internal policies in effect on the start date of the award.
- b. The cost principles that govern for-profit organizations can be found in the Federal Acquisition Regulation, 48 CFR subpart 31.2.
- c. Certain prior approval requirements contained in the governing cost principles have been modified by Term and Condition Prior Approval Requirements.

### **14. Payments**

- a. NSF SBIR/STTR recipients are required to request payments electronically through the Award Cash Management Service (ACM\$). Under ACM\$, recipients must provide award level detail at the time of the payment request. Recipients must request payments in amounts necessary to meet their current needs, pursuant to the timing of payments as defined in [2 CFR § 200.305](#) and the guidelines contained in 31 CFR part 205. Unless otherwise specified in the award, the recipient agrees to comply with all applicable Treasury regulations and National Science Foundation implementing and reporting procedures, which are outlined in [PAPPG Chapter VIII](#)

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<sup>6</sup> Consistent with [2 CFR § 200.453\(c\)](#), for computing devices, charging as a direct cost is allowable for devices that are essential and allocable, but not solely dedicated, to the performance of the award.

b. In accordance with 2 CFR § 200.305, where appropriate, the recipient is required to maintain advances of Federal funds in interest-bearing accounts. The recipients may retain interest earned on amounts up to \$500 per year for administrative expenses. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either the Automated Clearing House (ACH) network or a Fedwire Funds Service payment. Instructions on submission of remittances is contained in [PAPPG Chapter VIII.D.3](#).

c. In the absence of an approved modification to this schedule, payments will be made by NSF as follows: A total of twenty-five percent (25%) of the award amount will be made available on the start date of the award, and an additional twenty-five percent (25%) upon approval by NSF of the first and second interim reports (see Term and Condition Project Reporting Requirements). The remainder of the funds, less \$25,000, will be made available upon approval by NSF of the third interim report. The final \$25,000 will be made available upon approval by NSF of a satisfactory final report and upon submission of a Project Outcomes Report, as described in Term and Condition Project Reporting Requirements and/or in the SBIR/STTR Program Solicitation.

d. In accordance with 2 CFR § 200.344, unless the Federal awarding agency authorizes an extension, recipients must liquidate all financial obligations incurred under the Federal award no later than 120 calendar days after the end date of the period of performance. NSF will financially close SBIR/STTR awards will financially close 120 days from after the period of performance award end date and the award will be removed from the ACM\$ payment screen for active awards.

To receive payment, SBIR/STTR recipients must register with the System for Award Management (SAM) at <https://www.sam.gov/>. NSF will use the recipients company name, address and electronic funds transfer information from SAM to register the official address and banking information for payments. Next, the recipient should follow the instructions to register in ACM\$ at: [ACM\\$ Information](#). Failure to submit an acceptable final report will result in withholding of payment and may be grounds for suspension or termination of the award.

## **15. Project Reporting Requirements**

### *a. General*

Payment of the award amount is conditioned upon the recipient's acceptance and compliance with the award terms and conditions which include contributing the approximate person-months proposed and delivery to NSF and its acceptance of required reports. The results of the recipients' efforts under this award are to be documented in the form of interim reports (3-5 pages) submitted on a six-month schedule and a final report. The intent of this reporting schedule is for the recipient to update NSF on the award progress at roughly the quarter-point, halfway-point, and three-quarter-point of the project, as measured by project effort. Therefore, with approval by the cognizant NSF Program Officer and the recipient organization, the timing of the interim reports can be altered based on project progress. The interim reports and the final report must be submitted electronically via Research.gov, and must include a completed, signed SBIR/STTR Project Status Form. The Project Reporting system may be accessed at <http://www.research.gov/>.

The interim reports and the final report must be approved by the cognizant NSF Program Officer prior to release of payment. In instances where a report is considered unacceptable, the cognizant NSF Program Officer will reject the report and will provide the recipient with a written explanation for non-acceptance.

The recipient also is required to notify NSF when a significant development that could impact the award occurs between project reporting due dates. Significant developments include events that enable meeting milestones and objectives sooner or at less cost than anticipated or that produce different beneficial results than originally planned. Significant developments also include problems, delays, or adverse conditions which will impact the recipient's or subrecipient's ability to meet milestones or the objectives of the award. When significant developments occur that negatively impact the award, the recipient must include information on their plan for corrective action and any assistance needed to resolve the situation. Such significant developments must be submitted via the Significant Changes, Delays or Events of Unusual Interest notification in Research.gov.

b. *Interim Reports*

For each interim report, the recipient organization shall provide information, at a minimum, in the Participants/Organizations module in Research.gov. In addition, a progress narrative should be uploaded, which should include the following information:

1. **A brief executive summary of progress.** This should highlight key technical and commercial activity/results during the reporting period, with key upcoming activities. (1 page maximum)
2. **Update on technical progress.** Detailed discussion covering NSF-funded technical R&D activities and project progress. This narrative should include any R&D work done under the base Phase II award as well as any active supplements (e.g. TECP, Phase IIB, etc.). Include a brief description of each project objective where progress was made. For each Phase II milestone, the report should include an estimate of percentage completion. (3-5 pages suggested)
3. **Outcomes of Technical and Business Assistance activities.** A summary of outcomes, if any, from NSF funding provided for Technical and Business Assistance (TABAs) activities. (max 1 page)
4. **A brief discussion of updates or progress in areas other than NSF-funded technical R&D.** This could include, but is not limited to, customer and partner engagements, partnership activities, new team members, investment/fundraising activities, or any other fronts that relate to the technical or commercial potential of the underlying effort. (1-2 pages suggested)
5. **Problems encountered during the interim reporting period.** This could include any issues or concerns, technical or otherwise. If none, so state. (2 pages maximum)

The PI must also include a completed SBIR/STTR Project Status Form, submitted to Research.gov as a "Special Requirement", to include reporting on total project spending and effort, level of effort for all senior/key personnel, project progress by milestone, as well as a number of certifications affirming key project requirements.

c. *Final Report*

As part of the Phase II final report, the Participants/Organizations module in Research.gov should be completed. In addition, the following documents should be uploaded as separate files:

1. A completed SBIR/STTR Project Status Form
2. A progress narrative (not to exceed 15 pages) which includes the same five sections as noted in section (b) above, but which covers the entire project duration;

The Phase II final report is due no later than 120 days after the end date of the award. The final report should address progress in all activities of the project, including any activities intended to address the Broader Impacts criterion that are not intrinsic to the research.

d. *Update of Current Support in Final Project Report*

PIs and co-PIs on active NSF awards must indicate if there has been a change in active other support since submission of the proposal in their final project report. If there has been a change, the individual must submit a revised current and pending (other) support document as part of their project report.

NSF may consult with the PI or co-PI and the AOR, if necessary, and determine the impact of the new information on the NSF-funded award, and, where necessary, take appropriate action.

e. *Certification Requirements for Final Project Report*

In submission of the final project report, the PI or co-PI is certifying that:

1. the statements provided (excluding scientific hypotheses and scientific opinions) are true and complete, and the text and graphics in the report as well as any accompanying publications or other documents, unless otherwise indicated, are the original work of the signatories or individuals working under their supervision; and
2. each postdoctoral scholar and graduate student receiving substantial support from the award has an individual development plan that maps educational goals, career exploration, and professional development (see also Term and Condition No. Individual Development Plans for Postdoctoral Scholars and Graduate Students).

f. *Project Outcomes Report for the General Public*

No later than 120 days following the end date of the award, a project outcomes report for the general public must be submitted electronically via Research.gov. This report serves as a brief summary prepared specifically for the public, of the nature and outcomes of the project. This report will be posted electronically by NSF exactly as it is submitted. For information about the content of the report, see the [PAPPG Chapter VII.D.2](#).

g. *Compliance with Reporting Requirements*

In accordance with 2 CFR § 200.344(i), if the recipient does not submit all required reports within one year of the period of performance end date, NSF must report the recipient's material failure to comply with the terms and conditions of the award with the OMB-designated integrity and performance system in SAM.gov. NSF may also pursue other enforcement actions per 2 CFR § 200.339.

## **16. Expenditure Reports**

The recipient must submit final payment requests through the ACM\$ no later than 120 calendar days after the end date of the award.<sup>7</sup> This requirement applies to all current awards and funding

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<sup>7</sup> Any award in which all funds will be canceling (in accordance with 31 U.S.C. § 1552(a)) at the end of the Federal fiscal year must complete final payment requests on or before the last day ACM\$ is available for drawing down funds in September regardless of the award end date.



amendments to existing NSF awards, as well as to all new NSF awards.

