

**EPA RESEARCH AND RELATED
AGENCY SPECIFIC REQUIREMENTS
(September 2013)**

Environmental Protection Agency Home Page <http://www.epa.gov>
EPA Grants Information <http://www.epa.gov/epahome/grants.htm>
National Center for Environmental Research <http://www.epa.gov/ncer/>
OMB Circulars <http://www.whitehouse.gov/omb/circulars>

Article 1. Awards Covered by Research and Related T&Cs

Research grants and cooperative agreements awarded by the Office of Research and Development. The standard Research terms and conditions will not apply to research centers, conferences, training projects, fellowships, or awards made as part of the People, Prosperity, and the Planet (P3) program.

Article 2. Prior Approval Requirements Not Included in the General T&Cs

Prior written EPA approval is required for foreign travel.

Prior written EPA approval is required for (1) projects exceeding 5 years and (2) projects needing extensions beyond that authorized in Research and Related General Term and Condition 25(c)(2). See Article 8, Paragraph F.

Article 3. Unallowable Direct Costs Aside from Those in A-21/A-122

None

Article 4. Contact Information for Technical Matters

Questions regarding technical matters should be referred to the EPA project officer cited in the assistance agreement.

Article 5. Contact Information for Administrative Matters

Questions regarding administrative matters should be referred to the EPA grant specialist cited in the assistance agreement.

Article 6. Contact Information for Intellectual Property Matters

Questions regarding intellectual property matters should be referred to the EPA grant specialist cited in the assistance agreement.

Article 7. Revised Budget Requirements

EPA does not require standard budget forms. Revised budgets should be submitted in the same general format as the original budget submission.

Article 8. Technical Reporting

General. As a result of this agreement, the recipient agrees to provide to EPA's Office of Research and Development (ORD) annual progress reports with associated summaries, and a final report with an executive summary along with a copy of any papers resulting from the research conducted.

A. Annual Progress Reports. The recipient agrees to submit annual progress reports to the EPA Project Officer within 90 calendar days after the end of each reporting period. If the agreement was partially funded, so that an additional increment of funding is to be provided, EPA may elect to not provide further funding until the recipient has submitted the required annual progress report. EPA may withhold payment if progress reports are not submitted by the due date. In addition, if EPA determines that the recipient has not made sufficient progress toward completing its research, EPA may terminate the assistance agreement. Sufficient progress is demonstrated by the grantee meeting the project schedule and milestones described in the approved research plan to the maximum extent practicable, while taking into account any extenuating factors that may have delayed progress. The reporting period begins at the project start date, or, for subsequent years, on the annual anniversary of the start date. The reports should generally not exceed five 8 1/2" X 11" pages, exclusive of the summary discussed below.

These reports shall include:

- (1) Brief statements covering work status, work progress, preliminary data, results, and evaluations made during the reporting period, including a comparison of actual accomplishments with the goals and objectives (outputs/outcomes) for the period. Address difficulties you have encountered (or might encounter) in carrying out this project and remedial actions (to be) taken. If the goals of the project have not changed from the original application, state this. If these have been modified, provide the revised goals and discuss the reason for the modification. Discuss any problems, delays, or adverse conditions which may materially impair the ability to meet the results (outputs/outcomes) specified in the application.
- (2) A discussion of any absence or changes of key personnel involved in the project.
- (3) A discussion of expenditures to date along with an explanation of any costs which are significantly higher or lower than originally estimated. Revised budget information will be required under this agreement if any significant changes in the size or scope of the project or in the originally-negotiated total estimated costs are anticipated for the project period.

