



**National Science Foundation  
Research Terms & Conditions  
Agency Specific Requirements  
Effective February 24, 2014**

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**National Science Foundation website address:** <<http://www.nsf.gov>>  
**Research Term & Conditions website address:**  
<<http://www.nsf.gov/awards/managing/rtc.jsp>>

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### **Article 1. Awards Covered by the Research Terms & Conditions**

Effective February 24, 2014, awards made to organizations subject to 2 CFR (Code of Federal Regulations) Part 215 will incorporate by reference the *Research Terms & Conditions* dated June, 2011 and the *NSF Agency Specific Requirements* dated February, 2014. The *Research Terms & Conditions* will not be applied to NSF cooperative agreements or to NSF fellowship awards made to individuals.

Unless otherwise noted in a specific article, the *NSF Agency Specific Requirements* apply to all new NSF grants and funding amendments to existing NSF grants awarded on or after February 24, 2014.

### **Article 2. Prior Approval Requirements Not Included in the Research Terms & Conditions**

In accordance with Article 25 below, the grantee must obtain written approval from the cognizant:

- a. Program Officer prior to the reallocation of funds budgeted for participant or trainee support costs (see Article 13 below, and the *NSF Award & Administration Guide (AAG) Chapter V.B.8.*)
- b. Grants and Agreements Officer prior to:
  1. modifying the amount of cost sharing reflected on Line M of the approved grant budget (see Article 24 below).
  2. incurring rearrangements and alterations expenditures aggregating \$25,000 or over (Construction) (see [AAG Chapter V.C.1](#)).

Unless otherwise specified in the award, no additional prior approvals are required.

**Article 3. Categories of Costs Aside from Those Identified in 2 CFR 220 and 2 CFR 230 (OMB Circulars A-21 and A-122) that are Unallowable as Direct Charges**

None.

**Article 4. Contact Information for Technical Matters**

Questions of a programmatic or technical nature should be directed to the cognizant NSF Program Officer identified in the award notice.

**Article 5. Contact Information for Administrative Matters**

Questions of an administrative nature should be directed to the cognizant NSF Grants and Agreements Officer identified in the NSF award notice.

**Article 6. Contact Information for Intellectual Property**

Questions regarding intellectual property matters should be directed to the NSF Office of the General Counsel at (703) 292-8060.

**Article 7. Revised Budget Requirements**

Revised budgets, when required, must be submitted electronically through use of the NSF FastLane System in the Proposals, Awards and Status module at <http://www.fastlane.nsf.gov/>. Consult the NSF *Grant Proposal Guide* (GPG) [Chapter III.D](#) and [AAG Chapter II.C.2](#) for further instructions.

**Article 8. Format, Content and Timing of Technical Reporting**

*a. Annual Project Reports*

1. Submission Requirement. Annual project reports are required for both standard and continuing awards.<sup>1</sup>

2. Content of Annual Project Reports. Annual Project Reports 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. The grantee shall include subaward activities in annual project reports that are submitted to NSF.

3. Timing of Annual Project Reports. Unless otherwise specified in the award, annual project reports should be submitted electronically, via Research.gov, at least 90 days prior to the end of the current budget period to allow adequate time for the Program Officer to review and approve the report. As reflected in the Project Report System, the report is considered due during the 90 day period. The report becomes overdue the day after the 90 day period ends. It should be noted that the final annual report serves as the project's final report and must be submitted in accordance with paragraph b below.

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<sup>1</sup>Submission of an "interim" report via the Project Report system does not constitute compliance with the annual reporting requirement.

Failure to submit timely reports will delay NSF review and processing of pending proposals and processing of additional funding and administrative actions, including, but not limited to, no cost extensions for all identified PIs and co-PIs on a given award. In the case of continuing grants, failure to submit timely reports may delay processing of funding increments.

b. *Final Project Report*

1. **Submission Requirement.** Unless otherwise specified in the award, the final project report should be submitted electronically, via Research.gov, within 90 days following expiration of the grant. As reflected in the Project Report System, the report is considered due during the 90 day period. The report becomes overdue the day after the 90 day period ends.

2. **Content of Final Project Report.** The Final Project 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. The grantee shall include subaward activities in final project reports that are submitted to NSF.

3. **Additional Requirements.** The grantee also shall provide to the cognizant NSF Program Officer, within 90 days following the expiration of the grant, any unique reports or other end items specified in the award (e.g., special cost sharing reports), including any reporting requirements set forth in any NSF brochure, guide, solicitation, etc. referenced in the award as being directly related to either the award or the administration of the award.

c. *Project Outcomes Report for the General Public*

Within 90 days following expiration of the grant, 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. For information about the content of the report, see the [AAG Chapter II.E.3](#).

