

## Cover Page [for Grant Officer]

### Introduction

The Department of Labor (DOL), Employment and Training Administration (ETA), Office of Grants Management (OGM)'s Terms and Conditions Library (TCL) is intended to make available in a single document the general terms and conditions of DOL appropriated, formula, discretionary grants, and cooperative agreements. These general terms and conditions are common across all DOL/ETA/OGM divisions and agencies and apply as indicated in the TCL unless there are statutory, regulatory, or award-specific requirements to the contrary (as specified in individual Notices of Award).

This document is also designed to be useful to those interested in DOL or ETA awards by providing information about that process, its associated authorities, and responsibilities. The TCL is available online on the OGM [intranet](#) and [internet](#) pages.

### Organization of Terms and Conditions

The TCL is divided into eight parts, starting with generally applicable terms and conditions and is organized by the following parts:

*Part A: General Award, System for Award Management, and Uniform Guidance*

*Part B: Indirect Costs, Budget and Cost Share (Match)*

*Part C: Funds and Special or Temporary Restrictions*

*Part D: Costs – Limitations, Items, and Restrictions*

*Part E: Reporting, Audit, and Closeout*

*Part F: National Policy and Restrictions*

*Part G: National Prohibitions and Other Restrictions*

*Part H: Attachments*

### Effective Date

This document is effective for all new DOL or ETA awards with beginning dates on or after **[Month, Date, Year]**. This document reflects current DOL or ETA requirements. The information in this document is subject to change following its issuance due to changes in statutes, regulations, or policies adopted subsequent to its effective date.

### Maintenance

DOL/ETA/OGM is responsible for developing and maintaining this document and will reissue it periodically. Interim changes will be posted on the OGM [internal](#) and [external](#) web sites. Each change, including its applicability, effective date, and the affected sections of the TCL specified, will be described, and the necessary language to implement it as a term or condition of award will be provided.

DOL Federal Award Terms & Conditions – **FY 2022** NOTE: Individual awards may contain terms and/or conditions which may differ somewhat from those in this sample template; therefore, each recipient must read, refer, and adhere to the terms and conditions in any respective award document.

## **TERMS AND CONDITIONS**

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**Part A: General Award, System for Award Management and Uniform Guidance**

**A.1 Compliance and the Order of Precedence**

The recipient of this Federal award will assure that they will fully comply with the rules and requirements specified in the award document. Program requirements may be found in the Funding Opportunity Announcement (FOA), statutes, Executive Orders, government-wide regulations, agency regulations, agency policy guidance such as Training Employment Guidance Letter (TEGL), and the terms outlined in the award document. The list below identifies the hierarchy of authority.

The following order of precedence applies to your activities under this federal award. In the event of any inconsistency between the terms and conditions of this Notice of Award (NOA) and other requirements, consult the below order:

1. [enter applicable program authorizations/statute (i.e. Workforce Innovation Opportunity Act (WIOA))].
2. Other applicable Federal statutes.
3. Consolidated Appropriations Act 2022 (Public Law 117-103) dated March 15, 2022.
4. Implementing Regulations.
5. Executive Orders and Presidential Memoranda.
6. The Office of Management and Budget (OMB) Guidance, including the Uniform Guidance at 2 CFR (Code of Federal Regulations) parts 200 and 2900.
7. The U.S. Department of Labor (DOL) or Employment and Training Administration (ETA) directives.
8. Terms and conditions of this award.

**Notice of Award** The funds provided under this Notice of Award (NOA) must be expended according to all applicable Federal statutes, regulations and policies, and the applicable provisions in the appropriations act(s). The funds shall be obligated and expended via a NOA award modification. These obligations and expenditures may not exceed the amount awarded by the NOA modification unless otherwise modified by the ETA.

[WIOA]

The funds that are provided under this NOA must be expended according to all applicable Federal statutes, regulations and policies, including those of the Workforce Innovation and Opportunity Act (WIOA), the applicable approved WIOA State Plan (including approved modifications and amendments to the plan), and any waiver plan approved under WIOA Section 189(i)(3) or Workforce Flexibility (Workflex) plan approved under WIOA Section 190, the negotiated performance levels and policies established pursuant to the Secretary's authority under WIOA Section 116, and the applicable provisions in the appropriations act(s).

The funds shall be obligated and allocated via a NOA grant modification. These obligations and expenditures may not exceed the amount awarded by the NOA modification unless otherwise modified by the ETA.

By drawing down funds, your organization as the award recipient agrees to the provisions of 20 CFR 683.820(b)(6), which states:

“Any organization selected and/or funded under WIOA Title I, Subtitle D, is subject to having its award removed if an Administrative Law Judge (ALJ) decision so orders. As part of this process, the Grant Officer will provide instructions on transition and closeout to both the newly selected grant recipient and to the grant recipient whose positions is affected, or which is being removed.”

[Non-WIOA]

By drawing down funds, your organization as the award recipient agrees to the provisions of 2 CFR 200.521, 2 CFR 2900.20, and 2 CFR 2900.21 and is subject to having its award removed as a result of an ALJ decision. As part of this process, the Grant Officer will provide instructions on transition and closeout to both the newly selected grant recipient and to the grant recipient whose positions is affected, or which is being removed

A.2 Funding Opportunity Announcement [Discretionary awards and national programs awarded via competition. Remove this term for sole source awards.]

The Funding Opportunity Announcement (FOA) and any amendments found at [insert hyperlink(s)] are hereby incorporated into this NOA. Award recipients are bound by the authorizations, restrictions, and requirements contained in the FOA. Therefore, the expenditure of funds by the award recipient certifies that your organization has read and will comply with all the parts that are contained in the NOA.

A.3 Approved Statement of Work [Discretionary awards, National programs awarded via competition, and sole source awards]

This project's narrative is the approved Statement of Work (SOW). It has been included as Attachment D. If there is any inconsistency between the project narrative and the program statute, appropriation, regulations, Executive Orders, Uniform Guidance, and DOL or ETA directives, the order of precedence (as described in Section 1. above) will prevail.

A.4 SF-424, Application for Federal Assistance, and SF-424B, Assurances and Certifications [Only for sole-source, and awards that did not have the SF-424B language below in the funding opportunity announcement]

The signed SF-424, Application for Federal Assistance, has been included as an attachment to this award. The individual that signed the SF-424 on behalf of the applicant is considered the Authorized Representative of the applicant. As stated in block 21 of the SF-424 form, the signature of the Authorized Representative on the SF-424 certifies that the grant award recipient is in compliance with the Assurances and Certifications form SF-424B available at [Grants.gov](https://www.dhs.gov/grants). The grant award recipient does not need to submit the SF-424B form separately.

A.5 Federal Project Officer or Point of Contact (POC)

*Select as appropriate:*

The DOL/ETA Federal Project Officer (FPO) or Point of Contact for this award is:

The DOL/ILAB Grant Officer Representative (GOR) for this award is:

The DOL/VETS Grant Officer Technical Representative (GOTR) for this award is:

The DOL/ODEP Federal Project Officer (FPO) for this award is:

The DOL/Women's Bureau Federal Project Officer (FPO) for this award is:

Name:

Telephone:

E-mail:

The individual named above is not authorized to change any of the terms or conditions of the award or approve prior approval requests. Any changes to the terms or conditions or prior

approvals must be approved by the Grant Officer through the use of a formally executed award modification process.

## A.6 Unique Entity Identifier Requirements

Effective on April 4, 2022, the DUNS Number will be replaced by a new, non-proprietary identifier requested in and assigned by [SAM.gov](https://sam.gov). This new identifier is called the Unique Entity Identifier (UEI), or the Entity ID. To learn more about SAM's rollout of the UEI, please visit the U.S. General Service Administration (GSA), [Unique Entity Identifier Update webpage](#).

If the grant award or cooperative agreement recipient is authorized to make subawards under this award, then the recipient:

1. Must notify potential subrecipients that no entity (see definitions below) may receive a subaward from the grant award recipient until the entity has provided its UEI to the recipient.
2. May not make a subaward to an entity unless the entity has provided its UEI to the grant or cooperative agreement recipient. Subrecipients are not required to obtain an active SAM registration but must obtain a UEI.

## A.7 System for Award Management

System for Award Management (SAM) is the official federal system that collects, validates, stores, and disseminates business information about the federal government's trading partners in support of contract awards, grants, and electronic payment processes.

A SAM registration is required for an entity to be able to apply for federal awards, to request modifications to existing awards, and to enable them to closeout expiring awards. See [Training and Employment Notice \(TEN\) 18-17](#) for additional guidance.

Unless the award recipient is exempt from this requirement under 2 CFR 25.110, the grant award or cooperative agreement recipient must maintain current information in the SAM. This includes information on the recipient's immediate and highest-level owner and subsidiaries, as well as on all of the recipient's predecessors that have been awarded a Federal contract or Federal financial assistance within the last three years, if applicable, until the award recipient submits the final financial report required under this Federal award or receive the final payment, whichever is later.

DOL advises grant award recipients and other awardees of Federal awards such as cooperative agreements registered in SAM to review their registration information, particularly their financial information and points of contact. Assistance is available by contacting the Federal Service Desk at [FSD.gov](https://federal.servicedesk.dol.gov). Grant award or cooperative agreement recipients should contact ETA at [ETAAccountingGrants@dol.gov](mailto:ETAAccountingGrants@dol.gov) if they find that payments have been paid to a bank account other than their registered bank account.

DOL routinely checks the validity of a grant or cooperative agreement award recipient's SAM registration and verifies that the recipient is not included on the excluded parties list before making an award or approving a modification to an existing award. Failure to have an active SAM registration can delay award recipients from receiving their initial award or requested modifications to their existing awards.