NSF uses the payment request entries in the Award Cash Management Service (ACM\$) to collect the final financial data for awards paid through that system. No additional interim or final financial reporting is required.

For final disbursement reporting requirements, see [PAPPG Chapter VIII.E](#).

## **17. Information Collection**

Information collection activities performed under this award are the responsibility of the recipient, and NSF support of the project does not constitute NSF approval of the survey design, questionnaire content or information collection procedures. The recipient shall not represent to respondents that such information is being collected for or in association with the National Science Foundation or any other Government agency without the specific written approval of such information collection plan or device by the Foundation. This requirement, however, is not intended to preclude mention of NSF support of the project in response to an inquiry or acknowledgment of such support in any publication of this information.

## **18. Safe and Inclusive Work Environments for Off-Campus or Off-Site Research**

For awards that conduct research off-campus or off site<sup>8</sup>, the recipient is required to have a plan in place for that awarded proposal that describes how the following types of behavior will be addressed:

- Abuse of any person, including, but not limited to, harassment, stalking, bullying, or hazing of any kind, whether the behavior is carried out verbally, physically, electronically, or in written form; or
- Conduct that is unwelcome, offensive, indecent, obscene, or disorderly.

The plan should also identify steps the recipient will take to nurture an inclusive off-campus or off-site working environment, e.g., trainings; processes to establish shared team definitions of roles, responsibilities, and culture, e.g., codes of conduct; and field support, such as mentor/mentee support mechanisms, regular check-ins, and/or developmental events.

Communications within team and to the recipient should be considered in the plan, minimizing singular points within the communications pathway (e.g., a single person overseeing access to a single satellite phone), and any special circumstances such as the involvement of multiple organizations or the presence of third parties in the working environment should be taken into account. The process or method for making incident reports as well as how any reports received will be resolved should also be accounted for.

The plan must be disseminated to individuals participating in the off-campus or off-site research prior to departure. Recipients are not required to submit the plan for review by NSF, however, the plan is subject to review, upon request.

If the recipient rebudgets funds to support off-campus or off-site research and a Plan for Safe and

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<sup>8</sup> For purposes of this requirement, off-campus or off-site research is defined as data/information/samples being collected off-campus or off-site, such as fieldwork and research activities on vessels and aircraft.



Inclusive Working Environments was developed for the original proposal, no further documentation is necessary. If a Plan for Safe and Inclusive Working Environments was not developed for that proposal, then the recipient must develop and maintain the plan in the organization's records as described in [PAPPG Chapter II.E.9](#).

If supplemental funding is requested to support off-site or off-campus research and the original proposal did not require a Plan for Safe and Inclusive Working Environments, then the recipient must develop and maintain the plan in the organization's records as described in [PAPPG Chapter II.E.9](#).

## **19. Reporting Fraud, Waste, and Abuse**

a. Recipients must contact the OIG and the cognizant NSF Program Officer without delay when they first suspect fraud waste, or abuse. The OIG maintains a hotline to receive this information, which can be made through the OIG website at <https://oig.nsf.gov/contact/hotline> or by telephone at (800) 428-2189. Upon request, OIG will take appropriate measures to protect the identity of any individual who reports misconduct, as authorized by the Inspector General Act of 1978, as amended. Reports to OIG may also be made anonymously.

b. Examples of fraud, waste, and abuse relating to the SBIR/STTR program include, but are not limited to:

1. misrepresentations or material, factual omissions to obtain or otherwise receive funding under an SBIR/STTR award;
2. misrepresentations of the use of funds expended, work done, results achieved, or compliance with program requirements under an SBIR/STTR award;
3. fraud, theft, misuse, conversion, misappropriation, or embezzlement of SBIR/STTR award funds, including any use of award funds while not in full compliance with SBIR/STTR program requirements, or failure to pay taxes due on misused or converted SBIR/STTR award funds;
4. submission of a false claim or a false statement by any person in connection with any NSF SBIR/STTR program, activity, award, or operations;
5. concealment, forgery, falsification, or unauthorized destruction of government or program records;
6. fabrication, falsification, or plagiarism in applying for, carrying out, or reporting results from an SBIR/STTR award;
7. failure to comply with applicable Federal costs principles governing an award;
8. extravagant, careless, or needless spending;
9. self-dealing, such as making a sub-award to an entity in which the PI has a financial interest without explicit NSF knowledge and approval;

10. acceptance by agency personnel of bribes, kickbacks, illegal gratuities, or gifts in exchange for assistance or contract awards or other conflicts of interest that prevent the government from getting the best value; and,

11. Other violations of criminal or civil law, other violation of Federal regulations, or other misconduct in connection with SBIR/STTR operations, programs, activities, or awards.

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

**This award term was extracted verbatim from Appendix A to Part 170. For these purposes, the term “you” means the NSF recipient.**

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

(1) *Applicability.* Unless the recipient is exempt as provided in paragraph (d) of this award term, the recipient must report each subaward that equals or exceeds \$30,000 in Federal funds for a subaward to an entity or Federal agency. The recipient must also report a subaward if a modification increases the Federal funding to an amount that equals or exceeds \$30,000. All reported subawards should reflect the total amount of the subaward.

### *(2) Reporting Requirements.*

(i) The entity or Federal agency must report each subaward described in paragraph (a)(1) of this award term to the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS) at <http://www.fdrs.gov>.

(ii) For subaward information, report no later than the end of the month following the month in which the subaward was issued. (For example, if the subaward was made on November 7, 2025, the subaward must be reported by no later than December 31, 2025).

### *(b) Reporting total compensation of recipient executives for entities.*

(1) *Applicability.* The recipient must report the total compensation for each of the recipient's five most highly compensated executives for the preceding completed fiscal year if:

(i) The total Federal funding authorized to date under this Federal award equals or exceeds \$30,000;

(ii) in the preceding fiscal year, the recipient received:

(A) 80 percent or more of the recipient's annual gross revenues from Federal procurement contracts (and subcontracts) and Federal awards (and subawards) subject to the Transparency Act; and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal awards (and subawards) subject to the Transparency Act; 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 after receiving

this subaward. (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) *Reporting Requirements.* The recipient must report executive total compensation described in paragraph (b)(1) of this appendix:

(i) As part of the recipient's registration profile at <https://www.sam.gov>.

(ii) No later than the month following the month in which this Federal award is made, and annually after that. (For example, if this Federal award was made on November 7, 2025, the executive total compensation must be reported by no later than December 31, 2025.)

(c) *Reporting of total compensation of subrecipient executives.*

(1) *Applicability.* Unless a first-tier subrecipient is exempt as provided in paragraph (d) of this appendix, the recipient must report the executive total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if:

(i) The total Federal funding authorized to date under the subaward equals or exceeds \$30,000;

(ii) 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 awards (and subawards) subject to the Transparency Act; and,

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal awards (and subawards) subject to the Transparency Act; and

(iii) The public does not have access to information about the compensation of the executives through periodic reports filed under §§ 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 after receiving this subaward. (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) *Reporting Requirements.* Subrecipients must report to the recipient their executive total compensation described in paragraph (c)(1) of this appendix. The recipient is required to submit this information to the Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS) at <http://www.fsr.gov> no later than the end of the month following the month in which the subaward was made. (For example, if the subaward was made on November 7, 2025, the subaward must be reported by no later than December 31, 2025).

(d) *Exemptions.*

(1) A recipient with gross income under \$300,000 in the previous tax year is 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:

*Entity* includes:

(1) Whether for profit or nonprofit:

(i) A corporation;

(ii) An association;

(iii) A partnership;

(iv) A limited liability company;

(v) A limited liability partnership;

(vi) A sole proprietorship;

(vii) Any other legal business entity;

(viii) Another grantee or contractor that is not excluded by subparagraph (2); and

(ix) Any State or locality;

(2) Does not include:

(i) An individual recipient of Federal financial assistance; or

(ii) A Federal employee.

*Executive* means an officer, managing partner, or any other employee holding a management position.

*Subaward* has the meaning given in [2 CFR § 200.1](#).

*Subrecipient* has the meaning given in [2 CFR § 200.1](#).

*Total Compensation* means the cash and noncash dollar value an executive earns during an entity's preceding fiscal year. This includes all items of compensation as prescribed in [17 CFR § 229.402\(c\)\(2\)](#).

## 21. System for Award Management (SAM.gov) and Universal Identifier Requirements

This award term was extracted verbatim from Appendix A to Part 25. For these purposes, the term “you” means the NSF recipient.

