



INSTITUTE *of*  
**Museum and Library**  
SERVICES

## **General Terms and Conditions For IMLS Discretionary Awards**

The General Terms and Conditions for IMLS Discretionary Awards are based on the administrative requirements of the Office of Management and Budget Circular A-110 (relocated to 2 CFR, Part 215), which apply to institutions of higher education, hospitals and other non-profit organizations, and 45 CFR § 1183, the IMLS administrative requirements for grants and cooperative agreements to State, local, and Indian tribal governments. The above two administrative requirements apply to the majority of IMLS discretionary awards. Organizations that receive grants that are subject to these General Terms and Conditions must be familiar with this document and comply with its requirements.

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## Glossary of Terms

**Authorizing Official** – The authorizing official of the applicant institution has the authority to apply for federal support of the institution’s activities and to enter into legal agreements in the name of the institution.

**Cash Contributions** - The grantee's cash outlay for budgeted project activities, including the outlay of money contributed to the grantee by third parties.

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

**Cost Sharing** - The portion of the costs of a project not charged to IMLS funds. This would include cash contributions (as defined above) as well as the value of grantee contributions of services and property that are valued in accordance with the applicable cost principles and the value of third-party in-kind contributions.

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

**Debarment** - The ineligibility of a grantee to receive any assistance or benefits from the federal government, either indefinitely or for a specified period of time, based on legal proceedings taken pursuant to agency regulations implementing Executive Order 12549.

**Entity** means all of the following, as defined in 2 CFR Part 25: i) A Governmental organization, which is a State, local government, or Indian tribe; ii) A foreign public entity; iii) A domestic or foreign nonprofit organization; iv) A domestic or foreign for-profit organization; v) A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

**Equipment** - Tangible, non-expendable personal property having a useful life of more than one year and an acquisition cost which equals or exceeds per unit the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) \$5,000.

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

**Grant** - A legal instrument that provides financial assistance in the form of money or property to an eligible recipient. The term includes cooperative agreements but it does not apply to technical assistance which provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies,

insurance, or direct appropriations. The term does not include fellowships or other lump sum awards, for which the recipient is not required to provide a financial accounting.

**Grant Period** - The period established in the grant award during which IMLS sponsored activities and project expenditures are to occur.

**Grantee** - The organization to which a grant is awarded and which is accountable for the use of the funds provided.

**Indian Tribe** - The term means any tribe, band, nation, or other organized group or community, including any Alaska Native village, regional corporation, or village corporation [as defined in, or established pursuant to, the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et. seq.)], which is recognized by the Secretary of the Interior as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

**In-Kind Contributions** - The value of non-cash contributions provided by third parties. In-kind contributions may be in the form of charges for real property and equipment or the value of goods and services directly benefiting and specifically identifiable to the project.

**Intangible Property** - Includes, but is not limited to, trademarks; copyrights; patents and patent applications.

**Local Government** - A county, municipality, city, town, township, local public authority, school district, special district, intrastate district, council of government, any other regional or interstate government entity, or any agency or instrumentality of a local government.

**Obligation** - The amounts of orders placed, contracts and grants awarded, goods and services received, and similar transactions during the grant period that will require payment.

**Program Officer** - The IMLS program staff member designated in the cover letter to the official grant award notice as the IMLS staff member who is responsible for the oversight of the programmatic aspects of the grant.

**Program Income** - Money that is earned or received by a grantee or a subrecipient from the activities supported by grant funds or from products resulting from grant activities. It includes, but is not limited to, income from fees for services performed and from the sale of items fabricated under a grant; usage or rental fees for equipment or property acquired under a grant; admission fees; broadcast or distribution rights; and royalties on patents and copyrights.

**Project Funds** - Both the federal and non-federal funds that are used to cover the cost of budgeted project activities.

**Simplified Acquisition Threshold** - This term replaces "small purchase threshold," and the threshold is currently set at \$100,000 [41 U.S.C. 403 (11)]. (See "Contract Provisions" in the Appendix to these terms and conditions.)

**State** – Each of the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, or any agency or instrumentality of a state exclusive of local governments, institutions of higher education, and hospitals.

**Subgrant** - An award of financial assistance in the form of money or property, made under a grant by a grantee to an eligible subrecipient or by a subrecipient to a lower-tier subrecipient. The term does not include the procurement of goods and services.

**Supplies** - All personal property excluding equipment and intangible property, as defined in this glossary.

**Suspension** – This term applies to an action on the part of a federal funding agency that either affects a grant agreement or the eligibility of an individual or organization to apply for funding from the Federal Government.