DOL further encourages award recipients to review the expiration date of their SAM registration and begin the renewal process well in advance, to ensure that their registration remains valid. If the award recipient has not logged in and updated its entity registration record within at least the past 365 days, its record will expire and go into inactive status. Timely renewal will ensure that the award recipient can continue to request and receive modifications to their existing grants, as well as apply for new funding opportunities. Further, the EIN numbers must remain active until the award closeout process is fully completed.

#### A.8 Uniform Guidance Revisions

The Office of Management and Budget issued revisions to 2 CFR parts 25, 170, 183, and 200 (the Uniform Guidance) on August 13, 2020, and February 22, 2021 (technical correction). These revisions became effective November 12, 2020, except for the amendments to 2 CFR 200.216 and 200.340, which were immediately effective on August 13, 2020. The award recipient must operate in compliance with these revised regulations. Please note that the section numbering in the Uniform Guidance has changed in some instances, and this terms and conditions document has been updated accordingly.

#### A.9 For-Profit Entities, Foreign Entities, and Profit [Awards to for-profit or foreign entities]

For-profit and foreign entities are included in the definition of Non-Federal Entity (NFE) for DOL awards, per DOL's OMB-approved exception found at 2 CFR 2900.2. These entities, along with all other recipients of Federal awards, must comply with the Uniform Guidance found at 2 CFR parts 200 and 2900. The regulation at 2 CFR 2900.2 defines Non-Federal Entity as a state, local government, Indian tribe, institution of higher education (IHE), for-profit entity, foreign public entity, foreign organization or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

The recipient is prohibited from earning a profit resulting from the implementation of this cooperative agreement. As directed in 2 CFR 200.400(g), non-Federal entities may not earn or keep any profit resulting from Federal financial assistance unless explicitly authorized in the Federal Award Terms. Additionally, the provision on profit only applies to WIOA Title 1 programs at 20 CFR 683.295.

#### A.10 Subawards

A *subaward* means an award provided by a *Pass-Through Entity* (PTE) to a subrecipient for the subrecipient to carry out part of a Federal award received by the PTE. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the PTE considers a contract.

The provisions of the Terms and Conditions of this award will be applied to any subrecipient under this award. The recipient is responsible for monitoring the subrecipient, ensuring that the Terms and Conditions are in all subaward packages and that the subrecipient complies

with all applicable regulations and the Terms and Conditions of this award (2 CFR 200.101(b)).

#### A.11 Vendor/Contractor Defined

The term “contractor,” sometimes referred to as a vendor, is a dealer, distributor, merchant or other seller providing goods or services that are required to implement a Federal program (see 2 CFR 200.1). These goods or services may be for an organization's own use or for the use of the beneficiaries of the Federal program. Additional guidance on distinguishing between a subrecipient and a contractor (vendor) is provided in 2 CFR 200.331. When procuring contractors for goods and services, DOL/ETA recipients and subrecipients must follow the procurement requirements found at 2 CFR 200.320 (except states, pursuant to 2 CFR 200.317), which calls for free and open competition.

#### A.12 Technical Assistance, Resources, and Information

Additional resources, training, and information to assist the award recipient are located on the ETA website, [Resources webpage](#) and on the Grants Application and Management collection page on [WorkforceGPS.org](#). [SMART training](#) is a technical assistance initiative sponsored by DOL/ETA to assist its grant and cooperative agreement recipients and subrecipients in improving its program/project operations through effective grants management. Please take some time to review the training modules which are focused on:

Strategies for sound grant management that include:

**M**onitoring,  
**A**ccountability,  
**R**isk mitigation and  
**T**ransparency.

These four themes are woven throughout the OMB Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, also known as the Uniform Guidance (2 CFR Part 200 and 2 CFR Part 2900). The 508-compliant PowerPoints of the modules may be found on [WorkforceGPS.org](#) at the [Resource](#) page.

#### A.13 Monitoring, Technical Assistance, and Additional Specific Conditions of Award

All grant and cooperative agreement award recipients, including states and territories managing the Unemployment Insurance programs, are subject to 2 CFR 200.208, *Specific conditions*, which indicates that the Federal awarding agency may adjust specific award conditions as needed. A specific condition is based on an analysis of the following factors:

1. Based on the criteria in §200.206, *Federal awarding agency review of risk posed by applicants*;
2. The applicant or recipient's history of compliance with the general or specific terms and conditions of a Federal award;
3. The applicant or recipient's ability to meet expected performance goals as described in 2 CFR 200.211; or

4. A responsibility determination of an applicant or recipient.

Additional Federal award conditions may include items such as the following:

1. Requiring payments as reimbursements rather than advance payments;
2. Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given performance period;
3. Requiring additional, more detailed financial reports;
4. Requiring additional project monitoring;
5. Requiring the non-Federal entity to obtain technical or management assistance; or
6. Establishing additional prior approvals.

Grant and cooperative agreement award recipients may be required to obtain technical or management assistance through an established provider/contractor that has been selected or hired by DOL/ETA that may include in-person or remote assistance.

#### A.14 Evaluation, Data, and Implementation

Grant and cooperative award recipients must cooperate during the implementation of a third-party evaluation. This means providing DOL/ETA or its authorized contractor with the appropriate data and access to program operating personnel and participants in a timely manner.

#### A.15 Program Requirements

The FOA contains the program requirements for this award.

### **Part B: Indirect Costs, Budget and Cost Share (Match)**

#### B.1 Indirect Cost Rate and Cost Allocation Plan

Indirect (facilities & administrative (F&A)) costs mean those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. Direct costs, by contrast, can be identified specifically with a particular final cost objective, such as a Federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. Identification with the Federal award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect (F&A) costs of Federal awards.

If the DOL serves as the Federal Cognizant Agency (FCA) for the award recipient, then the grant and cooperative agreement award recipient must work with DOL's Cost & Price Determination Division (CPDD), which has delegated authority to negotiate and issue a Negotiated Indirect Cost Rate Agreement (NICRA) or Cost Allocation Plan (CAP) on behalf of the Federal Government. More information about the DOL's CPDD is available at [DOL's Cost & Price Determination Division \(CPDD\)](#) website. This website has guidelines to develop indirect cost rates, links to the applicable cost principles, and contact information. The CPDD also has [Frequently Asked Questions](#) to provide general information about the

indirect cost rate approval process and due dates for provisional and final indirect cost rate proposals.

If a new NICRA is issued during the award’s period of performance, it must be provided to DOL within 30 days of issuance. Funds may be re-budgeted as necessary between direct cost categories as long as it is consistent with the Budget Flexibility term within this agreement, grant requirements, and DOL regulations on prior approval. However, the total amount of the award will not be increased. Please select either 1, 2, or 3.

1.

\_\_\_\_\_ (a) A federally approved NICRA or federally approved CAP covering a portion of the grant period of performance is attached. Regarding only the NICRA:

Indirect Rate approved %: \_\_\_\_\_  
Type of Indirect Cost Rate (i.e. Provisional/Predetermined/Fixed): \_\_\_\_\_  
Allocation Distribution Base: \_\_\_\_\_  
Current beginning and ending period applicable to rate: \_\_\_\_\_

\_\_\_\_\_ (b) Election of 10% De Minimis Rate

The award recipient does not have a current negotiated (including provisional) rate and may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC) which may be used indefinitely. A governmental department or agency unit that receives more than \$35 million in direct Federal funding must submit its indirect cost rate proposal to its cognizant agency for indirect costs and cannot request a de minimis rate. This methodology must be used consistently for all Federal grant awards until such time as the grant award or cooperative agreement recipient chooses to negotiate for an indirect cost rate, which the award recipient may apply to do at any time. See 2 CFR 200.414(f) for more information on use of the de minimis rate. Please be aware that incurred indirect type costs (such as top management salaries, financial oversight, human resources, payroll, personnel, auditing costs, accounting and legal, etc. used for the general oversight and administration of the organization) must not be classified as direct costs; these types of costs are recovered as part of charging the de minimis rate.

Estimated Indirect Costs for 1.a. and 1.b. must be identified on the SF-424A budget form.

**URGENT NOTICE:** Estimated indirect costs have been specified on the SF-424A, Section B, Object Class Category “j”, however only \$[If B is not selected, enter N/A. If B is selected, enter the de minimis rate of 10% of Modified Total Direct Costs (MTDC)] will be released to support the indirect costs in the absence of a NICRA or CAP approved by the FCA. The remaining funds which have been awarded for Indirect Costs are restricted and may not be used for any purpose until the recipient provides a signed copy of the NICRA or CAP and receives

documentation stating that the restriction is lifted by the Grant Officer. Upon receipt of the NICRA or CAP, the Grant Officer will issue a grant modification to the award to remove the restriction on those funds.

As the grant or cooperative agreement award recipient, the recipient must submit an indirect cost rate proposal or CAP. If the FCA for indirect costs is DOL, these documents should be submitted to the DOL's Cost & Price Determination Division (CPDD). Otherwise, they should be submitted to the grant award recipient's FCA. Alternatively, the award recipient may request the de minimis rate if eligible (see section b. above). In addition, the recipient must notify the FPO that the documents have been submitted to the appropriate FCA.

**If the award recipient does not submit a NICRA proposal within 90 days of award, they will be limited to the de minimis rate of 10% of Modified Total Direct Costs (MTDC).**

- 2. \_\_\_\_\_ (a) The provided NICRA or CAP approved by the FCA does not cover a portion of the period of performance, or  
\_\_\_\_\_ (b) Indirect costs are being claimed on the SF-424A; however an indirect cost rate proposal or CAP has not yet been submitted for approval to the FCA.
  
- 3. The award recipient elected to exclude indirect costs from the proposed budget. Please be aware that incurred indirect costs (such as top management salaries, financial oversight, human resources, payroll, personnel, auditing costs, accounting and legal, etc. used for the general oversight and administration of the organization) must not be classified as direct costs; these types of costs are indirect costs. Only direct costs, as defined by the cost principles contained in the Uniform Guidance will be charged. If indirect costs are misclassified as direct costs per the guidelines at 2 CFR 200.412, such costs may become disallowed through an audit or compliance review conducted by a Federal staff person.