- (4) Statements addressing how the quality assurance requirements of 40 C.F.R. Part 30.54 and the agreement are being met, especially focusing on the system in place that assures the quality of environmental measurements, data generation and use.
- (5) Results (outputs/outcomes) to date, emphasizing findings and their significance to the field, their relationship to the general goals of the award, their relevance to the Agency's mission, and their potential practical applications.
- (6) Assurance that research misconduct has not occurred during the reporting period. EPA defines research misconduct as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results [65 FR 76262. I], or ordering, advising or suggesting that subordinates engage in research misconduct.
- (7) Planned activity for the subsequent reporting period, including a description of equipment, techniques, and materials to be used or evaluated.
- (8) Publications arising from this project. Copies of publications and reprints which have not previously been submitted to the Agency should be enclosed with the report. The publication list should be cumulative of previous Annual Reports.
- (9) In addition, the recipient agrees to submit Annual Report Summaries with each annual progress report for posting on the Internet. These will be placed on EPA/ORD website(s). EPA will not alter the content of a summary without consultation with the Principal Investigator(s). The summary should be submitted in the following format:

EPA Assistance Agreement Annual Report Summary (1-2 pages)

Period Covered by the Report:

Date of Report:

EPA Agreement Number:

Title:

Investigators:

Institution:

Research Category:

Project Period:

Objective of Research:

Progress Summary/Accomplishments (Outputs/Outcomes):

Publications/Presentations:

Future Activities:

Supplemental Keywords:

Relevant Websites:

B. Final Report. The recipient agrees to submit a final report to the EPA Project Officer within 90 calendar days after the expiration of the project period. The Project Officer may require clarifications of the final report before the report is considered acceptable. Although there are no page restrictions on the final report (other than on the executive summary below), EPA does not expect a final report of great length. However, this document shall include a discussion of:

(1) Project activities over the entire period of funding, describing the recipient's achievements with respect to the stated project goals and objectives (outputs/outcomes).

(2) Complete details of all technical aspects of the project--both negative and positive--the recipient's findings, conclusions, and results, including the associated quality assurance results.

(3) An evaluation of (a) the technical effectiveness and economic feasibility of the methods or techniques investigated or demonstrated, if applicable and (b) an explanation of how the research adds to the understanding of or solutions for environmental problems or is otherwise of benefit to the environment and human health. This discussion should be a minimum of one paragraph long and written in terms understandable by the educated layman.

(4) Publications arising from this project. Copies of publications and reprints which have not previously been submitted to the Agency should be enclosed with the report. The publication list should be cumulative of previous Annual Reports.

(5) For projects involving computer modeling, if requested by the PO, the recipient agrees to provide the following information with the final report:

- a. Model description, key assumptions, version, source and intended use;
- b. Performance criteria for the model related to the intended use;
- c. Test results to demonstrate the model performance criteria were met (e.g., code verification, sensitivity analyses, history matching with lab or field data, as appropriate);
- d. Theory behind the model, expressed in non-mathematical terms;
- e. Mathematics to be used, including formulas and calculation methods;
- f. Whether or not the theory and mathematical algorithms were peer reviewed, and, if so, include a summary of theoretical strengths and weaknesses;
- g. Number and uncertainty associated with parameters (how data was selected/obtained and assessed to assure it met requirements, or, documentation of the weakness due to known uncertainty and variability);
- h. Input data requirements and how data will be selected/obtained and later assessed to assure it met requirements, or, documentation of the weakness due to known uncertainty and variability;
- i. Hardware requirements; and
- j. Documentation (e.g., users' guide, journal publications, model code).

(6) In addition, the recipient agrees to submit an Executive Summary with the final report for posting on the Internet. This will be placed on EPA/ORD website(s) along with a list of publications. EPA will not alter the content of a summary without consultation with the Principal Investigator(s). Note: the recipient need not create this summary if the final report is ten pages or less, and is suitable for inclusion in the EPA website. The summary should be submitted in the following format:

EPA Assistance Agreement Final Report Executive Summary (3-5 pages)

Period Covered by the Report:

Date of Final Report:

EPA Agreement Number:

Title:

Investigators:

Institution:

Research Category:

Project Period:

Objective of Research:

Summary of Findings (Outputs/Outcomes):

Publications/Presentations:

Supplemental Keywords: (do not duplicate terms used in Progress summary)

Relevant Websites:

C. Annual Meeting Attendance. The Principal Investigator(s) will attend annual EPA Research Grants Seminars (otherwise known as progress reviews or All-Investigators Meetings) if requested by EPA, to present and discuss the project. Per EPA instructions, expenses for travel to these meetings have been provided within the funding for this agreement.