The suspension of a **grant** is the temporary withdrawal of federal sponsorship. This includes the withdrawal of authority to incur expenditures against grant funds, pending corrective action or a decision to terminate the grant.

The suspension of an **individual or organization** causes that party to be temporarily ineligible to receive any assistance and benefits from the federal government pending completion of investigation and legal proceedings as prescribed under agency regulations implementing Executive Order 12549. Such actions may lead to debarment of the grantee.

**Termination** - Cancellation of federal sponsorship of a project, including the withdrawal of authority to incur expenditures against previously awarded grant funds before that authority would otherwise expire.

**Total compensation** means the cash and noncash dollar value earned by the executive during the grantee'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.

## **1. Applicability of General Terms and Conditions**

The General Terms and Conditions for IMLS Discretionary Awards apply to grants that the Office of Museum Services and Office of Library Services issue to private nonprofit organizations; institutions of higher education; and state, local, and federally recognized Indian tribal governments. The State Library Program has its own set of award terms and conditions.

The grantee shall also comply with applicable statutes, regulations, and the approved grant application, and shall use Federal funds accordingly. (45 CFR §1180.51).

## **2. Grantee Responsibilities**

The grantee has full responsibility for the conduct of project activities under an IMLS award, for adherence to the award conditions, and for informing the appropriate IMLS program office and the Grants Administration Office during the course of the grant of any significant programmatic, administrative, or financial problems that have arisen.

The requirements that apply to a grant award are contained in these *General Terms and Conditions for IMLS Discretionary Awards*, the special conditions that may be included in the grant award, and the applicable federal uniform administrative requirements (see Article 3). Should there be any inconsistency between the special conditions of an award and the General Terms and Conditions or the federal uniform administrative requirements, the special conditions will govern.

In accepting a grant, the grantee assumes the legal responsibility of administering the grant in accordance with these requirements and of maintaining documentation, which is subject to audit, of all actions/expenditures affecting the grant. Failure to comply with the requirements of this award could result in suspension or termination of the grant and IMLS recovery of grant funds.

It is also important to note that the grantee must comply with the specific Assurances and Certifications that are part of a grant application. For reference, a copy of the standard Assurances and Certifications are attached hereto as Appendix A.

## **3. Administrative Requirements**

These General Terms and Conditions for IMLS Discretionary Awards are based on the administrative requirements of the Office of Management and Budget Circular A-110 (relocated to 2 CFR, Part 215); 45 CFR, Part 1180; 45 CFR, Part 1183; and 2 CFR Chapter XXXI. The above regulations apply to the majority of IMLS discretionary awards. Organizations that receive IMLS grants that are subject to these General Terms and Conditions must be familiar with these regulations, as well as this document, and comply with the applicable requirements.

#### **4. CCR Registration**

As a grantee, you must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another guidance.

#### **5. FFATA Compliance**

As a grantee, you must comply with the Federal Funding Accountability and Transparency Act Implementation (2 CFR Part 170) and report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if the following criteria are true for your organization —

- More than 80% of annual gross revenues are from the federal government, and those revenues are greater than \$25M annually; and
- Compensation information is not already available through reporting to the SEC.

#### **6. Allowable Costs**

Allowable costs and cost allocation methods for work performed under an IMLS grant shall be determined in accordance with the applicable federal cost principles and the terms and conditions of the grant award.

The following circulars set forth the federal cost principles that apply to the various types of IMLS grantees:

- a. 2 CFR, Part 220--Cost Principles for Educational Institutions (formerly OMB Circular A-21);
- b. 2 CFR, Part 230--Cost Principles for Non-Profit Organizations (formerly OMB Circular A-122);
- c. 2 CFR, Part 225--Cost Principles for State, Local, and Indian Tribal Governments (formerly OMB Circular A-87).

Copies of the cost principles may be obtained from [www.omb.gov](http://www.omb.gov) or the IMLS website <http://www.imls.gov/recipients/references.shtm> or by writing to the IMLS Grants Administration Office.

#### **7. Grant Period and Extensions**

The grant period is the span of time designated in the grant award, or an amendment thereto, during which the grantee has the authority to obligate grant funds and undertake project activities. If a grantee determines toward the end of a grant period that additional time is required to complete the original scope of the project with the funds already made available, the authorizing official of the grantee institution may submit a request to the appropriate IMLS program to extend the grant for up to a year. Extension requests shall be made at least 30 days prior to the original grant ending date and shall explain in detail

the reason for the request. Grantees are cautioned that extensions are not automatic, and should not be requested solely because all of the award funds have not been expended. IMLS will inform the grantee in writing as to whether an extension request has been granted. Absent extenuating circumstances, IMLS will not extend a grant more than once.