#### B.2 Indirect Cost Rate – De Minimis Rate [All DOL awards]

All award recipients with an approved NICRA or de minimis rate must report indirect costs on their FINAL ETA-9130 Report. If an award recipient has a NICRA and a CAP, only the indirect costs tied to the NICRA are reported on the FINAL ETA-9130 Report. The grant recipient may refer to [Training and Employment Guidance Letter \(TEGL\) 20-19](#) and the [ETA-9130 Report](#) for additional guidance.

#### B.3 Indirect Cost Rate and Cost Allocation Plan [For ILAB, ODEP, and VETS awards]

All grant and cooperative agreement award recipients with an approved NICRA or de minimis rate must report indirect costs on their FINAL SF-425 Federal Financial report. If an award recipient has a NICRA and a CAP, only the indirect costs tied to the NICRA are reported on the SF-425 Report.

#### B.4 Budget - Approved

The grant award recipient's budget documents are attached in this NOA. The documents are: 1) the SF-424, included as Attachment A; 2) the SF-424 A, included as Attachment B; and 3) the Budget Narrative, included as Attachment C. The grant award recipient must confirm that all costs are allowable, reasonable, necessary, and allocable before charging any expense. Pursuant to 2 CFR 2900.1, the approval of the budget as awarded does not constitute prior approval of those items specified in 2 CFR part 200 and 2 CFR part 2900 or as a part of the grant award as requiring prior approval. The Grant Officer is the only official with the authority to provide such approval.

Any changes to the budget that impact the Statement of Work (SOW) and agreed upon outcomes or deliverables will require a request for modification and prior approval from the Grant Officer.

If the period of performance will include multiple budget periods, subsequent budget periods are subject to the availability of funds, program authority, satisfactory performance, and compliance terms and conditions of the Federal award.

#### B.5 Budget [Indian and Native American Programs]

As the grant award recipient, the grant recipient must submit the information from the budget found in the documents identified below for Comprehensive Services Program (CSP) and Supplemental Youth Services Program (SYSP) funding allotments within 30 days of designation.

In addition, the grant award recipient must confirm that all costs are allowable before making expenditures. The approval of the budget as awarded does not constitute prior approval of those items requiring prior approval, including those items that are specified in the cost principles or this grant award as "requiring prior approval." The Grant Officer is the only official with the authority to provide prior written approval.

Unless otherwise authorized in a grant or cooperative agreement or subsequent modification, recipients must expend funds with the shortest period of availability first (20 FR 683.110).

#### B.6 Budget Flexibility [All DOL grants and cooperative agreements]

Award recipients are not permitted to make transfers that would cause any funds to be used for purposes other than those consistent with this Federal program. Any budget changes that impact the SOW and agreed upon outcomes or deliverables require a request for modification and approval from the Grant Officer.

As directed in 2 CFR 200.308(f), for programs where the Federal share is over the Simplified Acquisition Threshold (SAT) (currently \$250,000), the transfer of funds among direct cost categories or programs, functions, and activities is restricted such that if the cumulative amount of such transfers exceeds or is expected to exceed 10% of the total budget as last approved by the Federal awarding agency, the recipient must receive prior approval from the Grant Officer. Any changes within a specific cost category on the SF-424(a) do not require a

grant modification unless the change results in a cumulative transfer among direct cost categories exceeding 10% of total budget. It is recommended that the assigned Federal point of contact review any within-line changes to the award recipient's budget prior to implementation to ensure they do not require a modification.

For programs where the Federal share of the project is below the SAT of \$250,000, recipients are not required to obtain the Grant Officer's approval when transferring funds among direct cost categories.

#### B.7 Budget Flexibility [Program Year (PY) 20XX National Farmworker Jobs Program (NFJP) Housing grants]

Grant recipients must request prior approval from the Grant Officer for any proposed changes to the permanent and temporary housing amounts that are listed in the NFJP PY 20XX Planning TEGL.

#### B.8 Budget - Cost Per Participant (CPP) [For COVID-19 DWGs only]

The grant recipient must adhere to any CPP amount that is specified in the approved budget narrative. Recipients are expected to track the average CPP throughout the project's lifecycle and address this cost in the budget narrative when submitting modification requests for budget realignments or for additional funding.

If the recipient desires to increase its maximum CPP above that amount, the budget narrative must be modified. The request for modification must include a justification for the increased CPP and must be approved by the Grant Officer. The Grant Officer will review such requests on a case-by-case basis as part of the modification request.

#### [For COVID-19 Disaster Recovery DWGs]

CPP equals the total award divided by the number of planned grant participants. This metric accounts for all proposed grant costs across total projected enrollments (including applicable costs for grant administration, employment and training services, disaster-relief wages and fringe benefits, supportive services, etc.). However, it is possible (and allowable) that recipients could bill more than \$20,000 to this Disaster Recovery DWG for a single participant, depending upon the work performed and the length of their disaster relief employment. Participants employed in disaster-relief jobs must be paid the higher of the Federal, state, or local minimum wage, or the comparable rates of pay for other individuals employed in similar occupations by the same employer. In accordance with WIOA Section 181(a)(1)(A), generally, participants shall be compensated at the same rates, including periodic increases, as employees who are similarly situated in comparable occupations by the same employer and who have similar training, experience, and skills, and such rates shall be in accordance with applicable law, but in no event less than the higher of the rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) or the applicable State or local minimum wage law. Fringe benefits should be paid in accordance with the policies of the employer of record.

**B.9 Non-Federal Share (Match or Cost Share) [For WIOA formula grants, Wagner-Peyser, UI, TAA and any other awards that do not include a match requirement]**

This award does not include a match requirement.

**B.10 Non-Federal Share (Match or Cost Share) [For SCSEP, YouthBuild, and any other DOL or ETA award that include a match requirement]**

This award includes a non-Federal share (match or cost share) equaling  % of the total Federal share of costs. The costs that the recipient incurs in fulfilling its matching or cost-sharing requirement are subject to the same requirements, including the cost principles that are applicable to the use of Federal funds. Such costs must be reasonable, allocable and allowable to the program. In addition, those costs must adhere to the guidelines specified in 2 CFR 200.306 and be verifiable in the recipient's records with proof that prior approval where required was obtained. Match must be expended as required at 2 CFR 2900.8 before it can be recognized and reported as match on the SF-425 or ETA-9130 report. Whether in cash or in-kind, the non-Federal share is expected to adhere to the same cost limitations. the award recipient cannot claim a cost as both an allowable cost and as a match expenditure.

The match or cost-sharing requirement must be met at the time all such funds have been expended or the period of availability of such funds has expired, whichever comes first. If the required match is not met, grant recipients will be responsible for reimbursing DOL or ETA the amount of unmet match when the award is closed. Cost share or match must be reported on the quarterly SF-425 or ETA-9130 financial report under the Recipient Share section.

**B.11 Non-Federal Share (Match or Cost Share) [ILAB, ODEP or VETS awards with a match requirement]**

This grant or cooperative agreement award includes a non-Federal share (match or cost share) equaling  % of the total Federal share of costs. The costs that the award recipient incurs in fulfilling its matching or cost-sharing requirement are subject to the same requirements, including the cost principles that are applicable to the use of Federal funds. Such costs must be reasonable, allocable and allowable to the program. In addition, those costs must adhere to the guidelines specified in 2 CFR 200.306 and be verifiable in the recipient's records with proof that prior approval where required was obtained. Whether in cash or in-kind, the non-Federal share is expected to adhere to the same cost limitations. The award recipient can only claim a cost as either an allowable cost or as a match expenditure. Grant costs cannot count towards both an expense to the award and a match expense.

The match or cost-sharing requirement must be met at the time all such funds have been expended or the period of availability of such funds has expired, whichever comes first. If the required match is not met, grant recipients will be responsible for reimbursing DOL the amount of unmet match when the grant or cooperative agreement is closed. Cost share or match must be reported on the quarterly SF-425 Federal financial report under the Recipient Share section. Match must be expended as required at 2 CFR 2900.8 before it can be recognized and reported as match on the SF-425 report.



## **Part C: Funds Management and Special or Temporary Restrictions**

### C.1 Funds – Payment Management System (PMS)

Upon receipt of a NOA, in order to draw funds from the U.S. Department of Health and Human Services (HHS) [Payment Management System \(PMS\)](#), an active account must be established. To establish an account, award recipients must complete an SF-1199A and PMS Access form (shown as the PMS/FFR User Form on the [PMS website](#)). DOL/ETA is responsible for completing portions of the SF-1199A and submitting the completed SF-1199A to the Division of Payment Management, which operates PMS. Federal award recipients do not need to complete these forms if they already have an account with PMS.

### C.2 Funds – Drawdown Restrictions [Where applicable]

This grant award is issued subject to the following special conditions:

1. Federal funds for this grant award will be released upon the receipt, review and approval of documents that support grant activities.
2. No Federal funds may be expended or drawn down from the PMS until the recipient has received written approval from DOL/ETA in the form of a revised NOA.

### C.3 Funds – Submission of Revised Budget or Other Forms [Where applicable]

This award is issued with the following requirements:

1. Office of Grants Management (OGM)
  - a. The grant or cooperative agreement award recipient must submit a revised project budget, comprised of the FY-424A Budget Information Form, and budget narrative which is a line-item breakdown of the budget detailing the amount of funds budgeted for each item.
  - b. The narrative demonstrates that the budget is reasonable and adequate for the proposed work. All costs in the budget must be fully described and justified related to the budget summary and/or supporting documentation requested by [specialist], Grants Management Specialist via e-mail by [date].
  - c. The award recipient must submit revised programmatic documentation requested by [FPO], FPO via e-mail by [date].