D. Publications and/or Other Public Release of Results.

(1) EPA encourages the independent publication of the results of its extramural research in appropriate scientific journals. Any journal article so published, however, must contain acknowledgement of the appropriate grant number and the following statement:

“This publication [article] was developed under Assistance Agreement No. _____ awarded by the U.S. Environmental Protection Agency to [name of recipient]. It has not been formally reviewed by EPA. The views expressed in this document are solely those of [name of recipient or names of authors] and do not necessarily reflect those of the Agency. EPA does not endorse any products or commercial services mentioned in this publication.”

The Lead/Contact principal investigator is responsible for ensuring that all members of the project team comply with these acknowledgement requirements.

(2) Additionally, an acknowledgment of EPA support should be included on presentations, posters, websites, and stated during all media interviews.

(3) The recipient is strongly encouraged to continue to notify the Project Officer of any papers that are published based on the research under the agreement. EPA intends to post references to all publications resulting from the agreement on the EPA website.

(4) The recipient agrees to submit one copy of each peer reviewed journal article(s) resulting from this research, in addition to the final technical report.

E. Form of Reports. The recipient agrees to provide final and annual reports and associated summaries in an electronic format. The electronic versions shall be submitted in PC format, using commonly available word processing software or PDF. When requested by the Project Officer, these reports shall also be submitted in hardcopy format.

F. Other recipient responsibilities.

In accordance with Section 25(c)(2) of the Research Terms and Conditions implementing Part 215, the recipient may initiate a one-time no-cost extension of this project of up to 12 months by notifying EPA in writing, with the supporting reasons and revised project period end date, at least ten calendar days before the project period end date specified in the award agreement. Notwithstanding Section 25(c)(2) of the Research Terms and Conditions, if the extension causes the project period to exceed five years or is in addition to a previously requested one-time no-cost extension of this project, the extension should be requested at least 75 calendar days in advance of the project period end date and approved by EPA. These approvals are necessary due to EPA Office of Research and Development policy.

G. Foreign Travel

No foreign travel will be funded by this agreement without prior written approval of the EPA. The recipient agrees to notify the EPA Project Officer at least 60 days before any proposed foreign travel to allow the EPA sufficient time to obtain the appropriate clearances. The recipient understands that funds awarded under this assistance agreement may not be used for international activities unless prior written notification is received from the EPA Project Officer that the international activities have been approved by EPA's Office of International and Tribal Affairs. For purposes of this condition, international activities include any foreign travel paid for with EPA funds. In addition, the recipient understands that all foreign travel must comply with the Fly America Act. All travel must be on U.S. air carriers certificated under 49 U.S.C. Section 1371, to the extent that service by such carriers is available even if foreign air carrier costs are less than the American Carrier.

H. Human Subjects

No research involving human subjects will be conducted under this agreement without prior written approval of the EPA. The recipient agrees to comply with all applicable provisions of EPA Regulation 40 CFR 26 (**Protection of Human Subjects**). This includes, at Subpart A, the Basic Federal Policy for the Protection of Human Research Subjects, also known as the Common Rule. It also includes, at Subparts B, C, and D, prohibitions and additional protections for children, nursing women, pregnant women, and fetuses in research conducted or supported by EPA.

The recipient further agrees to comply with EPA's procedures for oversight of the recipient's compliance with 40 CFR 26, as given in EPA Order 1000.17 Change A1 (**Policy and Procedures on Protection of Human Research Subjects in EPA Conducted or Supported Research**). As per this order, no human subject may be

involved in any research conducted under this assistance agreement, including recruitment, until the research has been approved or determined to be exempt by the EPA Human Subjects Research Review Official (HSRRO) after review of the approval or exemption determination of the Institutional Review Board(s) (IRB(s)) with jurisdiction over the research under 40 CFR 26. For HSRRO approval, the recipient must forward: (1) copies of all documents upon which the IRB(s) with jurisdiction based their approval(s) or exemption determination(s), (2) copies of the IRB approval or exemption determination letter(s), (3) copy of the IRB-approved consent forms and subject recruitment materials, if applicable, and (4) copies of all supplementary IRB correspondence. The project officer will forward these to the HSRRO for review and approval, which must be obtained in writing before the research can begin.