**Article 9. Expenditure Reports**

NSF does not require awardees to submit Federal Financial Reports (FFR's) for each award for purposes of final award accountability. NSF procedures have been designed to extract the final financial data from the entries in the Award Cash Management Service (ACM\$). For instructions regarding final disbursement reporting, see the AAG Chapter III.E.

**Article 10. Additional Documentation Besides Progress Reports Needed to Trigger Incremental Funding**

Unless specified in the award notice, no additional documentation is required to trigger award of the next increment of funding.

## **Article 11. Indirect Costs**

In accordance with 2 CFR 220 (Office of Management and Budget (OMB) Circular A-21), Section G.7.a and except as noted in AAG Chapters V.B.8 and VI.G.5, or in the applicable NSF program solicitation, awardees subject to A-21 are required to use the indirect cost (F&A) rate(s) approved by the cognizant Federal negotiating agency that are in effect at the time of the initial award, throughout the life of the award. Awardees not subject to A-21 are required to use the Federally-negotiated indirect cost rate(s) in effect at the time expenditures are incurred. Additional information on the charging of indirect costs to an NSF award is available in AAG Chapter V.D.

### **Additional NSF Agency Specific Requirements**

## **Article 12. Grantee Responsibilities and Federal Requirements**

The grantee has full responsibility for the conduct of the project or activity supported under this award and for adherence to the award conditions. Although the grantee is encouraged to seek the advice and opinion of NSF on special problems that may arise, such advice does not diminish the grantee's responsibility for making sound scientific and administrative judgments and should not imply that the responsibility for operating decisions has shifted to NSF. The grantee 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 CFR Part 689; or (2) any significant problems relating to the administrative or financial aspects of the award.

By acceptance of the award, the grantee agrees to comply with the applicable Federal requirements for grants and cooperative agreements and to the prudent management of all expenditures and actions affecting the award. A listing of National Policy Requirements that grantees must adhere to, where applicable, is located at: [http://www.nsf.gov/bfa/dias/policy/rtc/appc\\_june11.pdf](http://www.nsf.gov/bfa/dias/policy/rtc/appc_june11.pdf). Documentation for each expenditure or action affecting this award must reflect appropriate organizational reviews or approvals that should be 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 award terms and conditions;
2. is consistent with NSF and grantee policies;
3. represents effective utilization of resources; and
4. does not constitute a significant project change (see Research Terms & Conditions Article 25).

Nothing in this article shall be construed to require administrative reviews or documentation that duplicates those already required by existing organizational systems or by applicable Federal standards, e.g., 2 CFR Part 215.

The grantee is responsible for ensuring that the Principal Investigator(s) or Project Director(s) receives a copy of the award conditions, including: the award notice, the

budget, the Research Terms & Conditions, any special terms and conditions and any subsequent changes in the award conditions. These grant conditions are made available to the grantee by NSF in electronic form (<http://www.nsf.gov/bfa/dias/policy/rtc/index.jsp>), and may be duplicated, copied or otherwise reproduced by the grantee as appropriate. This provision does not alter the grantee's full responsibility for conduct of the project and compliance with all award terms and conditions. Award notices are available electronically via the NSF FastLane system at <https://www.fastlane.nsf.gov/fastlane.jsp>. Sponsored Project Offices are able to view, print and/or download NSF award notices for their organizations and Principal Investigators (PIs) can access their individual award notices through use of the FastLane system.

### **Article 13. Participant Support Costs**

Participant support costs are direct costs for items such as stipends or subsistence allowances, travel allowances and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with meetings, conferences, symposia or training projects. (See also [AAG Chapter V.C.5](#)) Grantee organizations must account for participant support costs separately. Indirect costs (F&A) are not allowed on participant support costs (see [AAG Chapter V.B.8.](#))

Funds provided for participant support may not be used by grantees for other categories of expense without the specific prior written approval of the cognizant NSF Program Officer. Such requests must be submitted electronically via the NSF FastLane system.

### **Article 14. 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 [AAG Chapter V.B.4](#)) who are in travel status on business related to an NSF-supported project are allowable as prescribed in the governing OMB cost principles. The requirements for prior approval detailed in the governing OMB cost principles are waived.