### C.4 Rescission of Restrictions [Where applicable]

This revision rescinds the restrictions on the award dated [date] restricting the expenditure of funds. All funds that are awarded in the NOA dated [date] are now available for expenditure. All terms and conditions from the NOA and email dated [date] sent from [sender] remain in effect.

### C.5 Funds - Return & Refunds

DOL/ETA does not accept paper checks for any type of returned funds. For active grants, all return of funds are to be submitted electronically through the PMS operated by the HHS via the same method as a drawdown. For grants that have been cancelled or are expired (typically older than five years), incoming payments, including returns and recoveries to DOL, must be made via the [Pay.gov](#) website.

If there are questions regarding the return of funds, or your organization no longer has access to PMS, contact the DOL/ETA, Office of Financial Administration via email at: [ETA-ARteam@dol.gov](mailto:ETA-ARteam@dol.gov) for further assistance.

## **Part D: Costs - Limitations, Items, and Restrictions**

### D.1 PY 2019 Administrative Costs Limit Change – Coronavirus Aid, Relief, and Economic Security (CARES) Act [WIOA title I awards that have an administrative cost limitation only]

Pursuant to Public Law 116-136 (the CARES Act), and notwithstanding WIOA section 128(b)(4), for PY 2019, not more than 20% of the total amount allocated to a local area may be used for the administrative costs of carrying out local workforce investment activities under WIOA Chapter 2 (Youth Workforce Investment Activities) and Chapter 3 (Adult and Dislocated Worker Employment and Training Activities), if the portion of the total amount of administrative costs that exceeds 10% of the total amount allocated is used to respond to a qualifying emergency.

### D.2. PY 2019 Rapid Response Activities Change – CARES Act [WIOA title I only]

Pursuant to Public Law 116-136 (the CARES Act), the funds reserved by a Governor for PY 2019 for statewide activities under WIOA 128(a) that remain unobligated may be used for statewide rapid response activities as described in WIOA 134(a)(2)(A) for responding to a qualifying emergency.

### D.3 Administrative Costs [WIOA programs using an administrative cost limitation]

Administrative costs are defined in the WIOA at 20 CFR 683.215. Limitations on administrative costs are described at 20 CFR 683.205. Under no circumstances may the administrative costs exceed these limits. The grant recipient will be monitored for compliance with the administrative cost limits throughout the grant's period of performance. Any amounts that exceed these limitations will be disallowed and subject to debt collection.

### D.4 Administrative Costs [Discretionary, if applicable]

Administrative costs are defined in the WIOA at 20 CFR 683.215. There is a % limitation on administrative costs on funds awarded under this grant. Under no circumstances may administrative costs exceed this limit. The grant recipient will be monitored for compliance with the administrative cost limit throughout the grant's period of performance. Any amounts found exceeding this limitation at closeout will be disallowed and subject to debt collection.

### D.5 Administrative Costs [INA]

The administrative costs under this grant are not to exceed 15% of the grant award. If necessary, certain exceptions can raise this limit to 20% of the award amount, but only with prior written approval from the Grant Officer. Failure to obtain such prior written approval may result in cost disallowance. Recipients will be monitored for compliance with the administrative cost limit throughout the grant's period of performance. Any amounts that

exceed this limitation at closeout will be disallowed and subject to debt collection. See 20 CFR 684.820 for further information on administrative costs under this award.

#### D.6 Administrative Costs [SCSEP]

The administrative costs under this award are not to exceed 13.5% of the grant award. If necessary, certain exceptions can raise this limit to up to 15% of the grant amount, but only with prior written approval from the Grant Officer. Administrative costs, as defined in Section 502(c)(4) of the Older Americans Act (42 U.S.C. 3056(c)(4)), are the costs of personnel-related and non-personnel-related and both direct and indirect, associated with the following:

1. The costs of performing general administrative functions and providing for the coordination of functions, such as the costs of— accounting, budgeting, and financial and cash management; procurement and purchasing; property management; personnel management; payroll functions; coordinating the resolution of findings arising from audits, reviews, investigations, and incident reports; audits; general legal services; developing systems and procedures, including information systems, required for administrative functions; preparing administrative reports; and other activities necessary for the general administration of government funds and associated programs.
2. The costs of performing oversight and monitoring responsibilities related to administrative functions.
3. The costs of goods and services required for administrative functions of the project involved, including goods and services such as rental or purchase of equipment, utilities, office supplies, postage, and rental and maintenance of office space.
4. The travel costs incurred for official business in carrying out administrative activities or overall management.
5. The costs of information systems related to administrative functions (such as personnel, procurement, purchasing, property management, accounting, and payroll systems), including the purchase, systems development, and operating costs of such systems.
6. The costs of technical assistance, professional organization membership dues, and evaluating results obtained by the project involved against stated objectives.

#### D.7 Consultants

For the purposes of this grant award, the ETA's Grant Officer has determined that fees paid to a consultant who provides services under a program shall be limited to \$750.00 a day (representing an eight-hour workday). Such costs must be reasonable, allocable, and allowable to the program. Any fees paid in excess of this amount cannot be paid without prior approval from the Grant Officer.

## D.8 Equipment

The grant award recipient(s) must submit a request to purchase equipment and receive **prior approval** from the Grant Officer as defined in the Uniform Guidance at 2 CFR 200.1. A request for purchasing equipment will be reviewed and approved in a modification to the award. Prior approval is required only when the per unit's acquisition cost is \$5,000 or more regardless of the non-Federal entity's capitalization threshold. Equipment purchases must be made in accordance with 2 CFR 200.313 or 2 CFR 200.439.

Being awarded this grant **does not** automatically mean that the equipment specified in the approved budget or SOW is approved by the Grant Officer. If not specified above, the recipient must submit a detailed list describing the purchase to the FPO for review within 90 days of the NOA date. The recipients are strongly encouraged to submit requests for equipment purchase as early as possible in the grant's period of performance with as many planned pieces of equipment as possible.

Recipients may not purchase equipment during the last year of the period of performance or the last year of full program service delivery (not follow up activities), whichever comes first. If any approved acquisition has not occurred prior to the last funded year of performance, approval for that item is rescinded.

### [WIOA Formula and Wagner-Peyser]

The requirement that grant recipients obtain prior approval from the Grant Officer for all purchases of equipment (as described in 2 CFR 200.439) is waived in accordance with 2 CFR 200.308(c)(4) and 20 CFR 683.200, and approval authority is delegated to the Governor for programs funded under Section 127 (Youth) or Section 132 (Adult & Dislocated Worker) of WIOA or under the Wagner-Peyser Act. Notwithstanding this waiver, the Grant Officer reserves the right to reimpose the requirement of prior approval, after providing advance notice to the recipient.

## D.9 Pre-Award Costs

All costs incurred by the award recipient prior to the start date specified in the grant award issued by the Department are **incurred at the recipient's own expense**.

## D.10 Program Income [All awards]

The [ETA Grant Officer chooses one: "Addition" or "Deduction"] method as described in 2 CFR 200.307 must be used in allocating any program income generated for this awards award. The award recipient must expend all program income prior to drawing down any additional funds as required at 2 CFR 200.305(b)(5) and 2 CFR 200.307(e). Any program income found remaining at the end of period of performance must be returned to ETA. In addition, the award recipient(s) must report program income on the quarterly financial report using the applicable ETA-9130 or SF-425 reports.

For the YouthBuild program, please refer to 20 CFR 688.590 for guidance on program income.

#### D.11 Supportive Services & Participant Support Costs [All awards]

When supportive services are expressly authorized by a program statute, regulation, or FOA, this award waives the prior approval requirement for participant support costs as described in 2 CFR 200.456. Costs must still meet the basic considerations at 2 CFR 200.402 – 200.411. Questions regarding supportive services and participant support costs should be directed to the FPO who is assigned to the award.

#### D.12 Travel

This award waives the prior approval requirement for domestic travel as contained in 2 CFR 200.475. For domestic travel to be an allowable cost, it must be necessary, allowable, reasonable, allocable and conform to the non-Federal entity's written policies and procedures. All travel must also comply with Fly America Act (49 USC 40118), which states in part that any air transportation, regardless of price, must be performed by, or under a code-sharing arrangement with, a U.S. Flag air carrier if service provided by such carrier is available.

#### D.13 Travel – Foreign

Foreign travel is not allowable except with prior written approval from the Grant Officer through the process described in 2 CFR 200.407 and 2 CFR 2900.16. All travel, both domestic and Grant Officer approved foreign travel, must comply with the Fly America Act (49 USC 40118), which states in part that any air transportation, regardless of price, must be performed by, or under a code-sharing arrangement with, a U.S. Flag air carrier if service provided by such carrier is available.

#### D.14 Travel – Mileage Reimbursement Rates

Pursuant to 2 CFR 200.475(a), all award recipients must have policies and procedures in place related to travel costs; however, for reimbursement on a mileage basis, this Federal grant award cannot be charged more than the maximum allowable mileage reimbursement rates for Federal employees. Mileage rates must be checked annually at GSA's [Privately Owned Vehicle \(POV\) Mileage Reimbursement Rates webpage](#) to ensure compliance.

#### D.15 Travel – Foreign [WIOA – subtitle B]

Funds that are awarded and authorized to carry out an activity under WIOA, Subtitle B cannot be used for foreign travel.

#### D.16 Conferences and Conference Space

Conferences sponsored in whole or in part by the award recipient are allowable if the conference is necessary and reasonable for the successful performance of the Federal Award. The award recipients are urged to use discretion and good judgment to ensure that all conference costs charged to the grant are appropriate and allowable. For more information on the requirements and the allowability of costs associated with conferences, refer to 2 CFR 200.432. Recipients will be held accountable to the requirements in 2 CFR 200.432.

Therefore, costs that do not comply with 2 CFR 200.432 will be questioned and may be disallowed.