- (a) *Requirement for System for Award Management.* (1) Unless exempt from this requirement under [2 CFR § 25.110](#), the recipient must maintain a current and active registration in SAM.gov. The recipient's registration must always be current and active until the recipient submits all final reports required under this Federal award or receives the final payment, whichever is later. The recipient must review and update its information in SAM.gov at least annually from the date of its initial registration or any subsequent updates to ensure it is current, accurate, and complete. If applicable, this includes identifying the recipient's immediate and highest-level owner and subsidiaries and providing information about the recipient's predecessors that have received a Federal award or contract within the last three years.
- (b) *Requirement for Unique Entity Identifier (UEI).* (1) If the recipient is authorized to make subawards under this Federal award, the recipient:
  - (i) Must notify potential subrecipients that no entity may receive a subaward until the entity has provided its UEI to the recipient.
  - (ii) Must not make a subaward to an entity unless the entity has provided its UEI to the recipient. Subrecipients are not required to complete full registration in SAM.gov to obtain a UEI.
- (c) *Definitions.* For the purposes of this award term:

*System for Award Management (SAM.gov)* means the Federal repository into which a recipient must provide the information required for the conduct of business as a recipient. Additional information about registration procedures may be found in SAM.gov (currently at <https://www.sam.gov>).

*Unique entity identifier* means the universal identifier assigned by SAM.gov to uniquely identify an entity.

*Entity* is defined at [2 CFR § 25.400](#) and includes all of the following types as defined in [2 CFR § 200.1](#):

- (1) Non-Federal entity;
- (2) Foreign organization;
- (3) Foreign public entity;
- (4) Domestic for-profit organization; and
- (5) Federal agency.

*Subaward* has the meaning given in [2 CFR § 200.1](#).

*Subrecipient* has the meaning given in [2 CFR § 200.1](#).

## **22. Unpaid Federal Tax Liability**

**Term and Condition 23 applies only to recipients that are corporations.**

In accordance with the annual Financial Services and General Governmental Appropriations Act, the recipient affirms that the corporation has no unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

## **23. Criminal Convictions**

**Term and Condition 24 applies only to recipients that are corporations.**

In accordance with the annual Financial Services and General Governmental Appropriations Act, the recipient affirms that the corporation has not been convicted of a felony criminal violation under any Federal law within the preceding 24 months.

## **24. Copyrighted Material**

Except as otherwise specified in the award or by this paragraph, the recipient may own or permit others to own copyright in all subject writings. *Subject writing* means any material that:

1. is or may be copyrightable under [Title 17 of the U.S.C.](#); and
2. is produced by the recipient or its employees in the performance of work under this award.

Subject writings include such items as reports, books, journal articles, software, databases, sound recordings, videotapes, and videodiscs.

The recipient agrees that if it or anyone else does own copyright in a subject writing, the Federal government will have a nonexclusive, irrevocable, royalty-free license to use, reproduce, distribute (including distribution by transmission) to the public, perform publicly, prepare derivative works, and display publicly the subject writing in whole or in part and in any manner for Federal purposes and to permit others to do so for Federal purposes only. Such license, however, will not include the right to sell copies or phonorecords of the copyrighted works to the public.

### **a. Awards Affected by International Agreements**

If the award indicates it is subject to an identified international agreement or treaty, NSF can direct the recipient to convey to any foreign participant or otherwise dispose of such rights to subject writings as are required to comply with that agreement or treaty. In such cases, the standard clauses for Copyrighted Material or Intangible Property will be modified through the addition of the following:

“This project is supported under the cooperative program listed below. Your rights in inventions, writings and data may be affected.”

The applicable agreement or treaty will be identified immediately beneath that sentence.

b. Recipient Action to Protect Government Interests

The recipient agrees to acquire, through written agreement or an employment relationship, the ability to comply with the requirements of the preceding paragraphs and, in particular, to acquire the ability to convey rights in a subject writing to a foreign participant if directed by NSF under the previous paragraph. The recipient further agrees that any transfer of copyright or any other rights to a subject writing, by it or anyone whom it has allowed to own such rights, will be made subject to the requirements of this term and condition.

## 25. Public Access to Copyrighted Material

NSF's Public Access Policy applies to awards, funded in whole or in part, as a result of proposals submitted, or due, on or after January 25, 2016. NSF's Public Access Policy may be viewed at [http://www.nsf.gov/news/special\\_reports/public\\_access/](http://www.nsf.gov/news/special_reports/public_access/).

NSF's policy on public access to copyrighted material (Public Access Policy) reflects the Foundation's commitment to making certain that, to the extent possible, the American public, industry and the scientific community have access to the results of Federally funded scientific research. Pursuant to this policy, the recipient must ensure that all articles in peer-reviewed scholarly journals and papers in juried conference proceedings:

- are deposited in a public access compliant repository (as identified in the Public Access Policy);
- are available for download, reading and analysis within 12 months of publication;
- possess a minimum set of machine-readable metadata elements as described in the Public Access Policy; and
- are reported in annual and final annual reports with a persistent identifier.

Either the final printed version or the final peer-reviewed manuscript is acceptable for deposit.

## 26. Publications

a. *Acknowledgment of Support*

The recipient is responsible for ensuring that an acknowledgment of NSF support is made in alignment with [PAPPG Chapter XI.E](#), [NSF Policy on Brand Standards](#) and the [NSF Brand Standards Manual](#)<sup>9</sup> including:

1. Written and visual acknowledgment on any publication (including World Wide Web pages) of any material based on or developed under this project, by including the NSF logo along with written acknowledgement in the following terms:

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<sup>9</sup> Any questions regarding the NSF Policy on Brand Standards or the NSF Brand Standards Manual should be addressed to the NSF Office of Legislative and Public Affairs at: [NSFbranding@nsf.gov](mailto:NSFbranding@nsf.gov).

"This material is based upon work supported by the U.S. National Science Foundation under award No. (NSF award number)."

2. Instrumentation/equipment must be marked with the NSF logo by the recipient if the purchase price is \$150,000 or more, in accordance with the guidance specified in the NSF Brand Standards Manual.

3. Awards of \$1 million or more must follow additional guidelines found in the NSF Policy on Brand Standards related to:

- (a) use and naming conventions;
- (b) signage;
- (c) websites;
- (d) social media; and
- (e) filming and advertising.

4. Oral acknowledgment of NSF support during all media interviews including, but not limited to, social media, podcasts, radio, television, film and other publications.

b. Disclaimer

The recipient is responsible for ensuring that every publication of material (including World Wide Web pages) based on or developed under this award, except scientific articles or papers appearing in scientific, technical or professional journals, contains the following disclaimer:

"Any opinions, findings and conclusions or recommendations expressed in this material are those of the author(s) and do not necessarily reflect the views of the U.S. National Science Foundation."

See [PAPPG Chapter XI.E](#) for additional information on Publication/Distribution of Award Materials.

c. Copies for NSF

The recipient is responsible for assuring that the cognizant NSF Program Officer is provided access to, either electronically or in paper form, a copy of every publication of material based on or developed under this award, clearly labeled with the award number and other appropriate identifying information, promptly after publication.

d. Costs for Publication or Dissemination of Research Results

In accordance with [2 CFR § 200.461](#), costs for publication or dissemination of research results may be charged to this award during closeout if the costs are not incurred during the period of performance. If charged to the award during closeout, these costs must be charged to the final budget period, unless otherwise specified by NSF.



## 27. Intangible Property<sup>10</sup>

The following Intangible Property term and condition (implementing the Bayh-Dole Act 35 U.S.C. § 200 et seq.) shall apply to all awards for scientific or engineering research unless special provisions have been negotiated. The recipient shall include this term and condition in all subawards for scientific or engineering research activities.

### a. Definitions

1. *Invention* means any invention or discovery which is or may be patentable or otherwise protectable under Title 35 of the U.S.C., to any novel variety of plant which is or may be protected under the Plant Variety Protection Act ([7 U.S.C. §§ 2321 et seq.](#))

2. *Subject Invention* means any invention of the recipient conceived or first actually reduced to practice in the performance of work under this award, provided that in the case of a variety of plant, the date of determination (as defined in section 41(d)) must also occur during the period of performance.

3. *Practical Application* means to manufacture in the case of a composition or product, to practice in the case of a process or method, or to operate in the case of a machine or system; and, in each case, under such conditions as to establish that the invention is being utilized and that its benefits are to the extent permitted by law or Government regulations available to the public on reasonable terms.

4. *Made* when used in relation to any invention means the conception or first actual reduction to practice of such invention.