2. Except as provided in the governing OMB 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.

#### *b. Travel Support for Dependents of Key Project Personnel*

Travel support for dependents of key project personnel is allowable only under the following conditions:

1. the individual is a key person who is essential to the project on a full-time basis;
2. the individual's residence away from home and in a foreign country is for a continuous period of six months or more and is essential to the effective performance of the project; and

3. the dependents' travel allowance is consistent with the policies of the organization administering the award.

c. *Use of U.S.-Flag Air Carriers*

1. In accordance with the Fly America Act (49 USC 40118), any air transportation to, from, between, or within a country other than the U.S. of persons or property, the expense of which will be assisted by NSF funding, must be performed by or under a code-sharing arrangement with a U.S.-flag air carrier if service provided by such a carrier is available (see Comptroller General Decision B-240956, dated September 25, 1991). Tickets (or documentation for electronic tickets) must identify the U.S. flag air carrier's designator code and flight number.

2. For the purposes of this requirement, U.S.-flag air carrier service is considered available even though:

(a) comparable or a different kind of service can be provided at less cost by a foreign-flag air carrier;

(b) foreign-flag air carrier service is preferred by, or is more convenient for, NSF or traveler; or

(c) service by a foreign-flag air carrier can be paid for in excess foreign currency.

3. The following rules apply unless their application would result in the first or last leg of travel from or to the U.S. being performed by a foreign-flag air carrier:

(a) a U.S.-flag air carrier shall be used to destination or, in the absence of direct or through service, to the farthest interchange point on a usually traveled route.

(b) if a U.S.-flag air carrier does not serve an origin or interchange point, a foreign-flag air carrier shall be used only to the nearest interchange point on a usually traveled route to connect with a U.S. flag air carrier.

d. *Use of Foreign-Flag Air Carriers*

There are certain circumstances under which use of a foreign-flag air carrier is permissible. These circumstances are outlined below:

1. *Airline "Open Skies" Agreements:*

A foreign flag air carrier may be used if the transportation is provided under an air transportation agreement between the United States and a foreign government, which the Department of Transportation has determined meets the requirements of the Fly America Act. For information on "open skies" agreements in which the United States has entered, please refer to the GSA website at <http://www.gsa.gov/portal/content/103191>.

## Note on U.S./European Union Open Skies Agreement

In 2007, the U.S. entered into an "Open Skies" Agreement with the European Union ("EU"). This agreement was modified in June 2010. The current Agreement gives European Community airlines (airlines of Member States) the right to transport passengers and cargo on flights funded by the U.S. government, when the transportation is between: (1) any two points outside the United States; or (2) a point in the United States and any point outside the United States that the EU airline is authorized to serve under the "Open Skies" Agreement.

As of 2011, two significant changes have been made to the U.S./EU Open Skies Agreement. First, EU airlines are now granted the right to transport civilian agency-funded passengers who are NOT eligible to travel on GSA Airline City Pair Contract fares (e.g., grantees) between a point in the United States and a point outside the United States even if there is a GSA Airline City Pair Contract fare in effect between the origin and destination points. An individual, however, who is traveling on a route for which there is a City Pair Contract fare in effect, *and who is eligible for such a fare* (e.g., Federal employee), will be required to fly on a U.S. carrier, absent another applicable exception.

Second, under the amended Agreement, EU airlines are now authorized to transport passengers between points in the United States and points outside the EU if the EU airline is authorized to serve the route under the Agreement. This includes flights that originate, arrive, or stop in the EU. Prior to this change, EU airlines were limited to flying passengers between points in the U.S. and points in the EU.

2. *Involuntary Rerouting:* Travel on a foreign-flag carrier is permitted if a U.S.-flag air carrier involuntarily reroutes the traveler via a foreign-flag air carrier, notwithstanding the availability of alternative U.S.-flag air carrier service.

### 3. *Travel To and From the U.S. on non-European Community Airlines*

Use of a non-European Community foreign-flag air carrier is permissible if the airport abroad is:

(a) the traveler's origin or destination airport, and use of U.S.-flag air carrier service would extend the time in a travel status by at least 24 hours more than travel by a foreign-flag air carrier; or

(b) an interchange point, and use of U.S.-flag air carrier service would increase the number of aircraft changes the traveler must make outside of the U.S. by two or more, would require the traveler to wait four hours or more to make connections at that point, or would extend the time in a travel status by at least six hours more than travel by a foreign-flag air carrier.

### 4. *Travel Between Points Outside the U.S. on non-European Community Airlines*

Use of a non-European Community foreign-flag air carrier is permissible if:

(a) travel by a foreign-flag air carrier would eliminate two or more aircraft changes en route;

(b) travel by a U.S.-flag air carrier would require a connecting time of four hours or more at an overseas interchange point; or

(c) the travel is not part of the trip to or from the U.S., and use of a U.S.-flag air carrier would extend the time in a travel status by at least six hours more than travel by a foreign-flag air carrier.

5. *Short Distance Travel.* For all short distance travel, regardless of origin and destination, use of a foreign-flag air carrier is permissible if the elapsed travel time on a scheduled flight from origin to destination airport by a foreign-flag air carrier is three hours or less and service by a U.S.-flag air carrier would double the travel time.