#### D.17 Hotel-Motel Fire Safety

Pursuant to 15 U.S.C. 2225a, the recipient must ensure that all space for conferences and conventions or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (P.L. 101-391, as amended). Recipients may search the [Hotel-Motel National Master List](#) to see if a property is in compliance, or to find other information about the Act.

#### D.18 WIOA Infrastructure [For WIOA and required partner programs]

WIOA, Section 121(b)(1)(B) and 20 CFR 678.400 require the following programs to be One-Stop partners:

1. WIOA, Title I programs: Adult, Dislocated Worker, and Youth formula programs, Job Corps, YouthBuild, Native American programs, National Dislocated Worker Grants (DWG), and NFJP;
2. Wagner-Peyser Act Employment Service (ES) program authorized under the Wagner-Peyser Act (29 U.S.C. 49 et seq.), as amended by WIOA, Title III;
3. SCSEP authorized under Title V of the Older Americans Act of 1965;
4. Trade Adjustment Assistance (TAA) activities authorized under Chapter 2 of Title II of the Trade Act of 1974;
5. Unemployment Compensation (UC) programs;
6. Jobs for Veterans State Grants (JVSG) programs authorized under Chapter 41 of Title 38, U.S.C.; and
7. Reentry Employment Opportunities (REO) programs (formerly known as the Reintegration of Ex-Offenders Program (RExO) awarded prior to January 1, 2019, which were authorized under Section 212 of the Second Chance Act of 2007 (42 U.S.C. 17532).

With the exception of Native American programs established under WIOA, Section 166 all One-Stop partner programs, including all programs that are funded under Title I of WIOA, are required to contribute to the infrastructure costs and certain additional costs of the One-Stop delivery system in proportion to their use and relative benefits received, per 20 CFR 678.700 and 678.760. While Native American programs are not required to contribute to infrastructure costs per WIOA Section 121(h)(2)(D)(iv), they are strongly encouraged to contribute as stated in TEGL No. 17-16. The sharing and allocation of infrastructure costs between One-Stop partners is governed by WIOA Section 121(h), WIOA's implementing regulations, and the Federal Cost Principles contained in the Uniform Guidance at 2 CFR part 200 and DOL's exceptions at 2 CFR part 2900.

If not deemed a required one-stop partner, it is strongly recommended that the grant recipient partner with the local WIOA one-stop delivery system in its service area(s). The one-stop system can assist with referrals, labor market information, and many other services that will directly benefit the management and performance of your grant. The one-stop system also provides access to a wide range of publicly- and privately-funded education, employment,

training, and supportive services while also providing high-quality customer service to job seekers, workers, and businesses.

#### D.19 Pay-For-Performance Contract Strategies [WIOA formula grants]

If any subrecipients (Local Workforce Development Boards (LWDBs)) of the grant recipient elect to set aside funds for pay-for-performance (PFP) contract strategies under 20 CFR 683.520, a separate grant agreement must be created to administer these funds. The grant recipient must provide sufficient notice to the Grant Officer, through its FPO, of any LWDB's decision to reserve up to 10% of its total local Adult/Dislocated Worker or Youth allotment for PFP contract strategies so that a new grant agreement can be issued to cover those funds. The grant recipient should inform its FPO as soon as an amount to be reserved under this provision has been finalized.

#### D.20 Procurement [WIOA formula]

The Uniform Guidance (2 CFR 200.317) require States (as defined in 2 CFR 200.1) to follow the same procurement policies and procedures it uses for non-Federal funds. The state must comply with 2 CFR 200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by 2 CFR 200.327. The grant award recipient(s) must also follow the requirements regarding the competitive selection of One-Stop Operators at WIOA Sections 121(d) and 123.

### **Part E: Reporting, Audit, and Closeout**

#### E.1 Reports [All ETA awards]

All ETA award recipients are required to submit quarterly financial and narrative progress reports for each award.

1. **Quarterly Financial Reports.** All ETA award recipients are required to report financial data on the ETA-9130 Financial Report. ETA-9130 reports are due no later than 45 calendar days after the end of each specified reporting quarter. Reporting quarter end dates are March 31, June 30, September 30, and December 31. A final financial report must be submitted no later than 45 calendar days after the quarter encompassing the award end date ends, or 45 calendar days after the completion of the quarter in which all funds have been expended, whichever comes first. A closeout report will be submitted during the closeout process. For additional guidance on ETA's financial reporting, reference [TEGL 20-19](#) and [ETA-9130 Financial Reporting Resources](#).

The instructions for accessing both the online financial reporting system and the HHS PMS can be found in the transmittal memo accompanying this NOA.

#### E.2 Reports [All ETA discretionary awards]

1. **Quarterly Narrative Progress Reports.** Award recipients are required to submit a narrative quarterly and final report on grant activities funded under this award. All

reports are due no later than 45 calendar days after the end of each specified reporting quarter. Reporting quarter end dates are March 31, June 30, September 30, and December 31.

- a) The last quarterly progress report that award recipients submit will serve as the grant's Final Performance Report. This report should provide both ***quarterly and cumulative*** information on the award's activities. It must summarize project activities, employment outcomes and other deliverables, and related results of the project.
- b) The award recipient shall use any standard forms and instructions to report on training and employment outcomes and other data relating to the progress reports as provided by ETA.
- c) The award recipient shall utilize standard reporting processes and electronic reporting systems to submit their quarterly progress reports as provided by ETA.

#### E.3 Reports [All ILAB, ODEP, and VETS Awards]

All [redacted] grant award recipients are required to submit quarterly financial and narrative progress reports for each grant award as described in the following:

1. **Quarterly Financial Reports.** Grant award recipients are required to report quarterly financial data on the SF-425 report, which are due no later than 30 calendar days after the end of each specified reporting quarter. Reporting quarter end dates are March 31, June 30, September 30, and December 31. A final financial report must be submitted no later than 30 calendar days after the quarter ends and the closeout SF-425 report must be submitted no later than 120 calendar days after the grant period of performance ends. See 2 CFR 200.344. A closeout report will be submitted during the closeout process.

The instructions for accessing both the online financial reporting system and the HHS PMS can be found in the transmittal memo accompanying this NOA.

#### E.4 Performance Reports – Program-Specific [INA]

WIOA Section 166 grant recipients must submit Quarterly Performance Reports in accordance with the following instructions:

1. [The Grantee Performance Management System \(GPMS\)](#) is the vehicle through which INA grant recipients transmit their report file to [Workforce Integrated Performance System \(WIPS\)](#).
2. INA grant recipients must submit individual records based on the ETA-9172 Participant Individual Record Layout (PIRL) and ETA-9173 DINAP Report Form.
3. **[Youth Program]** The grant recipient must submit its ETA-9085 Youth Program Report through the external EBSS website.



## E.5 Performance Reports – Program-Specific [DWG]

DWG grant recipients must submit Quarterly Performance and Quarterly Narrative Reports in accordance with [TEGL 14-18, Attachment 6](#).

1. [Workforce Integrated Performance System \(WIPS\)](#) is the vehicle through which DWG grant recipients must submit individual records based on the Participant Individual Record Layout (PIRL).
2. Grant recipients are required to use the Joint Quarterly Narrative Report Template (ETA-9179) for quarterly performance narrative reporting. Grant recipients submit the Quarterly Narrative Report using the WIPS reporting system.
3. Information on DWGs awarded to states must be included in that state's WIOA Annual Statewide Performance Report Narrative in accordance with the guidance.

## E.6 Federal Funding Accountability and Transparency Act (FFATA or Transparency Act)

Applicable to grants and cooperative agreements:

1. Reporting of first-tier subawards.
  - a) *Applicability*. Unless the award recipient is exempt as provided in paragraph [4.] of this award term, the award recipient must report each action that equals or exceeds \$30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph [5.] of this award term).
  - b) *Where and when to report*.
    - I. The Federal entity or Federal agency must report each obligating action described in paragraph [1.a.] of this award term to [FSRS.gov](#).
    - II. For subaward information, the recipient must 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.)
  - c) *What to report*. The award recipient must report the information about each obligating action that the submission instructions posted at [FSRS.gov](#) specify.
2. Reporting total compensation of recipient executives for non-Federal entities.
  - a) *Applicability and what to report*. The award recipient must report total compensation for each of their five most highly compensated executives for the preceding completed fiscal year, if—
    - I. the total Federal funding authorized to date under this Federal award is equal to or exceeds \$30,000 and is subject to the Transparency Act, as defined in 2 CFR 170.320;
    - II. in the preceding fiscal year, the recipient received—
      - (A) 80% or more of the annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined in 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 in 2 CFR 170.320 (and subawards); and

- III. The public does not have access to information on 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 \(SEC\) total compensation filings](#))
  - b) *Where and when to report.* The award recipient must report executive total compensation described in paragraph [2.a.] of this award term:
    - a. As part of your registration profile at [SAM.gov](#).
    - b. By the end of the month following the month in which this award is made, and annually thereafter.
3. Reporting of Total Compensation of Subrecipient Executives.
- a) *Applicability and what to report.* Unless the recipient is exempt as provided in paragraph [4.] of this award term, for each first-tier non-Federal entity subrecipient under this award, the award recipient 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% or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined in 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 on 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 [SEC total compensation filings](#))
  - b) *Where and when to report.* The award recipient must report subrecipient executive total compensation described in paragraph [3.a.] of this award term:
    - I. To the recipient.
    - II. By the end of the month following the month during which the recipient makes 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), the grant recipient must report any required compensation information of the subrecipient by November 30 of that year.
4. Exemptions.
- If, in the previous tax year, the award recipient had gross income, from all sources, under \$300,000, the recipient is exempt from the requirements to report:
- a) Subawards; and
  - b) The total compensation of the five most highly compensated executives of any subrecipient.