## **8. Changes in Project Scope**

Any project that is carried out under a grant must be consistent with the scope of the proposal that is approved for funding by IMLS. The scope of a project encompasses the purpose for which the grant is undertaken, the subject matter, the treatment of the subject matter, the historical time frame of the project, the volume of material that will be studied/treated, and the products that are expected to result from grant activities. No changes may be made in the scope of a project without written approval from IMLS.

All requests for a change in the scope of a grant shall be signed by the authorizing official and submitted to the appropriate IMLS program officer.

## **9. Changes in Key Project Personnel**

The replacement of the project director or the co-director or a substantial reduction in the level of their effort, e.g., their unanticipated absence for more than three months, or a 25 percent reduction in the time devoted to the project, requires prior written approval from IMLS. When it is specifically required as a condition of a grant, written approval will also be needed for the replacement or the substantial reduction in the level of effort of other personnel whose work is deemed by IMLS to be critical to the project's successful completion.

All requests for approval of changes in key project personnel shall be signed by the authorizing official and submitted to the appropriate IMLS program officer. Evidence of the qualifications for replacement personnel (such as a résumé) shall be included.

## **10. Budget Revisions**

The project budget is the schedule of anticipated project expenditures that is approved by IMLS for carrying out the purposes of the grant. When grantees or third parties support a portion of the project costs, the project budget includes the nonfederal as well as the federal share of project expenses.

The grantee shall obtain prior written approval from the IMLS program officer whenever a budget revision is necessary because of

- a. a change in the scope or objectives of the project (see Article 8)
- b. the transfer to a third party (by contracting, or other means) of any work under a grant;<sup>1</sup>

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<sup>1</sup> IMLS approval is not required for third-party transfers that were described in the approved project plan, or for the purchase of supplies, materials, or general support services.

- c. the addition of costs that are specifically disallowed by the terms and conditions of the grant award or for which the applicable cost principles require prior approval, e.g. the purchase of equipment, participant support costs, publication and printing costs, foreign travel;
- d. the transfer of funds among direct costs categories, or, if applicable, among separately budgeted programs, projects, functions or activities, when the federal share of project costs exceeds \$100,000 and the cumulative amount transferred exceeds 10 percent of the current approved budget; or
- e. the transfer of funds from stipends or training allowances to other budget categories.

All requests for budget revisions shall be signed by the authorizing official and submitted to the IMLS program officer.

Within 30 calendar days from the date of receipt of the request for budget revision, IMLS will review the request and notify the grantee whether or not the budget revision has been approved. If the budget revision is still under consideration at the end of 30 calendar days, IMLS will inform the grantee in writing of the date by which the grantee may expect a decision.

## **11. Cost Sharing and Cost Sharing Records**

Grantees are required to share in project expenses at the level indicated in the approved project budget. They must also maintain auditable records of all project costs whether they are charged to grant funds or supported by cost-sharing contributions.

All cash and in-kind contributions to a project that are provided by the grantee or by a third party are acceptable as the grantee's cost sharing when such contributions are

- verifiable from the grantee's records;
- not included as contributions for any other federally-assisted program;
- necessary and reasonable for the proper and efficient accomplishment of project objectives;
- types of charges that would be allowable under the applicable cost principles; used to support activities that are included in the approved project work plan; and incurred during the grant period.

Contributions, such as property, space, or services that are provided to a project by the grantee are to be valued in accordance with the applicable federal cost principles and **not** on the basis of what would normally be charged for the use of these items or services.

When the grantee's cost sharing includes third-party in-kind contributions, the basis for determining the valuation of volunteer services and donated property or space must be documented and must conform to the principles set out below:

- a. Volunteer services shall be valued at rates consistent with those ordinarily paid for similar work within the grantee organization. If the grantee does not have employees performing similar work, the rates will be consistent with those ordinarily paid by other employers for similar work in the same labor market. In either case, a reasonable amount of fringe benefits may be included in the valuation.
- b. When an employer furnishes the services of an employee, these services shall be valued at the employee's regular rate of pay (plus an amount of fringe benefits that is reasonable), provided these services involve the same skills for which the employee is normally paid.
- c. The value of donated equipment shall not exceed the fair market value of equipment of the same age and condition at the time of donation, and the value of loaned equipment shall not exceed its fair rental value.
- d. The value of donated space shall not exceed the fair rental value of comparable space, as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.
- e. The value assigned to donated supplies or other expendable property should be reasonable and should not exceed the fair market value of the property at the time of donation.