#### **Article 15. Information Collection**

Information collection activities performed under this award are the responsibility of the grantee, and NSF support of the project does not constitute NSF approval of the survey design, questionnaire content or information collection procedures. The grantee 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.

#### **Article 16. Responsible Conduct of Research**

##### **Article 16 applies to new proposals submitted or due on or after January 4, 2010.**

In accordance with Section 7009 of the America Creating Opportunities to Meaningfully Promote Excellence in Technology, Education, and Science (COMPETES) Act (42 U.S.C. 1862o-1) NSF requires that grantees must have a plan in place to provide appropriate training and oversight in the responsible and ethical conduct of research (RCR) to undergraduates, graduate students, and postdoctoral researchers who will be supported by NSF to conduct research. Training plans are subject to review, upon request.

Grantees must designate one or more persons to oversee compliance with the RCR training requirement. Grantees are responsible for verifying that undergraduate students, graduate students, and postdoctoral researchers supported by NSF to conduct research have received training in the responsible and ethical conduct of research, in accordance with the plan the grantee has put in place for their organization.

Grantees shall ensure that these RCR requirements flow down to all subrecipients, or are otherwise appropriately addressed in the subaward instrument.

## Article 17. Reporting Subawards and Executive Compensation

**Article 17 applies to new grants of \$25,000 or more awarded on or after October 1, 2010. As of July, 2012, the URL referenced in b.2.(a) below has changed to: <https://www.sam.gov>.**

In accordance with the Office of Management and Budget guidance published in the Federal Register (FR) September 14, 2010 on *Requirements for Federal Funding Accountability and Transparency Act Implementation*, grantees must comply with the following award term, contained in 75 FR 22705:

### 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*

(a) You must report each obligating action described in paragraph a.1. of this award term to [www.fsrc.gov](http://www.fsrc.gov).

(b) 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.fsrc.gov](http://www.fsrc.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:

(a) the total Federal funding authorized to date under this award is \$25,000 or more;

(b) in the preceding fiscal year, you received—

(i) 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

(ii) \$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

(c) 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:

- (a) As part of your registration profile at [www.ccr.gov](http://www.ccr.gov).
- (b) 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:

- (a) in the subrecipient's preceding fiscal year, the subrecipient received—
  - (i) 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
  - (ii) \$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
- (b) 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:

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

d. *Exemptions*

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

1. subawards, and
2. 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:
  - (a) A Governmental organization, which is a State, local government, or Indian tribe;
  - (b) A foreign public entity;
  - (c) A domestic or foreign nonprofit organization;
  - (d) A domestic or foreign for-profit organization;
  - (e) 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:
  - (a) 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.
  - (b) 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").
  - (c) 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:
  - (a) Receives a subaward from you (the recipient) under this award; and
  - (b) 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)):

- (a) *Salary and bonus.*
- (b) *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.
- (c) *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.
- (d) *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.
- (e) *Above-market earnings on deferred compensation which is not tax-qualified.*
- (f) 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 18. System for Award Management and Universal Identifier Requirements**

**Article 18 applies to new grants awarded on or after October 1, 2010. As of July 2012, the Central Contractor Registration (CCR) has become the System for Award Management (SAM). The URL has changed to: <https://www.sam.gov>. All requirements related to CCR mentioned in the Article below now apply to and must be completed in SAM. See the NSF Grant Proposal Guide Chapter I.G.3 for further information regarding SAM.**

In accordance with the Office of Management and Budget guidance published in the Federal Register (FR) September 14, 2010 on *Financial Assistance Use of Universal Identifier and Central Contractor Registration*, grantees must comply with the following award term, contained in 75 FR 22706:

- a. *Requirement for Central Contractor Registration (CCR).* Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.
- b. *Requirement for Data Universal Numbering System (DUNS) numbers.* If you are authorized to make subawards under this award, you:
  - 1. Must notify potential subrecipients that no entity (see definition in paragraph c. of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
  - 2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

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

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

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

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

- (a) A Governmental organization, which is a State, local government, or Indian tribe;
- (b) A foreign public entity;
- (c) A domestic or foreign nonprofit organization;
- (d) A domestic or foreign for-profit organization; and
- (e) A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

4. Subaward:

(a) 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.

(b) 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").