5. Definitions.

For purposes of this award term:

- a) *Federal Agency* means a Federal agency as defined in 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).
- b) *Non-Federal 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; and
  - IV. A domestic or foreign for-profit organization.
- c) *Executive* means officers, managing partners, or any other employees in management positions.
- d) *Subaward*:
  - I. This term is used as a legal instrument to provide support for the performance of any portion of the substantive project or program for which the grant recipient received this award and that the grant recipient as the recipient award to an eligible subrecipient.
  - II. The term does not include the grant award recipient's payment to a contractor, as defined in 2 CFR 200.331, for property and services needed to carry out the project or program.
  - III. A subaward may be provided through any legal agreement, including an agreement that the grant recipient or a subrecipient considers a contract.
- e) *Subrecipient* means a non-Federal entity or Federal agency that:
  - I. Receives a subaward from the grant award recipient under this award; and
  - II. Is accountable to the grant recipient for the use of the Federal funds provided by the subaward.
- f) *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.

E.7 Integrity and Performance Matters – FAPIIS [For awards exceeding \$500,000]

1. If the total value of the currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then the award recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in Paragraph 2 of this award term and condition. This is a statutory requirement under Section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by Section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.
2. Proceedings about which the award recipient must report. Submit the information required about each proceeding that:
  - a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
  - b. Reached its final disposition during the most recent 5-year period; and
  - c. Is one of the following:
    - I. A criminal proceeding that resulted in a conviction, as defined in Paragraph 5. of this award term;
    - II. A civil proceeding that resulted in a finding of fault and liability and paying a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
    - III. An administrative proceeding, as defined in Paragraph 5. of this award term, that resulted in a finding of fault and liability and grant recipient payment of either monetary fine or penalty of \$5,000 or more or a reimbursement, restitution, or damages in excess of \$100,000; or
    - IV. Any other criminal, civil, or administrative proceeding if:
      - (A) It could have led to an outcome described in Paragraph 2.c.I, II, or III of this award term;
      - (B) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on the grant recipient's part; and
      - (C) The requirement in this award term to disclose information about the proceeding does not conflict with applicable laws and regulations.
3. Reporting procedures. Enter in SAM, Entity Management area (formerly CCR), or any successor system, the FAPIIS information that SAM requires about each proceeding described in Paragraph 2 of this award term. The award recipient does not need to submit the information a second time under assistance awards that were received if the recipient already provided the information through SAM (formerly

CCR) because the recipient was required to do so under Federal procurement contracts that the recipient was awarded.

4. Reporting frequency. During any period of time when the award recipient is subject to the requirement in Paragraph 1 of this award term, the award recipient must report FAPIIS information through SAM no less frequently than semiannually following the initial report of any proceedings for the most recent 5-year period, either to report new information about any proceeding(s) that the award recipient has not reported previously or to affirm that there is no new information to report.
5. Definitions. For purposes of this award term:
  - a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., SEC Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level. It does not include audits, site visits, corrective plans, or inspection of deliverables.
  - b. Conviction, for purposes of this award term, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
  - c. Total value of currently active grants, cooperative agreements, and procurement contracts includes —
    - I. Only the Federal share of the funding under any award with a recipient cost share or match; and
    - II. The value of all options, even if not yet exercised.

## E.8 Audits

Organization-wide or program-specific audits must be performed in accordance with Subpart F, the Audit Requirements of the Uniform Guidance. DOL award recipients that expend \$750,000 or more in a year from any Federal awards must have an audit conducted for that year in accordance with the requirements contained in 2 CFR 200.501. OMB's approved DOL exception at 2 CFR 2900.2 expands the definition of 'non-Federal entity' to include for-profit entities and foreign entities. As such, for-profit and foreign entities that are recipients/subrecipients of a DOL award must adhere to the Uniform Guidance at 2 CFR 200, including Subpart F. Audits of direct award recipients that are for-profit and foreign entities must be submitted directly to: USDOL ETA-OGM, Attn: Audit Resolution, 200 Constitution Ave NW, Room N-4716, Washington, DC 20210. All other audit reports are submitted through the Federal Audit Clearinghouse

The recipient is prohibited from earning a profit resulting from the implementation of this cooperative agreement. As directed in 2 CFR 200.400(g), non-Federal entities may not earn or keep any profit resulting from Federal financial assistance unless explicitly authorized in the Federal Award Terms. Additionally, the provision on profit only applies to WIOA Title 1 programs at 20 CFR 683.295

## E.9 Audit Submission Deadline Extension Related to COVID-19

In [OMB Memorandum M-20-17](#), OMB offered an extension of Single Audit submission deadlines for fiscal years ending June 30, 2020 to allow recipients and subrecipients a responsible transition to normal operations. This flexibility was extended through December 31, 2020 by [OMB Memorandum 20-26](#).

In [OMB Memorandum M-21-20](#), Appendix 3, Item IX, OMB has offered an additional extension of Single Audit submission deadlines for fiscal years ending June 30, 2021. Award recipients and subrecipients that have not yet filed their single audits with the Federal Audit Clearinghouse as of March 19, 2021, that have fiscal year-ends through June 30, 2021, may delay the completion and submission of the Single Audit reporting package, as required under 2 CFR 200.501 (Audit Requirements), to six (6) months beyond the normal due date. This extension does not require individual recipients and subrecipients to seek approval for the extension by the cognizant or oversight agency for audit; however, recipients and subrecipients should maintain documentation of the reason for the delayed filing.

## E.10 Closeout/Final Year Requirements

At the end of the grant period, the award recipient will be required to close the grant with the ETA. The grant and cooperative agreement award recipient will be notified approximately 15 days prior to the end of the period of performance that the closeout process will begin when the period of performance ends. See ETA's [Grant Closeout](#) webpage for further information on the closeout process. The recipient's responsibilities at closeout may be found at 2 CFR 200.344. During the closeout process, the award recipient must be able to provide documentation for all direct and indirect costs that are incurred. For instance, if an organization is claiming indirect costs, the required documentation is a NICRA or CAP issued by the award recipient's FCA. For those approved to utilize a de minimis rate for indirect costs, the grant agreement or cooperative agreement is sufficient documentation. Not having documentation for direct or indirect costs will result in costs being disallowed and subject to debt collection.

The only liquidation that can occur during closeout is the liquidation of accrued expenditures (NOT obligations) for goods and/or services received during the period of performance specified in this award (NOA) (2 CFR 2900.15).

## **Part F: National Policy and Restrictions**

### F.1 Architectural Barriers

The Architectural Barriers Act of 1968, 42 U.S.C. 4151 et seq., as amended, the Federal Property Management Regulations (see 41 CFR 102-76), and the Uniform Federal Accessibility Standards issued by the U.S. General Services Administration (GSA) (see 36 CFR 1191, Appendixes C and D) set forth requirements to make facilities accessible to, and usable by, the physically handicapped and include minimum design standards. All new facilities designed or constructed with grant support must comply with these requirements.

## F.2 Domestic Preferences for Procurements

As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of 2 CFR Part 200.322 must be included in all subawards including all contracts and purchase orders for work or products under this award.

## F.3 Drug-Free Workplace

The Drug-Free Workplace Act of 1988, 41 U.S.C. 702 *et seq.*, and 2 CFR 182 require that all award recipients receiving awards from any Federal agency maintain a drug-free workplace. The award recipient must notify the awarding office if an employee of the recipient is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for suspension or debarment.

## F.4 Flood Insurance

The Flood Disaster Protection Act of 1973, as amended, 42 U.S.C. 4001 *et seq.*, provides that no Federal financial assistance to acquire, modernize, or construct property may be provided in communities in the United States identified as flood-prone, unless the community participates in the National Flood Insurance Program and flood insurance is purchased within 1 year of the identification. The flood insurance purchase requirement applies to both public and private applicants for the DOL support. Lists of flood-prone areas that are eligible for flood insurance are published in the Federal Register by FEMA.

## F.5 Intellectual Property Rights

The Federal Government reserves a paid-up, nonexclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use for federal purposes: the copyright in all products developed under the grant, including a subgrant or contract under the grant or subgrant; and any rights of copyright to which the grant award recipient, subrecipient or a contractor purchases ownership under an award (including but not limited to curricula, training models, technical assistance products, and any related materials). Such uses include, but are not limited to, the right to modify and distribute such products worldwide by any means, electronically or otherwise.

Federal funds may not be used to pay any royalty or license fee for use of a copyrighted work, or the cost of acquiring by purchase a copyright in a work, where the DOL/ETA has a license or rights of free use in such work, although they may be used to pay costs for obtaining a copy which is limited to the developer/seller costs of copying and shipping.

If revenues are generated by selling products developed with grant funds, including intellectual property, these revenues are considered as program income. Program income must be used in accordance with the provisions of this grant award and 2 CFR 200.307.

The following language must be on all workforce products developed in whole or in part with grant funds:

“This workforce product was funded by a grant awarded by the U.S. Department of Labor (DOL)’s [insert organization’s name]. The product was created by the recipient and does not necessarily reflect the official position of DOL/ETA. DOL/ETA makes no guarantees, warranties, or assurances of any kind, express or implied, with respect to such information, including any information on linked sites and including, but not limited to, accuracy of the information or its completeness, timeliness, usefulness, adequacy, continued availability, or ownership. This product is copyrighted by the institution that created it.”

#### F.6 Participant Minimum Age [For all H1-B awards]

Pursuant to P.L. 117-103, Division H, Title I, Section 104, funds made available under section 414(c) of the American Competitiveness and Workforce Improvement Act of 1998 (29 U.S.C. 3224a) must only be used for training individuals and for the related activities necessary to support such training. This training must be in the occupations and industries for which employers are using H-1B visas to hire foreign workers, and it must be provided only to individuals who are older than 16 years of age and who are not currently enrolled in a school within a local educational agency.