Following the initial approvals indicated above, the recipient must provide, as part of the annual report(s), evidence of continuing review and approval of the research by the IRB(s) with jurisdiction, as required by 40 CFR 26.109(e). During the course of the research, investigators must promptly report any unanticipated problems involving risk to subjects or others according to requirements set forth by the IRB.

I. Light Refreshments and Meals

Unless the event(s) and all of its components (i.e., receptions, banquets and other activities that take place after normal business hours) are described in the approved workplan, the recipient agrees to obtain prior approval from EPA for the use of grant funds for light refreshments and/or meals served at meetings, conferences, training workshops, and outreach activities (events). The recipient must send requests for approval to the EPA Project Officer and include:

- (1) An estimated budget and description for the light refreshments, meals, and/or beverages to be served at the event(s);
- (2) A description of the purpose, agenda, location, length and timing for the event.
- (3) An estimated number of participants in the event and a description of their roles.

Recipients may address questions about whether costs for light refreshments, and meals for events are allowable to the recipient's EPA Project Officer. However, the Agency Award Official or Grant Management Officer will make final determinations on allowability. Agency policy prohibits the use of EPA funds for receptions, banquets and similar activities that take place after normal business hours unless the recipient has provided a justification that has been expressly approved by EPA's Award Official or Grants Management Officer.

Note: U.S. General Services Administration regulations define light refreshments for morning, afternoon or evening breaks to include, but not be limited to, coffee, tea, milk, juice, soft drinks, donuts, bagels, fruit, pretzels, cookies, chips, or muffins. (41 CFR 301-74.11)

J. Electronic and Information Technology Accessibility

Recipients and subrecipients are subject to the program accessibility provisions of Section 504 of the Rehabilitation Act, codified in 40 CFR Part 7, which includes an obligation to provide individuals with disabilities reasonable accommodations and an equal and effective opportunity to benefit from or participate in a program, including those offered through electronic and information technology (“EIT”). In compliance with Section 504, EIT systems or products funded by this award must be designed to meet the diverse needs of users (e.g., U.S. public, recipient personnel) without barriers or diminished function or quality. Systems shall include usability features or functions that accommodate the needs of persons with disabilities, including those who use assistive technology. At this time, the EPA will consider a recipient’s websites, interactive tools, and other EIT as being in compliance with Section 504 if such technologies meet standards established under Section 508 of the Rehabilitation Act, codified at 36 CFR Part 1194. While Section 508 does not apply directly to grant recipients, we encourage recipients to follow either the 508 guidelines or other comparable guidelines that concern accessibility to EIT for individuals with disabilities. Recipients may wish to consult the latest Section 508 guidelines issued by the US Access Board or W3C’s Web Content Accessibility Guidelines (WCAG) 2.0(see <http://www.access-board.gov/sec508/guide/index.htm>).

Article 9. Financial Reporting

Pursuant to 40 CFR 30.52(a)(1) and 30.71(a), EPA recipients shall submit a final Federal Financial Report (SF-425) to EPA no later than 90 calendar days after the end of the project period. The form is available on the internet at <http://www.epa.gov/ocfo/finservices/forms.htm> . All FFRs must be submitted to the Las Vegas Finance Center: US EPA, LVFC, PO Box 98515, Las Vegas, NV 89193, or by Fax to: 702-798-2423.

The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the close-out of the assistance agreement.

EPA may take enforcement actions in accordance with 40 CFR 30.62 if the recipient does not comply with this term and condition.

Article 10. Incremental Funding Actions

Generally, no additional documentation is required to initiate an increment.