(c) A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

5. Subrecipient means an entity that:

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

## **Article 19. Academic Technology Transfer and Commercialization of University Research**

a. Any institution of higher education (as such term is defined in section 101(A) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)) that receives National Science Foundation research support (i.e., any grant or cooperative agreement awarded by NSF) and has received at least \$25,000,000 in total Federal research grants in the most recently completed Federal fiscal year shall keep, maintain, and report annually to the National Science Foundation the universal resource locator (URL) for a public website that contains information concerning its general approach to and mechanisms for transfer of technology and the commercialization of research results, including:

1. contact information for individuals and university offices responsible for technology transfer and commercialization;
2. information for both university researchers and industry on the institution's technology licensing and commercialization strategies;
3. success stories, statistics, and examples of how the university supports commercialization of research results;
4. technologies available for licensing by the university where appropriate; and
5. any other information deemed by the institution to be helpful to companies with the potential to commercialize university inventions.

For purposes of determining whether an institution meets the threshold for this requirement, both the NSF research support and the Federal research grants must have been active at some point during the most recently completed Federal fiscal year.

The institution's URL containing the information required in section a. must be electronically submitted to the following email alias: [ACA520@nsf.gov](mailto:ACA520@nsf.gov). The URLs will be available to the public on the Science, Engineering and Education (SEE) Innovation section of Research.gov at: <http://www.research.gov/acasection520>.

b. Trade Secret Information - Notwithstanding section a., an institution shall not be required to reveal confidential, trade secret, or proprietary information on its website.

## **Article 20. Federal Tax Obligations**

**Article 20 applies only to awards that have cumulative budgets that exceed \$5,000,000.**

In accordance with the *Commerce, Justice, Science and Related Agencies Appropriations Act of 2012*, the grantee affirms that they:

- (1) have filed all required Federal tax returns;
- (2) have not been convicted of a criminal offense under the Internal Revenue Code of 1986; and

- (3) have not been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

**Article 21. Unpaid Federal Tax Liability**

**Article 21 applies only to grantees that are corporations.**

In accordance with the *Commerce, Justice, Science and Related Agencies Appropriations Act of 2012*, the grantee 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.

**Article 22. Criminal Convictions**

**Article 22 applies only to grantees that are corporations.**

In accordance with the *Commerce, Justice, Science and Related Agencies Appropriations Act of 2012*, the grantee affirms that the corporation has not been convicted of a felony criminal violation under any Federal law.

**Article 23. Payment: Reference Research Terms & Conditions Article 22**

a. Except as noted in [AAG Chapter III.C](#), NSF awardees are required to request payments electronically through the Award Cash Management Service (ACM\$). Under ACM\$, awardees must provide award level detail at the time of the payment request. Awardees should request payments in amounts necessary to meet their current needs, pursuant to the guidelines contained in 31 CFR Part 205. Unless otherwise specified in the award, the grantee agrees to comply with all applicable Treasury regulations and National Science Foundation implementing and reporting procedures, which are outlined in [AAG Chapter III](#).

b. In accordance with 2 CFR § 215.22, where appropriate, grantees are required to maintain advances of Federal funds in interest-bearing accounts. For grantees not subject to the Cash Management Improvement Act (CMIA), such as State agencies or instrumentalities, interest earned on Federal advances deposited in interest bearing accounts shall be remitted annually to:

Department of Health and Human Services (DHHS)  
Payment Management System  
P.O. Box 6021  
Rockville, MD 20852

c. Interest amounts up to \$250 per year may be retained by the grantee for administrative expenses. The requirement to remit interest annually to DHHS does not apply to grantees subject to the Cash Management Improvement Act (CMIA), Subpart A - Rules Applicable to Federal Assistance Programs Included in a Treasury-State Agreement.

**Article 24. Cost Sharing or Matching: Reference Research Terms & Conditions**  
**Article 23**

a. *General*

1. The grantee must cost share in accordance with any amount specified on Line M of the award budget. Cost sharing participation in other projects may not be counted towards meeting the specific cost sharing requirements of the award, and must come from nonfederal sources.

2. Should the grantee become aware that it may be unable to provide the cost sharing of at least the amount identified on Line M of the NSF award budget, it must: a) immediately provide written notification to the Grants and Agreements Officer of the situation; and b) indicate steps it plans to take to secure replacement cost sharing; or c) indicate the plans it has to either continue or phase out the project in the absence of the approved level of cost sharing.

3. Should NSF agree to the organization's proposed plans, the NSF Grants and Agreements Officer will modify the award accordingly, including, if appropriate, reducing the amount of NSF support. Should the organization's plans be unacceptable to NSF, the award may be subject to termination. NSF modifications to proposed cost sharing revisions are made on a case-by-case basis.