#### F.7 Promoting Equitable Delivery of Government Benefits and Equal Opportunity

The Department of Labor (Labor) seeks to affirmatively advance equity, civil rights and equal opportunity in the policies, programs, and services it provides. Therefore, consistent with Executive Order 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*, grant and cooperative award recipients must execute the terms and conditions of their award in a manner that advances equity for all, including people of color and others who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality. This extends to all award activities including, but not limited to, service delivery, selection of subrecipients and contractors, and procurement of goods and services. Government programs are designed to serve all eligible individuals. As an expectation, Labor’s award recipients should make the goods and services they provide widely available with the goal of effectively serving a diverse population of eligible individuals; fairly, justly, and impartially in administering the grant award. Award recipients are encouraged to engage in contracting and subcontracting for goods and services related to performing the terms and conditions of their grants in such a way to achieve equity.

The term “equity” means the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons; persons with



disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality.

The term “underserved communities” refers to populations sharing a particular characteristic, as well as geographic communities, that have been systematically denied a full opportunity to participate in aspects of economic, social, and civic life, as exemplified by the list in the preceding definition of “equity.”

#### F.8 Personally Identifiable Information

The award recipient(s) must recognize and safeguard Personally Identifiable Information (PII) except where disclosure is allowed by prior written approval of the Grant Officer or by court order. Award recipients must meet the requirements in [TEGL No. 39-11, Guidance on the Handling and Protection of PII](#).

#### F.9 Publicity

Pursuant to P.L. 117-103, Division H, Title V, Section 503, the award recipient is not authorized to use any funds provided under this award—other than for normal and recognized executive–legislative relationships—for publicity or propaganda purposes, for the preparation, distribution or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation, designed to support or defeat legislation pending before the Congress or any state or local legislature or legislative body, except in presentation to the Congress or any state or local legislature itself, or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any state or local government, except in presentation to the executive branch of any state or local government itself.

#### F.10 Telecommunications Prohibition

Award recipients must adhere to 2 CFR 200.216 - Prohibition on certain telecommunications and video surveillance services or equipment (effective August 13, 2020).

Award recipients, including grant and cooperative agreements, and subrecipients are prohibited from obligating or expending loan or grant funds to:

Procure or obtain;

Extend or renew a contract to procure or obtain; or

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

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

subsidiary or affiliate of such entities). Including telecommunications or video surveillance services provided by such entities or using such equipment and telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained. See Public Law 115-232 (section 889) and 2 CFR 200.471 for additional information.

#### F.11 Veterans' Priority Provisions

The Jobs for Veterans Act (Public Law 107-288) requires award recipients to provide priority service to veterans and spouses of certain veterans for the receipt of employment, training, and placement services in any job training program directly funded, in whole or in part, by the DOL. The regulations implementing this priority of service can be found at 20 CFR Part 1010. In circumstances where an award recipient must choose between two qualified candidates for a service, one of whom is a veteran or eligible spouse, the veterans' priority of service provisions require that the award recipient give the veteran or eligible spouse priority of service by first providing him or her that service. To obtain priority of service, a veteran or spouse must meet the program's eligibility requirements. Award recipients must comply with the DOL guidance on veterans' priority. ETA's [TEGL No. 10-09](#) (issued November 10, 2009) provides guidance on implementing priority of service for veterans and eligible spouses in all qualified job training programs funded in whole or in part by DOL.

#### F.12 Waste, Fraud and Abuse [All awards]

No entity receiving federal funds may require employees or contractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

#### F.13 Whistleblower Protection

All employees working for contractors, grantees/ grant recipients, subcontractors, subgrantees/ subrecipients, and recipients of cooperative agreements working on this Federal award are subject to the whistleblower rights and remedies established at 41 U.S.C. 4712. The award recipient shall inform its employees and applicable contractors and subrecipients, in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712, as described in section 3.908 of

the Federal Acquisition Regulation. The award recipient shall insert the substance of this clause in all subawards and contracts over the Simplified Acquisition Threshold.

#### F.14 Executive Order 12928 - Historically Black Colleges and Universities and other Minority Institutions such as Hispanic-Serving Institutions and Tribal Colleges and Universities

Pursuant to Executive Order (EO) 12928, the award recipient is strongly encouraged to provide subcontracting/subgranting opportunities to Historically Black Colleges and Universities and other Minority Institutions such as Hispanic-Serving Institutions and Tribal Colleges and Universities; and to Small Businesses Owned and Controlled by Socially and Economically Disadvantaged Individuals.

#### F.15 Executive Order 13043 - Increasing Seat Belt Use

Pursuant to EO 13043, Increasing Seat Belt Use in the United States, dated April 16, 1997, the award recipients are encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles.

#### F.16 Executive Order 13166 - Improving Access to Services for Persons with Limited English Proficiency

As clarified by EO 13166, Improving Access to Services for Persons with Limited English Proficiency, dated August 11, 2000, and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI, award recipients must take reasonable steps to ensure that LEP persons have meaningful access to programs in accordance with [DOL's Policy Guidance on the Prohibition of National Origin Discrimination as it Affects Persons with Limited English Proficiency](#), 68 FR 32289 (May 29, 2003). Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Award recipients are encouraged to consider the need for language services for LEP persons served or encountered both in developing budgets and in conducting programs and activities. For assistance and information regarding your LEP obligations, go to [LEP.gov](#).

#### F.17 Executive Order 13513 - Federal Leadership On Reducing Text Messaging While Driving

Pursuant to EO 13513, Federal Leadership On Reducing Text Messaging While Driving, dated October 1, 2009, award recipients and subrecipients are encouraged to adopt and enforce policies that ban text messaging while driving company-owned or -rented vehicles or government-owned vehicles (GOV), or while driving privately-owned vehicles (POV) when on official Government business or when performing any work for or on behalf of the Government. Award recipients and subrecipients are also encouraged to conduct initiatives of the type described in section 3(a) of this order.

## F.18 Executive Order 14005 - Ensuring the Future Is Made in All of America by All of America's Workers

Pursuant to EO 14005, Ensuring the Future Is Made in All of America by All of America's Workers, the award recipient agrees to comply with all applicable Made in America Laws (as defined in the EO), including the Buy American Act at 41 USC sections 8301-8305. For the purposes of this award, the grant and cooperative award recipient is required to maximize the use of goods, products, and materials produced in, and services offered in, the United States, in accordance with the Made in America Laws. No funds may be made available to any person or entity (including as a contractor or subrecipient of the award recipient) that has been found to be in violation of any Made in America Laws.

“Made in America Laws” means all statutes, regulations, rules, and Executive Orders relating to Federal financial assistance awards or Federal procurement, including those that refer to “Buy America” or “Buy American,” that require, or provide a preference for, the purchase or acquisition of goods, products, or materials produced in the United States, including iron, steel, and manufactured goods offered in the United States. Made in America Laws include laws requiring domestic preference for maritime transport, including the Merchant Marine Act of 1920 (Public Law 66-261), also known as the Jones Act.

## F.19 Salary and Bonus Limitations [All appropriated awards]

Pursuant to P.L. 117-103, Division H, Title I, Section 105, award recipients and subrecipients shall not use funds to pay the salary and bonuses of an individual, either as direct costs or as indirect costs, at a rate in excess of Executive Level II. The Executive Level II salary may change yearly and is located on the [OPM.gov](https://www.opm.gov) website. The salary and bonus limitation does not apply to contractors (vendors) providing goods and services as defined in 2 CFR 200.331. Where States are recipients of such funds, States may establish a lower limit for salaries and bonuses of those receiving salaries and bonuses from subrecipients, taking into account factors including the relative cost-of-living in the State, the compensation levels for comparable State or local government employees, and the size of the organizations that administer Federal programs involved including ETA programs. See [TEGL 5-06](#) for further clarification.

## F.20 Harassment Prohibited [WIOA formula and discretionary grants]

The grant recipient and any subrecipients are prohibited from engaging in harassment of an individual based on race, color, religion, sex, national origin, age, disability, or political affiliation or belief, or, for beneficiaries, applicants, and participants only, based on citizenship status or participation in any WIOA Title I-financially assisted program or activity. Harassing conduct of this type is a violation of the nondiscrimination provisions of WIOA and of 29 CFR Part 38.

Unwelcome sexual advances, requests for sexual favors, or offensive remarks about a person's race, color, religion, sex, national origin, age, disability, political affiliation or belief, or citizenship or participation, and other unwelcome verbal or physical conduct

based on one or more of these protected categories constitutes unlawful harassment on that basis(es) when:

Submission to such conduct is made either explicitly or implicitly a term or condition of accessing the aid, benefit, service, or training of, or employment in the administration of or in connection with, any WIOA title I-financially assisted program or activity; or

Submission to, or rejection of, such conduct by an individual is used as the basis for limiting that individual's access to any aid, benefit, service, training, or employment from, or employment in the administration of or in connection with, any WIOA Title I-financially assisted program or activity; or

Such conduct has the purpose or effect of unreasonably interfering with an individual's participation in a WIOA Title I-financially assisted program or activity creating an intimidating, hostile or offensive program environment.

Harassment because of sex includes harassment based on gender identity or sexual orientation; harassment based on failure to comport with sex stereotypes; and harassment based on pregnancy, childbirth, and related medical conditions. Sex-based harassment may include harassment that is not sexual in nature but that is because of sex or where one sex is targeted for the harassment.

#### F.21 Intellectual Property, Open Licensing Rights, and the Bayh-Dole Act [For discretionary awards]

As required at 2 CFR 2900.13, any intellectual property developed under a discretionary Federal award process must be licensed under an open license, which allows subsequent users to copy, distribute, transmit and adapt the copyrighted work and attribute the work in the manner specified by the recipient.