## **12. Payments and Interest**

Establishing Payments. Payment for IMLS grants are effected through electronic funds transfer. To establish the electronic transfer process, grantees must submit an ACH Payment Enrollment Form (SF3881) for each grant award. This form is available on IMLS' website at <http://www.imls.gov/recipients/administration.shtm>.

The SF3881 ACH form should be emailed in PDF format to IMLS Grants Administration at [grantsadmin@imls.gov](mailto:grantsadmin@imls.gov). If the grantee does not have the capability to email PDF documents, the ACH form may be mailed to:

Institute of Museum and Library Services  
Attn. Grants Administration  
1800 M Street, NW / 9<sup>th</sup> Floor  
Washington, DC 20036-5802

### **The ACH form should not be faxed to IMLS.**

Requesting Payment. Payments are requested using the Request for Advance or Reimbursement Form (SF270). To expedite payment, grantees should email the SF270 form in PDF format to IMLS Grants Administration at [grantsadmin@imls.gov](mailto:grantsadmin@imls.gov). If the grantee does not have the capability to email PDF documents, the SF270 form may be faxed to 202-653-4604 or mailed to:

Institute of Museum and Library Services  
Attn. Grants Administration  
1800 M Street, NW / 9<sup>th</sup> Floor  
Washington, DC 20036-5802

Incomplete SF270 forms may result in delayed payments.

The SF270 must be signed by one of the three people identified in the grant application on the SF424S, or their designee. In order to designate a signor who is not one of the three people identified on SF424S, a request must be sent to IMLS:

- The request must come from one of the three people identified on the SF424S.
- The request must be emailed to [Grantsadmin@imls.gov](mailto:Grantsadmin@imls.gov).
- The request must include the designee's name, position, and email address.

Unless it is stated otherwise in the special terms and conditions of an award notification, grantees will be authorized to be paid on an advance basis and payment will be effected through electronic funds transfer provided that the following conditions exist:

1. Funds for the project period have been obligated in the form of a signed Award Notification;
2. The grantee maintains or demonstrates the willingness to maintain written procedures that will minimize the time elapsing between the transfer of funds from the U.S. Treasury and their disbursement by the grantee; and
3. The grantee's financial management system meets the standards for fund control and accountability prescribed in 2 CFR, Part 215 (formerly OMB Circular A-110) or 45 CFR Part 1183.20.

Grantees are encouraged to use women-owned and minority-owned banks (banks that are owned at least 50 percent by women or minority group members).

Frequency of Requests. Grantees may submit a payment request whenever grant funds are needed. Requests for advance payment should be submitted no earlier than fifteen working days prior to the beginning of the period for which the funds are requested. Grantees that email payment request to IMLS can expect payment via electronic transfer within ten workdays. Faxed and mailed payment requests may take longer to process.

Limitations on Advance Payments. Requests for advance payment shall be limited to the recipient's immediate cash needs. Federal funds advanced to the recipient should be fully disbursed (example: checks written, signed, and issued to the payees) within 30-days from the date the recipient receives the advance funds from IMLS. To avoid possible delays in processing a payment request, grantees should explain unusually high payment requests when they are submitted to IMLS.

Reporting on Advance Payments. Grantees that are paid in advance are required to report on the status of funds received from IMLS within 30-days after an advance is received using either Section 11 or Section 12 of the Request for Advance or Reimbursement Form (SF270). This form must be submitted for reporting, even if no additional funds are being requested. The next request for payment will not be approved until the outstanding advance has been fully liquidated by the recipient.

Interest on Advances. All grantees, except states (see definition in Glossary of Terms), are required to maintain advances of federal funds in interest-bearing accounts unless the grantee receives less than \$120,000 per year in advances of grant funds or the most reasonably available interest-bearing account would not earn more than \$100 (State and Local Governments) or \$250 (Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations) per year on the federal cash balance, or would entail bank services charges in excess of the interest earned.

Interest in excess of \$250 annually that is earned on advanced payments shall be remitted annually to the Institute of Museum and Library Services. Grantees shall send a check identified as interest earned on advances of IMLS funds, and mail it to the Institute of Museum and Library Services, Attn. Grants Administration, 1800 M Street, NW, 9<sup>th</sup> Floor, Washington, DC 20036-5802.

### **13. Reporting Requirements**

The grantee is responsible for submitting interim and final performance and financial reports. A final performance report and a final Federal Financial Report (SF425) shall be submitted to IMLS Grants Administration within 90 days after the completion date of the grant period. A schedule of due dates for interim and final reports will be found in the grant award notification. If a grant is extended, a revised reporting schedule will be sent via e-mail.