4. Failure by the organization to notify NSF, in accordance with paragraph 2. above, may result in the disallowance of some or all of the costs charged to the award; the subsequent recovery by NSF of some or all of the NSF funds provided under the award; possible termination of the award; and may constitute a violation of the terms of the award so serious as to provide grounds for subsequent suspension or debarment.

b. *Cost Sharing Records*

The grantee must maintain records of all project costs that are claimed by the grantee as cost sharing as well as records of costs to be paid by the Government. Such records are subject to audit. Acceptable forms of cost sharing contributions are those that meet the criteria identified in 2 CFR § 215.23. Unless otherwise specified in the award, approval is given to include unrecovered indirect costs (also known as facilities and administrative costs for colleges and universities) as part of cost sharing or matching contributions. If the grantee's cost participation includes in-kind contributions, the basis for determining the valuation for volunteer services and donated property must be documented.

c. *Cost Sharing Reports*

Unless otherwise required by the award or requested by NSF, the actual cost participation by the grantee, while subject to documentation and audit, need not be reported to NSF. In cases, however, where the cost-sharing amount reflected on Line M of the award budget is \$500,000 or more, the amount of cost sharing must be documented (on an annual and final basis) and certified by the Authorized Organizational Representative via use of the Notification and Request Module in the NSF FastLane System. Such notifications must be submitted within 90 days:

1. prior to the end of the current budget period to meet the annual notification requirement; and
2. following the expiration of the award to meet the final notification requirement.

The cost share notification is considered due during the 90 day period. The notification becomes overdue the day after the 90 day period ends.

**Article 25. Revision of Budget & Program Plans: Reference Research Terms & Conditions Article 25**

- a. The grantee must obtain written approval from the cognizant NSF Program Officer prior to the reallocation of funds budgeted for participant or trainee support costs (see [AAG Chapter V.B.8.](#)) Participant support costs are direct costs for items such as stipends or subsistence allowances, travel allowances and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with meetings, conferences, symposia or training projects. (See also [AAG Chapter V.C.5](#)) Grantee organizations must account for participant support costs separately. Note: No indirect costs may be charged against participant support costs. (See [AAG Chapter V.B.8](#))
- b. The grantee must obtain prior written approval from the cognizant NSF Grants and Agreements Officer prior to modifying the amount of cost sharing reflected on Line M of the approved grant budget (see Article 24 above).
- c. The grantee must obtain prior written approval from the cognizant NSF Grant and Agreements Officer prior to incurring rearrangements and alterations expenditures aggregating \$25,000 or over (Construction) (see [AAG Chapter V.C.1](#)).
- d. The prior approval requirements identified in the Research Terms and Conditions can be submitted electronically to NSF via use of the NSF Research Administration module of the FastLane system (<https://www.fastlane.nsf.gov/>). The grantee is required to use FastLane to process these types of transactions as well other types of grant-related notifications stipulated in [AAG Exhibit II-1](#).

**Article 26. Non-Federal Audits: Reference Research Terms & Conditions Article 26**

In order to avoid duplicate record keeping, NSF may make special arrangements with the grantee to retain any records that are needed for joint use. NSF may request transfer to its custody of records not needed by the grantee when it determines that the records possess long-term retention value. When the records are transferred to, or maintained by NSF, the three-year retention requirement is not applicable to the grantee. In the rare event that this provision is exercised, NSF will negotiate a mutually agreeable arrangement with the grantee regarding reimbursement of costs.

All awards issued by NSF meet the definition of "Research and Development" at OMB Circular A-133 §.105. 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 A-133 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).

Any Federal Audit of this project deemed necessary by NSF shall build upon the results of the OMB Circular A-133 audit(s).

## **Article 27. Equipment: Reference Research Terms & Conditions Article 34**

a. Unless otherwise specified in the award, title to equipment purchased or fabricated with NSF award funds shall vest in the grantee upon acquisition. Such equipment shall be acquired and used in accordance with the Research Terms & Conditions and the provisions below.

### b. *Conditions for Acquisition and Use of Equipment*

1. Grantee Assurance. The grantee will assure that each purchase of equipment is:

- (a) necessary for the research or activity supported by the grant;
- (b) not otherwise reasonably available and accessible;
- (c) of the type normally charged as a direct cost to sponsored agreements;  
and
- (d) acquired in accordance with organizational practice.

2. General Purpose Equipment. Expenditures for general-purpose equipment (see [AAG Chapter V.B.2.d](#)) are unallowable unless the equipment is primarily or exclusively used in the actual conduct of the research.

3. Equipment Usage. The equipment will remain in use for the specific project for which it was obtained in accordance with 2 CFR § 215.34(c), unless the provision in 2 CFR § 215.34(e) applies.