5. *Small Business Firm* means a small business concern as defined at section 2 of Public Law 85-536 (15 U.S.C. § 632) and implementing regulations of the Administrator of the Small Business Administration. For the purpose of this term and condition, the size standards for small business concerns involved in government procurement and subcontracting at 13 CFR § 121.3-8 and 13 CFR § 121.3-12, respectively, will be used.

6. *Non-profit Organization* means a domestic university or other institution of higher education or an organization of the type described in Section 501(c)(3) of the Internal Revenue Code of 1954 ([26 U.S.C. § 501\(c\)](#)) and exempt from taxation under Section 501(a) of the Internal Revenue Code ([26 U.S.C. § 501\(a\)](#)) or any domestic non-profit scientific or educational organization qualified under a State non-profit organization statute.

7. *Statutory Period* means the one-year period before the effective filing date of a claimed invention during which exceptions to prior art exist per 35 U.S.C. § 102(b) as amended by the Leahy-Smith America Invents Act, Public Law 112-29.

8. *Contractor* means any person, small business firm or nonprofit organization, or, as set forth in section 1, paragraph (b)(4) of Executive Order 12591, as amended, any business firm regardless of size, which is a party to a funding agreement.

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<sup>10</sup> The recipient is reminded that, in view of the US Supreme Court decision in [Stanford v. Roche](#), employee assignment agreements should include a present conveyance of rights ("I hereby assign" rather than a promise or intent to assign) in order to effectively convey patent rights to the institution, allowing the institution to meet its responsibility under the Bayh-Dole Act to provide the agency with a license to patented inventions.

b. Allocation of Principal Rights

The recipient may retain the entire right, title and interest throughout the world to each subject invention subject to the provisions of this Intangible Property term and condition and [35 U.S.C. § 203](#). With respect to any subject invention in which the recipient retains title, the Federal Government shall have a non-exclusive, nontransferable, irrevocable, paid-up license to practice or have practiced for or on behalf of the U.S. the subject invention throughout the world. If the award indicates it is subject to an identified international agreement or treaty, NSF also has the right to direct the recipient to convey to any foreign participant such patent rights to subject inventions as are required to comply with that agreement or treaty.

c. Invention Disclosure, Election of Title and Filing of Patent Applications by Recipient

1. The recipient will disclose each subject invention to NSF within two months after the inventor discloses it in writing to recipient personnel responsible for the administration of patent matters. The disclosure to NSF shall be in the form of a written report and shall identify the award under which the invention was made and the inventor(s). It shall be sufficiently complete in technical detail to convey a clear understanding of the nature, purpose, operation and, to the extent known, the physical, chemical, biological or electrical characteristics of the invention. The disclosure shall also identify any publication, on sale or public use of the invention and whether a manuscript describing the invention has been submitted for publication and, if so, whether it has been accepted for publication at the time of disclosure. In addition, after disclosure to NSF, the recipient will promptly notify NSF of the acceptance of any manuscript describing the invention for publication or of any on sale or public use planned by the recipient.

2. The recipient will elect in writing whether or not to retain title to any such invention by notifying NSF within two years of disclosure to NSF. However, in any case where a patent, a printed publication, public use, sale or other availability to the public has initiated the one-year statutory period wherein valid patent protection can still be obtained in the U.S., the period for election of title may be shortened by NSF to a date that is no more than 60 days prior to the end of the statutory period.

3. The recipient will file its initial patent application on an invention to which it elects to retain title within one year after election of title or, if earlier, prior to the end of any statutory period wherein valid patent protection can be obtained in the U.S. after a publication, on sale, or public use. If the recipient files a provisional application as its initial patent application, it shall file a non-provisional application within 10 months of the filing of the provisional application. The recipient will file patent applications in additional countries or international patent offices within either ten months of the first filed patent application, or six months from the date when permission is awarded by the Commissioner of Patents to file foreign patent applications when such filing has been prohibited by a Secrecy Order.

4. For any subject invention with NSF and recipient co-inventors, where NSF determines that it would be in the interest of the government, pursuant to 35 U.S.C. § 207(a)(3), to file an initial patent application on the subject invention, NSF, at its discretion and in consultation with the recipient, may file such application at its own expense, provided that the recipient retains the ability to elect title pursuant to 35 U.S.C. § 202(a).

5. Requests for extension of the time for disclosure to NSF, election and filing under subparagraphs 1., 2. and 3 may, at the discretion of NSF, be awarded. When a recipient has requested an extension for filing a non-provisional application after filing a provisional application, a one-year extension will be awarded unless NSF notifies the contractor within 60 days of receiving the request.

d. Conditions When the Government May Obtain Title

The recipient will convey to NSF, upon written request, title to any subject invention:

1. if the recipient fails to disclose or elect the subject invention within the times specified in paragraph c. above, or elects not to retain title;

2. in those countries in which the recipient fails to file patent applications within the times specified in paragraph c. above, provided, however, that if the recipient has filed a patent application in a country after the times specified in paragraph c. of this term and condition, but prior to its receipt of the written request of NSF, the recipient shall continue to retain title in that country; or

3. in any country in which the recipient decides not to continue the prosecution of any non-provisional patent application for, to pay a maintenance, annuity or renewal fee on, or defend in a reexamination or opposition proceeding on, a patent on a subject invention.

e. Minimum Rights to Recipient

1. The recipient will retain a non-exclusive royalty-free license throughout the world in each subject invention to which the Government obtains title, except if the recipient fails to disclose the subject invention within the times specified in paragraph c. above. The recipient's license extends to its domestic subsidiaries and affiliates, if any, within the corporate structure of which the recipient is a party and includes the right to award sublicenses of the same scope to the extent the recipient was legally obligated to do so at the time the award was made. The license is transferable only with the approval of NSF except when transferred to the successor of that part of the recipient's business to which the invention pertains.

2. The recipient's domestic license may be revoked or modified by NSF to the extent necessary to achieve expeditious practical application of the subject invention pursuant to an application for an exclusive license submitted in accordance with applicable provisions at [37 CFR § 404](#). This license will not be revoked in that field of use or the geographical areas in which the recipient has achieved practical application and continues to make the benefits of the invention reasonably accessible to the public. The license in any foreign country may be revoked or modified at discretion of NSF to the extent the recipient, its licensees or its domestic subsidiaries or affiliates have failed to achieve practical application in that foreign country.

3. Before revocation or modification of the license, NSF will furnish the recipient a written notice of its intention to revoke or modify the license, and the recipient will be allowed 30 days (or such other time as may be authorized by NSF for good cause shown by the recipient) after the notice to show cause why the license should not be revoked or modified. The recipient has the right to appeal, in accordance with applicable regulations in [37 CFR § 404](#) concerning the licensing of Government-owned inventions, any decision concerning the revocation or modification of its license.

f. Recipient Action to Protect Government's Interest

1. The recipient agrees to execute or to have executed and promptly deliver to NSF all instruments necessary to: (i) establish or confirm the rights the Government has throughout the world in those subject inventions for which the recipient retains title; and (ii) convey title to NSF when requested under paragraph d. above, and to enable the Government to obtain patent protection throughout the world in that subject invention.

2. The recipient agrees to require, by written agreement, its employees, other than clerical and non-technical employees, to disclose promptly in writing to personnel identified as responsible for the administration of patent matters and in a format suggested by the recipient each subject invention made under this award in order that the recipient can comply with the disclosure provisions of paragraph c. above, to assign to the recipient the entire right, title and interest in and to each subject invention made under the award, and to execute all papers necessary to file patent applications on subject inventions and to establish the Government's rights in the subject inventions. The disclosure format should require, as a minimum, the information requested by paragraph c.1 above. The recipient shall instruct such employees through the employee agreements or other suitable educational programs on the importance of reporting inventions in sufficient time to permit the filing of patent applications prior to U.S. or foreign statutory bars.

3. For each subject invention, the recipient will no less than 60 days prior to the expiration of the statutory deadline, notify NSF of any decision: not to continue the prosecution of a non-provisional patent application; not to pay a maintenance, annuity or renewal fee; not to defend in a reexamination or opposition proceeding on a patent, in any country; to request, be a party to, or take action in a trial proceeding before the Patent Trial and Appeals Board of the U.S. Patent and Trademark Office, including but not limited to post-award review, review of a business method patent, *inter partes* review, and derivation proceeding; or to request, be a party to, or take action in a non-trial submission of art or information at the U.S. Patent and Trademark Office, including but not limited to a pre-issuance submission, a post-issuance submission, and supplemental.

4. The recipient agrees to include, within the specification of any U.S. patent application and any patent issuing thereon covering a subject invention, the following statement:

"This invention was made with Government support under (identify NSF award number) awarded by the U.S. National Science Foundation. The Government has certain rights in this invention."