All small business firms, and non-profit organizations (as defined in the link below, and including Institutions of Higher Education) must adhere to the Bayh-Dole Act, which requirements are provided at 37 CFR 401.3(a) and at [Bayh-Dole Act Required ETA Grant Term](#). To summarize, these requirements describe the ownership of intellectual property rights and the government's nonexclusive, nontransferable, irrevocable, paid-up license to use any invention conceived or first actually reduced to practice in the performance of work under this grant award. These requirements are in addition to those found in the Intellectual Property Rights term above.

#### F.22 Procurement [Discretionary]

The Procurement Standards found in the Uniform Guidance at 2 CFR 200.318-327 require all grant award recipients and subrecipients to conduct procurement transactions in a manner that promote practical, open, and free competition. The award recipient's description in the SOW of a specific entity that will provide goods or services does not constitute approval or justification of sole-source procurement from this entity.

The Uniform Guidance (at 2 CFR 200.317) requires States (as defined in 2 CFR 200.1) to follow the same procurement policies and procedures it uses for non-Federal funds. The State must comply with 2 CFR 200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by 2 CFR 200.327.

## **Part G: National Prohibitions and Other Restrictions**

### **G.1 Contracting with Corporations with Felony Criminal Convictions Prohibited [All awards]**

The award recipient may not knowingly enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that was convicted of a felony criminal violation under any Federal law within the preceding 24 months.

### **G.2 Contracting with Corporations with Unpaid Tax Liabilities Prohibited [All awards]**

The award recipient may not knowingly enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability.

### **G.3 Trafficking in Persons Prohibited**

1. This part establishes a government-wide award term for grants and cooperative agreements to implement the requirement in regard to Trafficking in persons.

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

I. The award recipient, the award recipient's employees, subrecipients under this award, and subrecipients' employees may not—

(A). Engage in severe forms of trafficking in persons during the period of time that the grant award is in effect; or

(B). Procure a commercial sex act during the period of time that the award is in effect; or

(C). Use forced labor in the performance of the award or subawards under the award.

II. DOL/ETA as the Federal awarding agency may unilaterally terminate this award, without penalty, if the award recipient or a subrecipient that is a private entity —

(A). Is determined to have violated a prohibition in paragraph a.I of this award term; or

(B). Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.I of this award term through conduct that is either—

i. Associated with performance under this award; or

ii. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR Part 2998.

b. *Provision applicable to a recipient other than a private entity.* DOL/ETA as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

I. Is determined to have violated an applicable prohibition in paragraph a.I of this grant award term; or

II. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.I of this grant award term through conduct that is either—

(A). Associated with performance under this award; or

(B). Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 29 CFR Part 98.

c. *Provisions applicable to any recipient.*

I. The award recipient must inform DOL/ETA immediately of any information the award recipient receives from any source alleging a violation of a prohibition in paragraph a.1 of this grant award term.

II. DOL/ETA right to terminate unilaterally that is described in paragraph a.II or b of this section:

(A). Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and

(B). Is in addition to all other remedies for noncompliance that are available to DOL/ETA under this grant award.

III. The award recipient must include the requirements of paragraph a.I of this award term in any subaward the award recipient make to a private entity.

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

I. “Employee” means either:

(A). An individual employed by the grant award recipient or a subrecipient who is engaged in the performance of the project or program under this award; or

(B). Another person engaged in the performance of the project or program under this grant award and not compensated by the grant recipient including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

II. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

III. “Private entity”:

(A). Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

(B). Includes:

i. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).

ii. A for-profit organization.

IV. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

#### G.4 Health Benefits Coverage for Contraceptives [All appropriated awards]

Federal funds may not be used to enter in to or renew a contract which includes a provision for prescription drug coverage unless the contract also includes a provision for contraceptive coverage. This requirement does not apply to contracts with 1) the religious plans Personal Care’s HMO and OSF Health Plans, Inc. and 2) any existing or future plan if the carrier for the plan objects to such coverage on the basis of religious beliefs.

In implementing this section, any plan that enters into or renews a contract may not subject any individual to discrimination on the basis that the individual refuses to prescribe or otherwise provide for contraceptives because such activities would be contrary to the individuals’ religious beliefs or moral convictions. Nothing in this term shall be construed to require coverage of abortion or abortion related services.

#### G.5 Health Benefits Coverage for Abortions Restricted [All appropriated awards]

Pursuant to P.L. 117-103, Division H, Title V, Section 506 and 507, Federal funds may not be expended for health benefits coverage that includes coverage of abortions, except when the pregnancy is the result of rape or incest, or in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself that would, as certified by a physician, place the women in danger of death unless an abortion is performed. This restriction does not prohibit any non-Federal entity from providing health benefits coverage for abortions when all funds for that specific benefit do not come from a Federal source. Additionally, no funds made available through this grant award may be provided to a State or local government if such government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.



## G.6 Fair Labor Standards Act Amendment for Major Disasters [All appropriated awards]

Pursuant to P.L. 117-103, Division H, Title I, Section 108, the Fair Labor Standards Act of 1938 (FLSA) will apply as if the following language was added to Section 7 (the Maximum Hours Worked Section). This language specifically relates to occurrences of a major disaster (as declared or designated by the state or federal government) and are applied for a period of two years afterwards. The language is as follows:

“(s)(1) The provisions of this section [maximum hours worked] shall not apply for a period of 2 years after the occurrence of a major disaster to any employee—  
(A) employed to adjust or evaluate claims resulting from or relating to such major disaster, by an employer not engaged, directly or through an affiliate, in underwriting, selling, or marketing property, casualty, or liability insurance policies or contracts;  
(B) who receives from such employer on average weekly compensation of not less than \$591.00 per week or any minimum weekly amount established by the Secretary, whichever is greater, for the number of weeks such employee is engaged in any of the activities described in subparagraph (C); and (C) whose duties include any of the following:  
(i) interviewing insured individuals, individuals who suffered injuries or other damages or losses arising from or relating to a disaster, witnesses, or physicians;  
(ii) inspecting property damage or reviewing factual information to prepare damage estimates;  
(iii) evaluating and making recommendations regarding coverage or compensability of claims or determining liability or value aspects of claims;  
(iv) negotiating settlements; or  
(v) making recommendations regarding litigation.  
(2) The exemption in this subsection shall not affect the exemption provided by section 13(a)(1) [of the FLSA].  
(3) For purposes of this subsection—  
(A) the term ‘major disaster’ means any disaster or catastrophe declared or designated by any State or Federal agency or department;  
(B) the term ‘employee employed to adjust or evaluate claims resulting from or relating to such major disaster’ means an individual who timely secured or secures a license required by applicable law to engage in and perform the activities described in clauses (i) through (v) of paragraph (1)(C) relating to a major disaster, and is employed by an employer that maintains worker compensation insurance coverage or protection for its employees, if required by applicable law, and withholds applicable Federal, State, and local income and payroll taxes from the wages, salaries and any benefits of such employees; and  
(C) the term ‘affiliate’ means a company that, by reason of ownership or control of 25% or more of the outstanding shares of any class of voting securities of one or more companies, directly or indirectly, controls, is controlled by, or is under common control with, another company.”

#### G.7 Lobbying/Advocacy Restricted [All appropriated awards]

Pursuant to P.L. 117-103, Division H, Title V, Section 503, no federal funds may be used to pay the salary or expenses of any grant recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or executive order proposed or pending before the Congress or any state government, state legislature or local legislature or legislative body, other than for normal and recognized executive–legislative relationships or participation by an agency or officer of a state, local or tribal government in policymaking and administrative processes within the executive branch of that government.

#### G.8 Blocking Pornography Required [All appropriated awards]

Pursuant to P.L. 117-103, Division H, Title V, Section 520, no Federal funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography.

#### G.9 Privacy Act [All appropriated awards]

No funds can be used in contravention of 5 U.S.C. 552a (the Privacy Act) or regulations implementing the Privacy Act.

#### G.10 Procuring Goods Obtained Through Child Labor Prohibited [All appropriated awards]

Pursuant to P.L. 117-103, Division H, Title I, Section 103, no Federal funds may be obligated or expended for the procurement of goods mined, produced, manufactured, or harvested or services rendered, in whole or in part, by forced or indentured child labor in industries and host countries identified by the DOL prior to December 20, 2019. DOL has identified these goods and services at ILAB’s [List of Products Produced by Forced or Indentured Child Labor](#) webpage.

#### G.11 Promotion of Drug Legalization Restricted [All appropriated awards]

Pursuant to P.L. 117-103, Division H, Title V, Section 509, no Federal funds shall be used for any activity that promotes the legalization of any drug or other substance included in Schedule I of the schedules of controlled substances established under Section 202 of the Controlled Substances Act except for normal and recognized executive-congressional communications or where there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

#### G.12 Public Communications – Certain Information Requirement

Pursuant to P.L. 117-103, Division H, Title V, Section 505, when issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all non-Federal entities receiving Federal funds shall clearly state:

1. The percentage of the total costs of the program or project which will be financed with Federal money;
2. The dollar amount of Federal funds for the project or program; and
3. The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

The requirements of this term are separate from those in 2 CFR Part 200 and, when applicable, both must be complied with.

#### G.13 Purchase of Sterile Needles or Syringes Restricted [All appropriated awards]

Pursuant to P.L. 117-103, Division H, Title V, Section 526, no Federal funds shall be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug.

### **Part H: Attachments**

H.1 Attachment A: SF-424

H.2 Attachment B: SF-424A

H.3 Attachment C: Budget Narrative

H.4 Attachment D: Statement of Work

H.5 Attachment E: Negotiated Indirect Cost Rate Agreement

## **Attachment A: SF-424**

## **Attachment B: SF-424A**

## **Attachment C: Budget Narrative**

# **Attachment D: Statement of Work**

**[Discretionary awards]**

**Attachment E:**  
**Negotiated Indirect Cost Rate Agreement**  
**[If applicable]**