Interim and final report forms and instructions are available on IMLS' website: <http://www.ims.gov/recipients/administration.shtm>. Failure to submit reports on a timely basis may result in delayed payments and the suspension of action on pending applications from the grantee organization.

Interim and final reports (financial reports and performance reports of 20 pages or fewer) should be sent by email in PDF format to [imsreporting@ims.gov](mailto:imsreporting@ims.gov). The grant number must be referenced in the 'Subject' of the email. If the grantee does not have the capability to email PDF documents, the reports may be faxed to 202-653-4604, or mailed to:

Institute of Museum and Library Services  
Attn. Grants Administration  
1800 M Street, NW / 9<sup>th</sup> Floor  
Washington, DC 20036-5802

Performance reports that exceed twenty (20) pages must be mailed.

It should be noted that when a signed report is emailed or faxed to IMLS, the grantee is required to retain the original report in accordance with the standards set forth in Article 16 (Record Retention) of these General Terms and Conditions for IMLS Discretionary Awards.

## **14. Financial Management Standards**

The financial management systems of grantee organizations must meet the following standards:

Accounting System. Grantee organizations must have an accounting system that provides accurate, current, and complete disclosure of all financial transactions related to each federally sponsored project. Accounting records must contain information pertaining to federal awards, authorizations, obligations, unobligated balances, assets, outlays, and income. These records must be maintained on a current basis and balanced at least quarterly.

Cash contributions to the project from third parties must be accounted for in the general ledger with other grant funds. Third party in-kind (non-cash) contributions are not required to be recorded in the general ledger, but must be under accounting control, possibly through the use of a memorandum ledger.

Source Documentation. Accounting records must be supported by such source documentation as canceled checks, bank statements, invoices, paid bills, donor letters, time and attendance records, activity reports, travel reports, contractual and consultant agreements. All supporting documentation should be clearly identified with the grant and general ledger accounts which are to be charged or credited.

The documentation required for salary charges to grants is prescribed by the cost principles applicable to the grantee organization.

For grantees subject to OMB Circular A-21 (relocated to 2 CFR, Part 220) (Cost Principles for Educational Institutions), documentation for salary charges shall be based on either a system of monitored workload or a system of personnel activity reports for professional or professorial staff. Nonprofessional employees must keep personnel activity reports.

For grantees subject to OMB Circular A-122 (relocated to 2 CFR, Part 230) (Cost Principles for Non-Profit Organizations), documentation for all salary charges shall be based on a system of personnel activity reports.

For grantees subject to OMB Circular A-87 (relocated to 2 CFR, Part 225) (Cost Principles for State, Local, and Indian Tribal Governments), documentation for salary charges shall be based on a system of personnel activity reports unless an employee is working solely on a single federal award. In this case, the charge for salary will be supported by a certification signed by the employee or the supervisor. Personnel activity reports shall account on an after-the-fact basis for one hundred percent of the employee's actual time, separately indicating the time spent on the IMLS grant, other grants or projects, vacation or sick leave, and administrative time, if applicable. The reports must be signed by the employee, approved by the appropriate official, and coincide with a pay

period. These time records should be used to record the distribution of salary costs to the appropriate accounts no less frequently than quarterly.

Formal agreements with independent contractors, such as consultants, must include a description of the services to be performed, the period of performance, the fee and method of payment, an itemization of travel and other costs which are chargeable to the agreement, and the signatures of both the contractor and an appropriate official of the grantee organization.

If third party in-kind (non-cash) contributions are used on a project, the valuation of these contributions must be supported with adequate documentation.

Internal Control. Effective control and accountability must be maintained for all cash, real and personal property, and other assets. Grantees must adequately safeguard all such property and must provide assurance that it is used solely for authorized purposes. Grantees must also have systems in place that ensure compliance with the terms and conditions of each grant award.

Budget Control. Records of expenditures must be maintained for each grant project by the cost categories of the approved budget (including indirect costs that are charged to the project), and actual expenditures are to be compared with budgeted amounts no less frequently than quarterly. IMLS approval is required for certain budget revisions (see Article 10).

Allowable Costs. The applicable OMB cost principles, the *General Terms and Conditions for IMLS Discretionary Awards*, and any special conditions of the grant award shall govern the determination of the reasonableness, allowability, and allocability of project costs.

Cash Management. Grantees must also have written procedures to minimize the time elapsing between the receipt and the disbursement of grant funds to avoid having excessive federal funds on hand. Requests for advance payment shall follow the guidelines set forth in Article 12.