5. The recipient or its representative will complete, execute and forward to NSF a confirmation of a License to the U.S. Government and the page of a United States patent application that contains the Federal support term and condition within two months of filing any domestic or foreign patent application.

g. Subawards

1. The recipient will include this Intangible Property term and condition, suitably modified to identify the parties, in all subawards, regardless of tier, for experimental, developmental or research work. The subrecipient will retain all rights provided for the recipient in this Intangible Property term and condition, and the recipient will not, as part of the consideration for awarding the subaward, obtain rights in the subrecipients' subject inventions.

2. In the case of subawards, at any tier, when the prime award by NSF was a contract (but not a cooperative agreement), NSF, subrecipient and contractor agree that the mutual obligations of the parties created by this Intangible Property term and condition constitute a contract between the subrecipient and the Foundation with respect to those matters covered by this Intangible Property term and condition.

h. Reporting on Utilization of Subject Inventions

Upon request, the recipient agrees to submit on request periodic reports no more frequently than annually on the utilization of a subject invention or on efforts at obtaining such utilization that are being made by the recipient or its licensees or assignees. Such reports shall include information regarding the status of development, date of first commercial sale or use, gross royalties received by the recipient and such other data and information as NSF may reasonably specify. The recipient also agrees to provide additional reports in connection with any march-in proceeding undertaken by NSF in accordance with paragraph j. of this Intangible Property term and condition. As required by [35 U.S.C. § 202\(c\)\(5\)](#), NSF agrees it will not disclose such information to persons outside the Government without the permission of the recipient.

i. Preference for United States Industry

Notwithstanding any other provision of this Intangible Property term and condition, the recipient agrees that neither it nor any assignee will award to any person the exclusive right to use or sell any subject invention in the U.S. unless such person agrees that any products embodying the subject invention or produced through the use of the subject invention will be manufactured substantially in the U.S. However, in individual cases, the requirement for such an agreement may be waived by NSF upon a showing by the recipient or its assignee that reasonable but unsuccessful efforts have been made to award licenses on similar terms to potential licensees that would be likely to manufacture substantially in the U.S. or that under the circumstances domestic manufacture is not commercially feasible. The current waiver form can be found at: [Interagency Domestic Manufacturing Waiver Form.pdf \(nist.gov\)](#).

j. March-in Rights

The recipient agrees that with respect to any subject invention in which it has acquired title, NSF has the right in accordance with procedures at [37 CFR § 401.6](#), the NSF [PAPPG Chapter XI.D.1.I.](#), [and the Interagency March-In Framework](#) to require the recipient, an assignee or exclusive licensee of a subject invention to award a non-exclusive, partially exclusive or exclusive license in any field of use to a responsible applicant or applicants, upon terms that are reasonable under the circumstances and if the recipient, assignee or exclusive licensee refuses such a request, NSF has the right to award such a license itself if NSF determines that such action is necessary:

1. because the recipient or assignee has not taken or is not expected to take within a reasonable time, effective steps to achieve practical application of the subject invention in such field of use;
2. to alleviate health or safety needs which are not reasonably satisfied by the recipient, assignee, or their licensees;
3. to meet requirements for public use specified by Federal regulations and such requirements are not reasonably satisfied by the recipient, assignee, or licensee; or

4. because the agreement required by paragraph l. of this Intangible Property term and condition has not been obtained or waived or because a licensee of the exclusive right to use or sell any subject invention in the U.S. is in breach of such agreement.

k. Special Provisions for Awards with Non-profit Organizations

If the recipient is a non-profit organization, it agrees that:

1. rights to a subject invention in the U.S. may not be assigned without the approval of NSF, except where such assignment is made to an organization which has as one of its primary functions the management of inventions, provided that such assignee will be subject to the same provisions as the recipient;

2. the recipient will share royalties collected on a subject invention with the inventor, including Federal employee co-inventors (when NSF deems it appropriate) when the subject invention is assigned in accordance with [35 U.S.C. § 202\(e\)](#) and [37 CFR § 401.10](#);

3. the balance of any royalties or income earned by the recipient with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, will be utilized for the support of scientific or engineering research or education; and

4. it will make efforts that are reasonable under the circumstances to attract licensees of subject inventions that are small business firms and that it will give preference to a small business firm if the recipient determines that the small business firm has a plan or proposal for marketing the invention which, if executed, is equally likely to bring the invention to practical application as any plans or proposals from applicants that are not small business firms; provided that the recipient is also satisfied that the small business firm has the capability and resources to carry out its plan or proposal.

The decision whether to give a preference in any specific case will be at the discretion of the recipient. However, the recipient agrees that NSF may review the recipient's licensing program and decisions regarding small business applicants, and the recipient will negotiate changes to its licensing policies, procedures or practices with NSF when NSF's review discloses that the recipient could take reasonable steps to implement more effectively the requirements of this paragraph k.4. In accordance with 37 CFR § 401.7, NSF or the recipient may request that the Secretary review the recipient's licensing program and decisions regarding small business applicants.

l. Communications. All communications required by this Intangible Property term and condition must be submitted through the [iEdison Invention Information Management System](#) maintained by the National Institute of Standards & Technology unless prior permission for another form of submission is obtained from the Patent Assistant at [patents@nsf.gov](mailto:patents@nsf.gov) or at Office of the General Counsel, U.S. National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314.

## **28. Audit and Records**

- a. Financial records, supporting documents, statistical records and other records pertinent to this award must be retained by the recipient for a period of three years from award financial closeout as described in [PAPPG Chapter VII.E](#), except as noted in [2 CFR § 200.334](#).
- b. All awards issued by NSF meet the definition of “*Research and Development*” (R&D) at [2 CFR § 200.1](#). As such, auditees should identify NSF awards as part of the R&D cluster on the Schedule of Expenditures of Federal Awards (SEFA). The auditor should test NSF awards for compliance as instructed in Part V, Clusters of Programs. NSF recognizes that some awards may have another classification for purposes of indirect costs. The auditor is not required to report the disconnect (i.e., the award is classified as R&D for audit purposes but non-research for indirect cost rate purposes), unless the auditee is charging indirect costs at a rate other than the rate(s) specified in the award document(s).
- c. In accordance with [2 CFR § 200.337](#), NSF, Inspectors General, the Comptroller General of the United States, or any of their authorized representatives must have the right of access to any records of the recipient or subrecipient pertinent to the Federal award to perform audits, execute site visits, or for any other official use. This right also includes timely and reasonable access to the recipient's or subrecipient's personnel for the purpose of interview and discussion related to such documents or the NSF award in general.

## **29. Site Visits**

NSF, through 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. If any site visit is made by NSF on the premises of the recipient or a subrecipient under an award, the recipient shall provide and shall require its subrecipients to provide all reasonable facilities and assistance for the safety and convenience of the NSF representatives in the performance of their duties. All site visits and evaluations shall be performed in such a manner that will not unduly delay the work.

## **30. Termination and Enforcement**

- a. Any suspension or termination action taken by NSF must be issued by a cognizant NSF Grants and Agreements Officer and will be in accordance with this Term and Condition, [2 CFR § 200.340](#), and [PAPPG Chapter XII.A](#).
- b. The award may be suspended or terminated in whole or in part in any of the following situations:
1. By NSF, if the recipient fails to comply with the terms and conditions of a Federal award;
  2. By NSF, if an award no longer effectuates the program goals or agency priorities;
  3. By NSF, with the consent of the recipient, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;



4. By the recipient upon sending to NSF written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated.

However, if NSF determines in the case of partial termination that the reduced or modified portion of the NSF award will not accomplish the purposes for which the NSF award was made, NSF may terminate the Federal award in its entirety;

6. By NSF, when ordered by the Deputy Director under NSF's Regulation on Research Misconduct (45 CFR § 689).

c. Normally, action by NSF to suspend or terminate an award will be taken only after the recipient has been informed by NSF of any deficiency on its part and given an opportunity to correct it; NSF, however, may immediately suspend or terminate the award without notice when it believes such action is reasonable to protect the interests of the Government.

d. No costs incurred during a suspension period or after the effective date of a termination will be allowable, except those costs which, in the opinion of NSF, the recipient could not reasonably avoid or eliminate, or which were otherwise authorized by the suspension or termination notice, provided such costs would otherwise be allowable under the terms of the award and the governing cost principles.

e. Within 30 days of the termination date, the recipient will furnish a summary of progress under the award and an itemized accounting of costs incurred prior to the termination date or pursuant to d, above. Final allowable costs under a termination settlement shall be in accordance with the terms of the award, including this term and condition, and the governing cost principles, giving due consideration to the progress under the award. In no event will the total of NSF payments under a terminated award exceed the award amount, or the NSF pro rata share of the total project costs when cost sharing was anticipated, whichever is less.

f. When an NSF award is terminated or partially terminated, both NSF and the recipient remain responsible for compliance with the requirements in [2 CFR §§ 200.344](#) and [200.345](#).

g. A notice of termination other than by mutual agreement and/or the final settlement amount may be subject to review pursuant to Term and Condition Non-Discrimination Statutes.

h. NSF will report award terminations in SAM, but only after the recipient has had an opportunity to exhaust the review procedures contained in [PAPPG Chapter XII.B](#). See also Term and Condition Project Reporting Requirements for additional information on Responsibility/Qualification in SAM.gov.