4. Equipment Sharing. The equipment must be shared on other projects or programs in accordance with 2 CFR § 215.34(d).

5. Property Management Standards. The grantee shall maintain a property management system that, at a minimum, meets the requirements of 2 CFR § 215.34(f). Because of increasing threats to information technology systems, the grantee is reminded that, under 2 CFR §§ 215.34.(f). (4) and (5), "[a] control system shall be in effect to insure adequate safeguards to prevent loss, damage, or theft of the equipment" and "[a]dequate maintenance procedures shall be implemented to keep the equipment in good condition." This requirement imposes on the grantee a duty to adequately maintain and to insure adequate safeguards against the loss, damage, or theft of information technology equipment and systems purchased with NSF funds.

6. Inventory Requirements.

(a) In accordance with the requirements of 2 CFR § 215.33(a)(1), for all NSF-owned equipment equal to or exceeding \$5,000, the grantee must submit an annual inventory

listing to the NSF Property Administrator, Division of Administrative Services (DAS). The listing should include all NSF-owned equipment purchased or constructed, including land and buildings, under the award or acquired by screening excess through the General Services Administration (GSA); and include the type of equipment or property, serial number, acquisition price, acquisition date and condition of the equipment. In the event that the grantee is in possession of NSF-owned equipment under multiple awards, the reporting must be specific to each NSF award number.

The listing also should include a description of Construction-in-Progress (CIP) and Work-in-Progress (WIP) items and construction costs incurred to date. CIP is defined as real property that is in the process of being manufactured or fabricated but is not yet complete. WIP is defined as equipment that is in the process of being manufactured or fabricated but is not yet complete. CIP and WIP consist of the costs of direct materials, direct labor, direct purchased services, and indirect costs, including general and administrative and overhead costs. Costs coded as such should not be depreciated. The inventory listing should be submitted electronically to [fsrpts@nsf.gov](mailto:fsrpts@nsf.gov) and must be received by DAS no later than August 15 each year.

(b) A physical inventory of NSF-owned equipment shall be conducted every two years pursuant to 2 CFR § 215.34(f). Upon expiration of the award, the grantee shall report the property to the DAS Property Administrator for further agency utilization.

7. Competition. The grantee shall not use equipment acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by statute in accordance with 2 CFR § 215.34(b).

8. Right to Transfer Title.

(a) NSF may identify items of equipment having an acquisition cost of \$5,000 or more where 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 grant period.

(b) In cases where NSF elects to transfer the title, disposition instructions will be issued no later than 120 calendar days after the expiration date of the NSF-supported project for which it was acquired.

**Article 28. Intangible Property: Reference Research Terms & Conditions**  
**Article 36<sup>2</sup>**

a. *Patent Rights Clause.* NSF's standard patent rights clause, published at 45 CFR 650.4(a), shall be substituted for the referenced patent clause (37 CFR 401.14). The grantee shall also include this clause in all subawards for experimental, developmental or research awards, regardless of the type of subgrantee organization. The NSF clause

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<sup>2</sup> Awardees are reminded that, in view of the U.S. 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.

is identical to that prescribed in the Department of Commerce (DOC) guidance at 37 CFR 401.14(a) except that:

1. NSF has tailored the clause to apply to grants and to identify NSF;
2. pursuant to section 401.5(d) of the DOC guidance (37 CFR 401.5(d)), NSF has added to paragraph (b) of the clause a stipulation that the Foundation reserves the right to direct a grantee to transfer to a foreign government or research performer such rights to any subject invention as are required to comply with any international treaty or agreement identified when the grant is made as being applicable to the assisted research;
3. as permitted by section 401.5(f) of the DOC guidance (37 CFR §401.5(f)), NSF has added a subparagraph to the end of paragraph f. of the clause to require grantees or their representatives to send NSF confirmations of the Government licenses for subject inventions and the pages of any United States patent applications that contain the Federal support clause;
4. since NSF normally uses the same clause for all subcontractors, the first two subparagraphs of paragraph g. of the clause specified in the DOC guidance have been reduced to one;
5. paragraph c.1 of the clause has been changed to require that invention disclosures be submitted electronically via the iEdison system; and
6. paragraph L. of the clause has been changed to require that all communications required by the Patents Rights clause be submitted electronically via the iEdison system unless prior permission is obtained from the NSF Patent Assistant.

b. *Communications.* All communications required by the Patent Rights clause must be submitted through the iEdison Invention Information Management System maintained by the National Institutes of Health 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, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

c. *Copyright Ownership, Government License*

Except as otherwise specified in the award or by this paragraph, the grantee 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 grantee 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 grantee agrees that if it or anyone else does own copyright in a subject writing, the Federal government will have a nonexclusive, nontransferable, irrevocable, royalty-free license to exercise or have exercised for or on behalf of the U.S. throughout the world all the exclusive rights provided by copyright. Such license, however, will not include the right to sell copies or phonorecords of the copyrighted works to the public.

d. *Awards Affected by International Agreements*

If the award indicates it is subject to an identified international agreement or treaty, NSF can direct the grantee 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.

e. *Grantee Action to Protect Government Interests*

The grantee 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 grantee 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 article.