**Grantees must insure that all grant funds are obligated during the grant period and paid no later than 90 days after the end of the grant period.**

## **15. Audit Requirements**

A grantee must obtain an audit, as required by the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507), and comply with the requirements of OMB Circular A-133, “Audits of States, Local Governments, and Non-Profit Organizations,” if it expends in the aggregate of \$500,000 or more in federal funds on financial assistance awards or cost-reimbursement contracts in any fiscal year ending after December 31, 2003<sup>2</sup>. (Copies of A-133 may be obtained from [www.omb.gov](http://www.omb.gov) or the IMLS website (<http://www.imls.gov/recipients/references.shtm>) or by contacting IMLS Grants Administration.)

## **16. Record Retention**

Financial records, supporting documentation, statistical records, and all other records pertinent to the grant shall be retained by the grantee for three years from the date of submission of the final Federal Financial Status Report (SF425). When the conditions of a grant award require the grantee to report program income, records relating to program income shall be retained for three years from the date of submission of the last required income report.

If the three-year retention period is extended because of audits, appeals, litigation, or the settlement of claims arising out of the performance of the project, the records shall be retained until such audits, appeals, litigation, or claims are resolved. Unless court action or audit proceedings have been initiated, the grantee may substitute microfilm copies of original records.

IMLS, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the grantee to make audits, examinations, excerpts, transcripts, and copies. Further, any contract in excess of the simplified acquisition threshold (currently \$100,000) that is negotiated by the grantee for the purposes of carrying out the grant project shall include a provision to the effect that the grantee, IMLS, the Comptroller General, or any of their duly authorized representatives shall have access for similar purposes to any records of the contractor that are directly pertinent to the project.

## **17. Equipment**

For the purpose of this Article, equipment is defined as tangible, nonexpendable personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. The purchase of equipment not included in the approved project budget is allowable only if it is specifically approved by IMLS and there is documentation to support that the purchase is necessary and reasonable to carry out project activities.

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<sup>2</sup> For fiscal years ending before December 31, 2003, the requirements of OMB Circular A-133 applied whenever the grantee expended \$300,000 or more in federal funds within a fiscal year.

Equipment records must be maintained that include the description of the equipment, the serial number or other identification number, the source of equipment, the title holder, the acquisition date, the cost of the equipment, the location, use, and condition of the equipment, and any ultimate disposition data including the date of disposal and the sale price of the equipment. A physical inventory of the equipment must be taken and the results reconciled with the equipment records at least once every two years while the grant is active.

### **18. Title to Equipment**

Title to equipment purchased or fabricated with IMLS funds shall be vested in the grantee organization with the understanding that the equipment will be used for the project for which it was obtained. IMLS may reserve the right to request the transfer of title to the federal government or to a third party when the current per unit fair market value of the equipment is \$5,000 or more and the equipment is no longer needed to carry out the purposes of the project or other projects funded by government agencies.

### **19. Supplies**

Title to supplies and other expendable property shall vest in the grantee upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project and the supplies are not needed for any other federally-sponsored project or program, the grantee shall retain the supplies for use on non-federal sponsored activities or sell them, but shall in either case compensate the federal government for its share.

### **20. Travel Costs**

Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by those who are on official business attributable to work under a grant.

Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs, or on a combination of the two, provided the method used results in charges consistent with those normally allowed by the grantee in its regular operation, as set forth in its written travel policy.

Airfare costs in excess of the lowest available commercial discount or customary standard (coach) airfare are unallowable unless such accommodations are not reasonably available to accomplish the purpose of travel.

### **21. Foreign Travel**

For the purposes of these provisions, foreign travel includes any travel outside Canada, Mexico, the United States, and any United States territories and possessions. Each separate foreign trip must be itemized in the budget approved by IMLS. Foreign travel

that is not included in the approved project budget must be specifically approved in writing by the appropriate IMLS program officer.

**All air transportation of persons or property that is paid in whole or in part with IMLS funds must be performed on a U.S. flag air carrier or under a code sharing arrangement with a U.S. flag carrier.** The airline tickets (or the documentation for electronic tickets) must identify the U.S. flag air carrier's designator code and flight number.

(See Item 3 in Appendix B for an explanation of when the use of a foreign-flag air carrier would be justified.)

## **22. Sharing of Results**

Wide dissemination of the results of IMLS-funded projects advances the body of knowledge and professional practice regarding museum, library, and information services. For this reason, IMLS encourages creators of works resulting from IMLS funding to share their work whenever possible through forums such as institutional or disciplinary repositories, open-access journals, or other media.