### **31. Termination Review Procedure**

a. A request for review of a notice of termination or settlement must be addressed to the Division Director, Division of Grants and Agreements (DGA), U.S. National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA, 22314. It must be postmarked no later than 30 days after the date of the letter notifying the recipient of the termination or settlement.

b. The request for review must contain a full statement of the recipient's position and the pertinent facts and reasons in support of such position.



c. Review of a notice of termination or settlement will be conducted in accordance with [PAPPG Chapter XII.B.3.](#)

d. Pending resolution of the request for review, the notice of termination shall remain in effect.

### **32. Price Reduction for Defective Cost or Pricing Data**

a. If any price, including profit, negotiated in connection with this award, was increased by any significant amount because (1) the recipient or its subrecipient furnished cost or pricing data that were not complete, accurate and current as certified in its Certificate of Current Cost Pricing data, (2) a subrecipient or prospective subrecipient furnished the recipient cost or pricing data that were not complete, accurate and current as certified in its Certificate of Current Cost Pricing Data, or (3) any of these parties furnished data of any description that were not accurate, the price or cost shall be reduced accordingly and the award shall be amended to reflect the reduction.

b. Any reduction in the award price under paragraph a. above due to defective data from a prospective contractor that was not subsequently awarded the subaward shall be limited to the amount, plus applicable overhead and profit markup, by which the actual subaward price was not itself affected by defective cost or pricing data.

c. If the cognizant NSF Grants and Agreements Officer determines under paragraph a. of this clause that a price or cost reduction should be made, the recipient agrees not to raise the following matters as a defense:

1. The recipient or subrecipient was a sole source supplier or otherwise was in a superior bargaining position and thus the price of the award would not have been modified even if accurate, complete and current cost or pricing data had been submitted.

2. The cognizant NSF Grants and Agreements Officer should have known that the cost or pricing data in issue were defective even though the recipient or subrecipient took no affirmative action to bring the character of the data to the attention of the cognizant NSF Grants and Agreements Officer.

3. The recipient or subrecipient did not submit a Certificate of Cost or Pricing Data. Except as prohibited by c.3. of this Term and Condition, an offset in an amount determined appropriate by the cognizant NSF Grants and Agreements Officer based upon the facts shall be allowed against the amount of an award price reduction if:

- The recipient certifies to the cognizant NSF Grants and Agreements Officer that, to the best of the recipient's knowledge and belief, the recipient is entitled to the offset in the amount requested; and

- The recipient proves that the cost or pricing data (or price of amendment) is accurate and that the data was not submitted before such date.

An offset shall not be allowed if:

- The understated data was known by the recipient to be understated when the Certificate of Cost or Pricing Data was signed; or The Government proves that the facts demonstrate that the award price would not have been increased in the amount to be offset even if the available

data had been submitted before the date of agreement of price.

d. If any reduction in the award price under this Term and Condition reduces the price for which payment was made prior to the date of the amendment reflecting the price reduction, the recipient shall be liable to and shall pay the United States at the time such overpayment is repaid simple interest on the amount of such overpayment to be computed from the date(s) of overpayment to the recipient to the date the Government is repaid by the recipient at the applicable underpayment rate effective for each quarter prescribed by the Secretary of the Treasury under 26 U.S.C. § 6621(a)(2).

### **33. Non-Discrimination Statutes**

The award is subject to the provisions of *Title VI of the Civil Rights Act of 1964* (42 U.S.C. §§ 2000d et seq.), *Title IX of the Education Amendments of 1972* (20 U.S.C. §§ 1681 et seq.), the *Rehabilitation Act of 1973* (29 U.S.C. § 794), the *Age Discrimination Act of 1975* (42 U.S.C. §§ 6101 et seq), *Equal Employment Opportunity* (E.O. 11246), *Improving Access to Services for Persons with Limited English Proficiency* (LEP) (E.O. 13166), *Revitalizing Our Nation's Commitment to Environmental Justice for All* (E.O. 14096), and all applicable regulations and policies issued by NSF or cognizant Federal agencies pursuant to these statutes. Specifically, in accordance with these statutes, regulations and policies, no person on the basis of race, color, national origin, sex, disability, or age shall be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under the award.

### **34. Reporting Classifiable Information**

NSF awards are intended for unclassified, publicly releasable research. The recipient will not be granted access to classified information. NSF does not expect that the results of the research project will involve classified information.

If, however, in conducting the activities supported under an award, the PI or co-PI is concerned that any of the research results involve potentially classifiable information that may warrant Government restrictions on the dissemination of the results, the PI or co-PI should promptly notify the cognizant NSF Program Officer.

### **35. Animal Welfare**

a. Any recipient performing research on live vertebrate animals<sup>11</sup> must comply with the Animal Welfare Act (7 U.S.C. § 2131 et seq.) and the regulations promulgated thereunder by the Secretary of Agriculture (9 CFR §§ 1.1-4.11) pertaining to the humane care, handling treatment of live vertebrate animals held or used for research, teaching or other activities supported by Federal awards. The recipient is expected to ensure that the guidelines described in the National Academies of Sciences, Engineering and Medicine (NASEM) Publication, "*Guide for the Care and Use of Laboratory Animals*" are followed and to comply with the *Public Health Service Policy and Government Principles Regarding the Care and Use of Animals* (included as Appendix D to the NASEM Guide). Further guidance on the use of live vertebrate animals in NSF funded projects can be found in [PAPPG Chapter XI.B.3](#).

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<sup>11</sup> In addition to vertebrate animals covered by the Animal Welfare Act, the requirements specified in this term and condition also are extended to rats, birds, and mice.

b. The recipient must include NSF-supported activities with live vertebrate animals as covered activities in their Office of Laboratory Animal Welfare (OLAW) Animal Welfare Assurance. Further, they must promptly report situations involving NSF-supported animal activities to OLAW as required by the Public Health Service (PHS) [Policy on Humane Care and Use of Laboratory Animals](#) Section IV.F.3. The cognizant NSF Program Officer also should be notified.

c. Any changes to, or lapses in, the Institutional Animal Care and Use Committee approved animal use protocols associated with an NSF award must be reported promptly by the recipient to the cognizant NSF Program Officer.

d. In the event the recipient's multi-project Assurance is cancelled or lapses, the recipient must immediately notify the cognizant NSF Grants and Agreements Officer(s) identified in the award notice.

e. Research facilities subject to the Animal Welfare Act using or intending to use live animals in research and who receive Federal funding are required to register the facility with the Animal and Plant Health Inspection Service (APHIS), US Department of Agriculture (USDA). The location of the nearest APHIS Regional Office, as well as information concerning this and other APHIS activities, may be obtained at <http://www.aphis.usda.gov/>.

### **36. Research Involving Recombinant or Synthetic Nucleic Acid Molecules**

If this award supports research involving recombinant or synthetic nucleic acid molecules, the recipient agrees to comply with the [Guidelines for Research Involving Recombinant or Synthetic Nucleic Acid Molecules](#) (NIH Guidelines) including the procedural requirements and any subsequent revisions as they are published in the Federal Register. Further information on research awards that involve recombinant or synthetic nucleic acid molecules can be found in [PAPPG Chapter XI.B.2](#).

### **37. Clean Air and Water**

(Applicable only if the award exceeds \$150,000, or a facility to be used has been the subject of a conviction under the Clean Air Act (42 U.S.C. § 7413(c)(1)) or the Clean Water Act (33 U.S.C. § 1319(c)) and is listed by the Environmental Protection Agency (EPA), or the award is not otherwise exempt.)