EPA AGENCY SPECIFIC REQUIREMENTS RELATED TO ARTICLES IN THE GENERAL TERMS AND CONDITIONS

Article 11. Payments (Reference: Research and Related Article 22)

a. The Debt Collection Improvement Act of 1996 requires that Federal payments be made by electronic funds transfer. In order to comply with the Act, a recipient must receive payments via one of two electronic methods available to them:

1. Automated Standard Application for Payments (ASAP)

The ASAP system is the preferred method of payment for EPA grantees. ASAP enrollment is highly encouraged for organizations that have multiple grants/cooperative agreements and for those with a frequent need to request funds. If your organization uses multiple bank accounts for EPA grants/cooperative agreements, you must enroll in ASAP. If you are interested in requesting and receiving funds paperless and electronically via ASAP, please complete the ASAP Initiate Enrollment form located at <http://www.epa.gov/ocfo/finservices/forms.htm> and fax it to LVFC at 702-798-2423.

Under this payment mechanism, the Recipient initiates, via ASAP, an electronic payment request which is approved or rejected based on the amount of available funds authorized by EPA in the Recipient's account. Approved funds are credited to the recipient organization at the financial institution identified on the recipient's ASAP enrollment application. Additional information concerning ASAP and enrollment can be obtained by contacting the EPA Las Vegas Finance Center, at (702) 798-2485, or by visiting www.fms.treas.gov/asap.

2. Electronic Funds Transfer (EFT)

Under this payment mechanism, the EPA Las Vegas Finance Center will obtain your organization's banking information from your System for Award Management (SAM) registration. Upon completion of required training, if applicable, and receipt of the award affirmation, a Las Vegas Finance Center Representative will send you an email message with your EFT Control Number and payment information. Additional information concerning EFT can be obtained by contacting the EPA Las Vegas Finance Center at (702) 798-2485, or by visiting <http://www.epa.gov/ocfo/finservices/payinfo.htm>

NOTE: If your banking information is not correct or changes at any time prior to the end of your agreement, please update your SAM registration and notify the EPA Las Vegas Finance Center as soon as possible so the new banking information can be retrieved. This is vital to ensure proper and timely deposit of funds.

b. In accepting this assistance agreement, the recipient agrees to draw cash only as needed for its disbursement. Failure on the part of the recipient to comply with this condition may cause the undisbursed portions of the assistance agreement to be revoked and financing method changed to a reimbursable basis.

OTHER AGENCY REQUIREMENTS

Article 12. Lobbying (All Non Profit Organizations)

In accordance with Section 18 of the Lobbying Disclosure Act of 1995, PL. No. 105-65, 109 Stat. 691, the recipient affirms that:

- (1) it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or
- (2) it is a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986 but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act of 1995.

Article 13. Subawards

- a. The recipient agrees to:
 - (1) Establish all subaward agreements in writing;
 - (2) Maintain primary responsibility for ensuring successful completion of the EPA-approved project (this responsibility cannot be delegated or transferred to a subrecipient);
 - (3) Ensure that any subawards comply with the standards in Section 210(a)-(d) of OMB Circular A-133 and are not used to acquire commercial goods or services for the recipient;
 - (4) Ensure that any subawards are awarded to eligible subrecipients and that proposed subaward costs are necessary, reasonable, and allocable;
 - (5) Ensure that any subawards to 501(c)(4) organizations do not involve lobbying activities;
 - (6) Monitor the performance of their recipients and ensure that they comply with all applicable regulations, statutes, and terms and conditions which flow down in the subaward;
 - (7) Obtain EPA's consent before making a subaward to a foreign or international organization, or a subaward to be performed in a foreign country; and
 - (8) Obtain approval from EPA for any new subaward work that is not outlined in the approved work plan in accordance with 40 CFR Parts 30.25 and 31.30, as applicable.
- b. Any questions about subrecipient eligibility or other issues pertaining to subawards should be addressed to the recipient's EPA Project Officer. Additional information regarding subawards may be found at <http://www.epa.gov/ogd/guide/subaward-policy-part-2.pdf>. Guidance for distinguishing between vendor and subrecipient relationships and ensuring compliance with Section 210(a)-(d) of OMB Circular A-133 can be found at <http://www.epa.gov/ogd/guide/subawards-appendix-b.pdf> and <http://www.whitehouse.gov/omb/circulars/a133/a133.html>.
- c. The recipient is responsible for selecting its subrecipients and, if applicable, for conducting subaward competitions.