Unless otherwise specified in the award documents, IMLS requires that at the end of projects awardees provide IMLS three (3) copies of any printed or physical distributable products and one copy of any electronic projects produced with IMLS funds. Printed or physical products include items such as learning resources, promotional materials, publications like journal articles or book manuscripts, research instruments, and reports from consultants or external evaluators. Electronic products include materials such as research datasets or software tools produced during the project. Generally, at least a beta version of any software developed on an IMLS-funded project must be provided to IMLS as a product of the grant. Consult with IMLS regarding software development projects. All material should be labeled with the identifying IMLS grant number.

Grantees shall ensure that all publication and distribution agreements shall include provisions giving the government a royalty-free, worldwide, nonexclusive and irrevocable right to reproduce, publish or otherwise use the work for Federal purposes and requiring the acknowledgment of IMLS support. The publication shall also include the disclaimer contained in Article 23 below.

## **23. Acknowledgment of Support and Disclaimer**

Unless advised to the contrary, all materials publicizing or resulting from grant activities should contain an acknowledgement of IMLS support. This includes printed items such as invitations, brochures, and signage; audio/video programming for radio, television, or Web broadcast; and electronic items such as Web sites and E-mail announcements.

The acknowledgment shall also include the following statement: "Any views, findings, conclusions or recommendations expressed in this (publication) (program) (exhibition)

(website) do not necessarily represent those of the Institute of Museum and Library Services.”

The type of recognition will vary according to the type of activity. Please use the following guidelines for acknowledgement:

- Include a credit line, regardless of media, indicating IMLS as a source of support, such as “This project was supported in part by a grant from the Institute of Museum and Library Services.”
- Graphic items such as posters or brochures should include the IMLS logo (available at <http://www.imls.gov/recipients/logos.shtm>), displayed in accordance with the Logo Standards Guide.
- Electronic items should link to the IMLS Web site, <http://www.imls.gov>.
- Audio/video broadcasts should include the tagline, “This project was supported in part by a grant from the Institute of Museum and Library Services, creating strong libraries and museums that connect people to information and ideas.” Video broadcasts should display the IMLS logo.

#### **24. Intangible Property**

- a. The grantee may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under the grant. IMLS reserves a royalty-free, worldwide, nonexclusive, and irrevocable right to reproduce, publish or otherwise use the work for Federal purposes and to authorize others to do so (*see also*, Intangible Property, 2 CFR §215.36, and 45 CFR § 1183.34 Copyrights).
- b. Grantees that are awarded funds for experimental, developmental, or research work are subject to the regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR part 401, “Rights to Inventions made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements.”
- c. In addition, in response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under a grant that were used by the Federal Government in developing an agency action that has the force and effect of law, IMLS shall request, and the grantee shall provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA (5 U.S.C. §552).

#### **25. Data Collection**

Data collection activities performed under a grant are the responsibility of the grantee, and IMLS support of the project does not constitute approval of the survey design, questionnaire content, or data collection procedures. The grantee shall not represent to

respondents that such data are being collected for, or in association with, IMLS or any other government agency without the specific written approval of the data collection plan or device by IMLS. However, this requirement is not intended to preclude mention of IMLS support of the project in response to an inquiry or acknowledgment of such support in any publication of this data.

IMLS has the right to (1) obtain, reproduce, publish or otherwise use the data first produced under a grant; and (2) authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

## **26. Program Income**

Program income is money that is earned or received by a grantee from the activities supported by grant funds or from products resulting from grant activities. It includes, but is not limited to, income from fees for services performed and from the sale of items fabricated under a grant; usage or rental fees for equipment or property acquired under a grant; admission fees; broadcast or distribution rights; and license fees and royalties on patents and copyrights. The federal share of program income is determined by the percentage of total project costs that are supported by IMLS.

### **a. Income Earned During the Grant Period**

The federal share of program income earned during the grant period shall be retained by the grantee and, unless the grant award specifies how such income will be used, the grantee must use it in one or more of the following ways:

- (1) It may be added to the existing project funds and used to further eligible project objectives;
- (2) It may be used to meet the grantee's cost-sharing requirement; or
- (3) It may be deducted from the total allowable costs to determine the net allowable project costs that may be charged to the IMLS grant.

You must be in contact with your program officer to discuss which of the three ways are appropriate for your grant.

A report of program income earned during the grant period must be submitted with the final Financial Status Report whenever program income is actually earned during the grant period or when the special conditions of the grant award specifically require such a report. The report shall indicate the total amount of program income that was earned and how it was used. As long as the costs that are incidental to the generation of program income are not charged to the grant or included in the grantee's cost sharing, they may be deducted from gross program income to determine the amount of program income that is subject to the requirements of this Article.

### **b. Income Earned After the Grant Period**

Unless otherwise stated in the grant award, the grantee shall have no obligation to the federal government regarding program income earned after the end of the grant period.