The recipient agrees as follows:

a. To comply with all the requirements of Section 114 of the *Clean Air Act* (42 U.S.C. § 7414) and Section 308 of the *Clean Water Act* (33 U.S.C. § 1318), respectively, relating to inspection, monitoring, entry, reports and information, as well as other requirements specified in Section 114 and Section 308 of the *Clean Air Act* and the *Clean Water Act*, respectively, and all regulations and guidelines issued thereunder before the issuance of the cooperative agreement.

b. That no portion of the work required by the award will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date that the award was issued unless and until EPA eliminates the name of such facility or facilities from such listing.

c. To use its best efforts to comply with clean air standards and clean water standards at the facility in which the award is being performed.

d. To insert the substance of the provisions of this Term and Condition into any nonexempt subaward.

### **38. Human Research Subjects**

The recipient is responsible for the protection of the rights and welfare of any human subjects involved in research, development and related activities supported by this award. The recipient agrees to comply with the NSF regulation, entitled, "Protection of Human Subjects (45 CFR § 690)."

### **39. Potential Life Sciences Dual Use Research of Concern (DURC)**

This term and condition applies to all research, for which NSF award funds may be used, that potentially falls within the scope of [the US Government Policy for Institutional Oversight of Life Sciences Dual Use Research of Concern](#) as published in September 2014, and/or would fall under the Department of Health and Human Services [Framework for Guiding Decisions about Proposed Research Involving Enhanced Potential Pandemic Pathogens](#), as published in January 2017, hereafter referred to as the "Policy". See also [PAPPG Chapter XI.B.5](#).

The recipient is responsible for monitoring the research progress and for implementation of all appropriate biosafety and biosecurity risk mitigation measures including compliance with all applicable laws and regulations related to that implementation, including the Policy specified above. While the White House Office of Science and Technology Policy has lifted the research funding pause on [gain of function research](#) as of January 2017, NSF will not consider funding research that would lead to a gain of function for agents associated with the U.S. Government Policy on Dual Use Research of Concern. NSF will not fund research that involves the creation, transfer or use of enhanced potential pandemic pathogens except under special circumstances where the potential benefits to society far outweigh the risks and all other conditions of the Policy are met.

Each organization involved in the conduct of NSF-supported research that utilizes select agents or other enhanced potential pandemic pathogens, as defined by the Policy, must have a standing Institutional Biosafety Committee (IBC) or other Institutional Review Entity (IRE) whose role is the review of research involving agents covered by the Policy.

Use of the select agents or other potential pandemic pathogens as defined by the Policy must be registered with the Centers for Disease Control and Prevention or USDA as directed under the [Select Agent Regulations](#).

In the rare cases where NSF funds research that involves the creation, transfer, or use of enhanced potential pandemic pathogens, then special award conditions will be applied to ensure adequate oversight by the cognizant NSF Program Officer or other NSF official. Award terms and conditions also will specify the establishment of a risk mitigation plan for the research that must be reviewed and approved by the IRE and NSF, as well as the requirement of maintenance of records of institutional review of the research and risk mitigation activities for three years after completion of the project.

#### **40. Investigator Financial Disclosure Policy**

If the recipient employs more than 50 persons, the recipient must maintain an appropriate written and enforced policy on conflict of interest consistent with the provisions of [PAPPG Chapter IX.A](#).

#### **41. Whistleblower Protection**

The recipient is notified of the applicability of 41 U.S.C. § 4712, Enhancement of contractor protection from reprisal for certain disclosures of information, which protects employees of recipients and subrecipients from reprisals for making certain disclosures. Recipients are notified that they must inform their employees in writing of the rights and remedies provided under this law, in the predominant native language of the workforce. This requirement and notification must be included in any subaward documents.

#### **42. State Sales and Use Taxes**

The recipient is reminded that the governing cost principles cited in Term and Condition Allowable Costs limit the allowability of taxes to those the organization is required to pay. The recipient must avail itself of any tax exemptions for which any activities supported by Federal funds may qualify, including any applicable exemptions from State or local sales and use taxes on the purchase of goods and services made with NSF award funds.

#### **43. Build America, Buy America**

a. The recipient is subject to the Buy America Sourcing requirements under [2 CFR part 184](#), Buy America Preferences for Infrastructure Projects, when using Federal funds for the purchase of goods, products, and materials on any form of construction, alteration, maintenance, or repair of infrastructure in the United States regardless of the appropriation.

These sourcing requirements require that all iron, steel, manufactured products, and construction materials used in Federally funded infrastructure projects must be produced in the United States. The recipient must implement these requirements in its procurements, and this term and condition must flow down to all subawards and contracts at any tier. For legal definitions and sourcing requirements, and construction material standards, the recipient must consult [2 CFR § 184.7](#). Additional guidance may be found on NSF's Implementation of the Act on the [Build America, Buy America website](#).

b. When supported by rationale provided in [2 CFR § 184.7](#), the recipient must submit a waiver request to the cognizant NSF Program Officer and Grants and Agreements Officer. Non-compliant purchases must not be made in advance of waiver approval. Guidance on the submission of an NSF waiver request is available on the [Build America, Buy America website](#).

#### **44. Recipient Integrity and Performance Matters**

The recipient must fully comply with the requirements stipulated in [Appendix XII to Part 200](#) of 2 CFR part 200, entitled "Award Term and Condition for Recipient Integrity and Performance Matters." See also Term and Condition Termination and Enforcement of these terms and conditions for NSF's responsibilities regarding reporting award terminations in SAM. In addition, Term and Condition Project Reporting Requirements specifies NSF responsibilities to report in Responsibility/Qualification in SAM.gov a recipient's failure to submit all required reports.

#### 45. Breach of Personally Identifiable Information

A recipient that uses or operates a Federal information system or creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of Personally Identifiable Information (PII) within the scope of an NSF award, must have procedures in place to respond to a breach of PII. These procedures should promote cooperation and the free exchange of information with NSF, as needed to properly escalate, refer and respond to a breach. The recipient must notify the cognizant NSF Grants and Agreements Officer upon learning that a breach of PII within the scope of an NSF award has occurred.

#### 46. Post-award Disclosure of Current Support and In-Kind Contribution Information

If an organization discovers that a PI or co-PI on an active NSF award failed to disclose current support or in-kind contribution information<sup>12</sup> as part of the proposal submission process (see [PAPPG Chapter II.D.2.h\(ii\)](#)), the AOR must submit the following information within 30 calendar days of the identification of the undisclosed current support or in-kind contribution through use of the Notification and Request Module in Research.gov.

##### Post-award Disclosure of Project Support Information

- PI/co-PI Name:
- Project Title:
- Award Number (if available):
- Source of Support:
- Primary Place of Performance:
- Project Start and End Date:
- Total Award Amount (including Indirect Costs): \$
- Brief Description of the Major goals of the project:
- Description of any Overlap/Duplication of the project with the NSF award:
- Impact on the ability of the PI/co-PI to carry out the NSF award:
- Person-Month(s) (or Partial Person-Months) Per Year Committed to the Project:
  - Enter the applicable year (e.g., 2024, 2025):

Enter the number of person-month(s) (or partial person-months):

- Enter the applicable year (e.g., 2024, 2025):

Enter the number of person-month(s) (or partial person-months):

- Enter the applicable year (e.g., 2024, 2025):

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<sup>12</sup> The post-award disclosure requirement applies to current support (including in-kind contributions) that was active as of the date the proposal was submitted to NSF. See [NSTC Pre-award and Post-award Disclosures Relating to the Biographical Sketch and Current and Pending \(Other\) Support](#) which has been developed to assist users in determining the types of activities that must be disclosed.

Enter the number of person-month(s) (or partial person-months):

- Enter the applicable year (e.g., 2024, 2025):

Enter the number of person-month(s) (or partial person-months):

- Enter the applicable year (e.g., 2024, 2025):

Enter the number of person-month(s) (or partial person-months):

### **Post-award Disclosure of In-Kind Contribution Information**

- PI/co-PI Name:
  - Source of Support:
  - Primary Place of Performance:
  - Summary of In-kind Contributions:
  - Description of any Overlap/Duplication of the project with the NSF award:
  - Impact on the ability of the PI/co-PI to carry out the NSF award:
  - Person-Month(s) (or Partial Person-Months) Per Year Committed to the Project:
- Enter the applicable year (e.g., 2023, 2024):

Enter the number of person-month(s) (or partial person-months):

- Enter the applicable year (e.g., 2023, 2024):

Enter the number of person-month(s) (or partial person-months):

- Enter the applicable year (e.g., 2023, 2024):

Enter the number of person-month(s) (or partial person-months):

- Enter the applicable year (e.g., 2023, 2024):

Enter the number of person-month(s) (or partial person-months):

- Enter the applicable year (e.g., 2023, 2024):

Enter the number of person-month(s) (or partial person-months):

- Dollar Value of In-kind Contribution: \$

Upon receipt and review of the information provided, NSF may consult with the AOR, or designee, if necessary. Based on the results of this review, the Foundation will determine the impact of the new information on the NSF-funded award, and, where necessary, take appropriate action



#### **47. Malign Foreign Talent Recruitment Program Certification**

Pursuant to Section 10632 (42 U.S.C. § 19232) of the CHIPS and Science Act of 2022, each PI and co-PI identified on a proposal submitted or due on or after May 20, 2024, that results in an award, must certify annually in Research.gov, for the duration of the award that such individual is not a party to a malign foreign talent recruitment program.