**Article 29. Publications: Reference Research Terms & Conditions Article 51.(a)**

The grantee is responsible for assuring that an acknowledgment of NSF support is made in any publication (including World Wide Web pages) of any material based on or developed under the project and that NSF support is orally acknowledged during all news media interviews, including popular media such as radio, television and news magazines (see [AAG Chapter VI.E.](#)).

The grantee 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.

**Article 30. Program Income**

a. *Definition*

Program income means gross income earned by the awardee that is directly generated by a supported activity or earned as a result of the award. Program income includes, but is not limited to, income from fees for services performed, the use or rental of real or personal property acquired under the award, the sale of commodities or items fabricated under the award, license fees for, and royalties on, copyrights and interest on loans made with award funds. Interest earned on advances of Federal funds is not program income. Program income does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them.

b. *Standard Treatment*

Unless otherwise specified in the award notice, program income received or accruing to the awardee during the period of the award is to be retained by the awardee, added to the funds committed to the project by NSF, and thus used to further project objectives. The awardee has no obligation to NSF with respect to: 1) license fees and royalties for copyrighted material, patents, patent applications, trademarks and inventions; or 2) program income received beyond the period of the award (see [AAG Chapters III.D.4](#) and [VI.F](#) for further information).

c. *Records Retention*

The awardee is required to retain appropriate financial and other records relating to project income earned during the award period and for three years beyond the end of the award period.

d. *Reporting Requirements*

On an annual basis, awardees are required to submit a Program Income Reporting Worksheet to NSF in order to report on any active awards during the previous Federal fiscal year. The first report is due to NSF no later than March 31, 2014 and covers the period of October 1, 2012 through September 30, 2013. Each year thereafter, awardees will be required to submit the Program Income Reporting Worksheet by October 31 in order to report the amount of program income earned and expended during the previous Federal fiscal year or to validate that program income was not earned or expended for any active awards during the applicable period. The Program Income Reporting Worksheet and related instructions are available through Research.gov (<http://research.gov/programincome>).

Failure to report program income or to validate that no program income was earned or expended could result in suspension of future award payments.

**Article 31. Termination and Enforcement: Reference Research Terms & Conditions Articles 61 and 62**

a. The award may be suspended or terminated in whole or in part in any of the following situations by:

1. NSF when the grantee has materially failed to comply with the terms and conditions of the award;
2. NSF when the Foundation has other reasonable cause;
3. NSF when ordered by the Deputy Director under NSF's Regulation on Research Misconduct [45 CFR Part 689];
4. NSF and the grantee by mutual agreement (if NSF and the grantee cannot reach an agreement, NSF reserves the right to unilaterally terminate the award);  
or

5. the grantee on written notice to NSF setting forth the reasons for such action, the effective date, and, in the case of partial termination, the portion to be terminated or suspended (with the understanding that if NSF determines that the unterminated portion will not accomplish the purposes of the award, it may suspend or terminate the entire award).

b. Suspensions and terminations will be processed in accordance with NSF [AAG Chapter VII.A.](#)

### **Article 32. Resolution of Conflicting Conditions**

Should there be any inconsistency between any special conditions contained in the award and the Research Terms & Conditions, the special conditions in the award shall control. Should there be any inconsistency between the Research Terms & Conditions, any special conditions contained in the award, and any NSF guides, brochures, etc., cited or included by reference in the award, the matter should be referred to the NSF Grants and Agreements Officer for guidance.

### **Other Considerations**

### **Article 33. Liability**

NSF cannot assume any liability for accidents, illnesses or claims arising out of any work supported by an award or for unauthorized use of patented or copyrighted materials. The grantee institution is advised to take such steps as may be deemed necessary to insure or protect itself, its employees and its property.

### **Article 34. Sharing of Findings, Data, and Other Research Products**

a. 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. 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. It also encourages grantees 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.

### **Article 35. Government Permits and Activities Abroad**

a. For awards that include activities requiring permits from appropriate Federal, state, or local government authorities, the grantee should obtain any required permits prior to undertaking the proposed activities.

b. The grantee 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 grantee compliance with the laws and regulations of the country in which the work is to be conducted.

c. The grantee also should assure that activities carried on outside the U.S. are coordinated as necessary with appropriate U.S. and foreign government authorities and that necessary licenses, permits or approvals are obtained prior to undertaking the proposed activities.