Article 14. Management Fees

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to

expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

Article 15. Reimbursement Limitation

EPA's financial obligations to the recipient are limited by the amount of federal funding awarded to date as shown on line 15 in its EPA approved budget. If the recipient incurs costs in anticipation of receiving additional funds from EPA, it does so at its own risk.

Article 16. Costs of Federal Participation

The recipient understands that none of the funds for this project (including funds contributed by the recipient as cost sharing) may be used to pay for the travel of Federal employees or for other costs associated with Federal participation in this project. Except however, if a Federal agency is selected through the recipient's procurement process to carry out some of the work as a contractor to the recipient, funds may be used to allow necessary Federal travel and other costs associated with Federal participation in this project.

Article 17. Research Misconduct

In accordance with either 40 CFR 31.40(d) for State, local and Indian tribal governments or 40 CFR 30.51(f) for other recipients, as appropriate, the recipient agrees to notify the EPA Project Officer in writing about research misconduct involving research activities that are supported in whole or in part with EPA funds under this project. EPA defines research misconduct as fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results [65 FR 76262. I], or ordering, advising or suggesting that subordinates engage in research misconduct. The recipient agrees to:

(1) immediately notify the EPA Project Officer who will then inform the EPA Office of Inspector General (OIG) if, at any time, an allegation of research misconduct falls into one of the categories listed below:

- A. Public health or safety is at risk.
- B. Agency resources or interests are threatened.
- C. Circumstances where research activities should be suspended.
- D. There is a reasonable indication of possible violations of civil or criminal law.
- E. Federal action is required to protect the interests of those involved in the investigation.

F. The research entity believes that the inquiry or investigation may be made public prematurely so that appropriate steps can be taken to safeguard evidence and protect the rights of those involved.

G. Circumstances where the research community or public should be informed. [65 FR 76263.III]

(2) report other allegations to the OIG when they have conducted an inquiry and determined that there is sufficient evidence to proceed with an investigation. [65 FR 76263. III]

Article 18. Subaward Reporting and Executive Compensation

A. Reporting of first-tier subawards.

1. **Applicability.** Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e of this award term).
2. **Where and when to report.**
 - i. You must report each obligating action described in paragraph a.1. of this award term to www.fsrs.gov.
 - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
3. **What to report.** You must report the information about each obligating action that the submission instructions posted at www.fsrs.gov specify.

B. Reporting Total Compensation of Recipient Executives.

1. **Applicability and what to report.** You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if –
 - i. the total Federal funding authorized to date under this award is \$25,000 or more;
 - ii. in the preceding fiscal year, you received—
 - a) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - b) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial

assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

- iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. Where and when to report. You must report executive total compensation described in paragraph b.1. of this award term:
 - i. As part of your registration Central Contractor Registration/System for Award Management profile available at www.sam.gov.
 - ii. By the end of the month following the month in which this award is made, and annually thereafter.

C. Reporting of Total Compensation of Subrecipient Executives.

1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if –
 - i. in the subrecipient's preceding fiscal year, the subrecipient received—
 - a) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - b) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
 - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. Where and when to report. You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
 - i. To the recipient.
 - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you

must report any required compensation information of the subrecipient by November 30 of that year.

D. Exemptions

1. If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:
 - i. subawards, and
 - ii. the total compensation of the five most highly compensated executives of any subrecipient.

E. Definitions. For purposes of this award term:

1. Entity means all of the following, as defined in 2 CFR part 25:
 - i. A Governmental organization, which is a State, local government, or Indian tribe;
 - ii. A foreign public entity;
 - iii. A domestic or foreign nonprofit organization;
 - iv. A domestic or foreign for-profit organization;
 - v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.
2. Executive means officers, managing partners, or any other employees in management positions.
3. Subaward:
 - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
 - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. --.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
 - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
4. Subrecipient means an entity that:
 - i. Receives a subaward from you (the recipient) under this award; and
 - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

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

Article 19. Disadvantaged Business Enterprises

The recipient agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises in procurement under assistance agreements, contained in 40 CFR, Part 33.