These certifications shall not apply retroactively to proposals submitted prior to May 20, 2024.

False representations may be subject to prosecution and liability pursuant to, but not limited to, 18 U.S.C. §§ 287, 1001, 1031 and 31 U.S.C. §§ 3729-3733 and 3802.

#### **48. Postaward Additions of Postdoctoral Scholars or Graduate Students**

If the recipient rebudgets funds to support a postdoctoral scholar or graduate student and the original proposal included a mentoring plan, no further documentation is necessary. If the original proposal did not include a mentoring plan, then the recipient must email the cognizant NSF Program Officer the requisite mentoring plan, as described in [PAPPG Chapter II.D.2.i\(i\)](#).

If supplemental funding is requested to support a postdoctoral scholar or graduate student and the original proposal did not include a mentoring plan, then the supplemental funding request must include the requisite mentoring plan, as described in PAPPG Chapter II.D.2.i(i). The plan should be uploaded to the “Other Supplementary Documents” section of the Research.gov Supplemental Funding Request module.

In all cases, a PI or co-PI must report on the mentoring activities provided to the individual in the annual and final annual project reports.

#### **49. Individual Development Plans for Postdoctoral Scholars and Graduate Students**

In accordance with Section 10313 (42 U.S.C. § 18993) of the CHIPS and Science Act of 2022, for each NSF award that provides substantial support to postdoctoral scholars and graduate students, each individual must have an individual development plan, which is updated annually, that maps the educational goals, career exploration, and professional development of the individual. NSF defines “substantial support” as an individual that has received funding for one person month or more during the annual reporting period under the NSF award. See also Term and Condition Project Reporting Requirements for the annual certification requirement.

#### **50. Fee Payments**

Payment of fee is allowable only if expressly authorized by solicitation and the terms and conditions of the NSF award.

#### **51. Section 889 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019**

Section 889 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2019 (Public Law 115-232) prohibits the head of an executive agency from obligating or expending loan or award funds to procure or obtain, extend, or renew a contract to procure or obtain, or enter into a contract (or extend or renew a contract) to procure or obtain the equipment, services, or systems



as identified in section 889 of the NDAA for FY 2019.

a. In accordance with [2 CFR §§ 200.216](#) and [200.471](#), for all awards that are issued on or after August 13, 2020, recipients and subrecipients are prohibited from obligating or expending loan or award funds to:

i. Procure or obtain;

ii. Extend or renew a contract to procure or obtain; or

iii. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(a) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(b) Telecommunications or video surveillance services provided by such entities or using such equipment.

(c) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

b. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, award, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

c. See Public Law 115-232, section 889 for additional information.

## **52. Debarment and Suspension**

The recipient shall fully comply with the requirements stipulated in [Subpart C of 2 CFR part 180](#), entitled "[Responsibilities of Participants Regarding Transactions Doing Business With Other Persons](#)" as supplemented by NSF's regulations at [2 CFR part 2520](#). The recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of [Subpart B of 2 CFR part 180](#), entitled "[Covered Transactions](#)," includes a term or condition requiring compliance with Subpart C. The recipient also is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transaction. The recipient acknowledges that failing to disclose the information required under [45 CFR § 180.335](#) may result in the

termination of the award, or pursuance of other available remedies, including suspension and debarment.

### **53. Changes to the Cooperative Agreement**

The Recipient may request changes or additions to the cooperative agreement. Any such changes must be set forth in writing, agreed to by NSF and approved by the cognizant NSF Grants and Agreements Officer.

### **54. Limitation of Funds**

This award shall be limited to amounts currently obligated to the award. The recipient bears the risk of making its own obligations, expenditures, or commitments above the current obligation of funds on this award and under no circumstance is NSF required to increase the award ceiling to accommodate additional obligations, expenditures, or commitments.

### **55. Resolution of Conflicting Conditions**

- a. If the SBIR/STTR-II-CA-FATC is silent on a specific area covered by 2 CFR (including 2 CFR part 200), the requirements specified in 2 CFR must be followed.
- b. Should there be any inconsistency between 2 CFR (including 2 CFR part 200) and the NSF *Proposal and Award Policies and Procedures Guide*, 2 CFR applies.
- c. Should there be any inconsistency between SBIR/STTR-II-CA-FATC and the NSF *Proposal and Award Policies and Procedures Guide*, the SBIR/STTR-II-CA-FATC governs.
- d. Should there be any inconsistency between any special condition(s) specified in the award notice and SBIR/STTR-II-CA-FATC, the special conditions in the award notice shall govern.
- e. Should there be any inconsistency between SBIR/STTR-II-CA-FATC and any NSF solicitation cited or incorporated by reference in the award notice, the matter should be referred to the cognizant NSF Grants and Agreements Officer for guidance.

### **56. Resolution of Disagreements and Disputes**

Disagreements and disputes of fact arising under this cooperative agreement that are not resolved through informal discussions will be subject to the written decision of the cognizant NSF Grants and Agreements Officer. This decision will be final unless, within 30 days of receipt of the decision, the recipient makes a written request for review to the Division Director, Division of Grants and Agreements (DGA), NSF. The request for review must contain a full statement of the recipient's position and the pertinent facts and reasons in support of the position. Review will follow the procedures stipulated under [PAPPG Chapter XII.B.3](#).

## **Other Considerations**

### **57. Use of SBIR/STTR Awards as Collateral**

SBIR/STTR recipients must not use or assign NSF award funds as direct collateral for private loans.

### **58. Liability**

NSF cannot assume any liability for accidents, bodily injury, illness, breach of contract, any other damages or loss or any claims arising out of any activities undertaken pursuant to the award, whether with respect to persons or property of the recipient or third parties. The recipient is advised to insure or otherwise protect itself or others, as it may deem desirable. Costs associated with insurance and liabilities are addressed in the applicable cost principles.

### **59. Sharing of Findings, Data and Other Research Products**

a. When doing so would not negatively impact any proprietary or commercial interest of the recipient(s), NSF expects significant findings from research and education activities it supports to be promptly submitted for publication, with authorship that accurately reflects the contributions of those involved. With the same caveat, it expects investigators to share with other researchers, at no more than incremental cost and within a reasonable time, the data, samples, physical collections and other supporting materials created or gathered in the course of the work. With the same caveat, it also encourages the recipient to share software and inventions or otherwise act to make the innovations they embody widely useful and usable.

b. Adjustments and, where essential, exceptions may be allowed to safeguard the rights of individuals and subjects, the validity of results or the integrity of collections or to accommodate legitimate interests of investigators.

### **60. Partnerships with Foreign Collaborators**

The NSF must have advanced knowledge of proposed or funded recipient activities with foreign entities.

Accordingly, prior to making a commitment to such foreign entities as described above, and prior to negotiating the terms of any potential international agreement, the recipient shall submit to the NSF advance notification of proposed plans for international scientific cooperative programs that involve the use of personnel, facilities and/or services or in-kind contributions.

Advance notification to the NSF should identify the projects and individuals involved and the purpose of the cooperative program, and should specify the duration, location and magnitude of the proposed activity.

These provisions are not intended to require notifications to the NSF of the routine use of the recipient's services and facilities by foreign investigators or the routine use of foreign facilities by recipient staff in accordance with the recipient's standard policies and procedures.

## **61. Government Permits and Activities Abroad**

- a. For awards that include activities requiring permits from appropriate Federal, State or local government authorities, the recipient should obtain any required permits prior to undertaking the proposed activities.
- b. The recipient must comply with the laws and regulations of any foreign country in which research is to be conducted. Areas of potential concern include:
  - (1) requirements for advance approval to conduct research or surveys;
  - (2) special arrangements for the participation of foreign scientists and engineers; and
  - (3) special visas for persons engaged in research or studies. NSF does not assume responsibility for recipient compliance with the laws and regulations of the country in which the work is to be conducted.
- c. The recipient also should assure that activities carried on outside the US are coordinated as necessary with appropriate US and foreign government authorities and that necessary licenses, permits or approvals are obtained prior to undertaking the proposed activities.