## 27. Lobbying Activities

When applying for more than \$100,000 in federal funding, the authorizing official must certify, to the best of his or her knowledge and belief that:

- (a) no federal appropriated funds have been paid or will be paid, by or on behalf of the authorizing official, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a federal contract, the making of a federal grant, the making of a federal loan, the entering into of a cooperative agreement, or the extension, continuation, renewal, amendment, or modification of a federal contract, grant, loan, or cooperative agreement;
- (b) if any funds other than appropriated federal funds have been paid or will be paid to any person (other than a regularly employed officer or employee of the applicant) for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the federal contract, grant, loan or cooperative agreement, the authorizing official shall request, complete, and submit Standard Form LLL, "Disclosure of Lobbying Activities," in accordance with its instructions; and
- (c) the authorizing official shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

IMLS is required by the provisions of its appropriations act to include the following text in all its grant and contract documents:

No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designated to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; but this shall not prevent officers or employees of the United States or its departments or agencies from communicating to Members of Congress on the request of any Member or to Congress, through the proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business.

## **28. Federal Debt Status**

The grantee may not be delinquent in the repayment of any federal debt.

## **29. Research Misconduct**

Research misconduct is defined as the fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. The grantee institution bears primary responsibility for prevention and detection of research misconduct and for the inquiry, investigation, and adjudication of research misconduct alleged to have occurred in association with its own institution.

If an allegation of research misconduct is first made to the grantee institution, the grantee institution will notify IMLS Grants Administration Office if the allegation meets the definition of research misconduct given above and the grantee institution's inquiry into the allegation determines there is sufficient evidence to proceed to an investigation. At any time during an inquiry or investigation, the grantee will immediately notify the Institute if:

- IMLS resources or interests are threatened,
- public health or safety is at risk;
- research activities should be suspended;
- there is a reasonable indication of possible violations of civil or criminal law;
- Federal action is required to protect the interests of those involved in the investigation;
- the grantee believes the inquiry or investigation may be made public prematurely so that appropriate steps can be taken to safeguard evidence and protect the rights of those involved; or
- the research community or public should be informed.

IMLS will make a finding of misconduct or take action on such a finding only after careful inquiry and investigation by a grantee institution, by another Federal agency, or by IMLS. In the event of a finding of research misconduct, IMLS will determine what administrative actions are appropriate.

The *IMLS Research Misconduct Policy* is available upon request from the IMLS program staff or the Grants Administration Office and is also available on the IMLS website. Possible misconduct in activities funded by IMLS should be reported to the IMLS Grants Administration Office.

### **30. Termination**

Grants may be terminated in whole or in part

- a) by the IMLS, if a grantee materially fails to comply with the terms and conditions of an award;
- b) by the IMLS with the consent of the grantee, in which case the two parties shall agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion of the project to be terminated; or
- c) by the grantee upon sending to IMLS written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion of the project to be terminated. However, if IMLS determines that the reduced or modified portion of the grant will not accomplish the purposes for which the grant was made, it may terminate the grant in its entirety either unilaterally or with the consent of the grantee.

When IMLS determines that a grantee has failed to comply with the terms of the grant award, IMLS may suspend or terminate the grant for cause. Normally, this action will be taken only after the grantee has been notified of the deficiency and given sufficient time to correct it, but this does not preclude immediate suspension or termination when such action is required to protect the interests of the government.

In the event that a grant is suspended and corrective action is not taken within 90 days of the effective date, IMLS may issue a notice of termination. No costs that are incurred during the suspension period or after the effective date of termination will be allowable except those that are specifically authorized by the suspension or termination notice or those that, in the opinion of IMLS, could not have been reasonably avoided.

Within 30 days of the termination date, the grantee shall furnish to IMLS a summary of progress achieved under the grant, an itemized accounting of charges incurred against grant funds and cost sharing prior to the effective date of the suspension or termination, and a separate accounting and justification for any costs that may have been incurred after this date.

### **31. Termination Review Procedures**

A grantee who has received a notice of termination may request IMLS review of the termination action. The request must be postmarked no later than 30 days after the date of the termination notice and should be addressed to the Director, Institute of Museum and Library Services, 1800 M Street, NW, 9<sup>th</sup> Floor, Washington, D.C. 20036-5802.

The request for review must contain a full statement of the grantee's position and the pertinent facts and reasons that support such a position. The Director will promptly acknowledge the request for review and appoint a review committee of at least three staff members. Pending the resolution of the review, the notice of termination will remain in effect.

None of the review committee members may be from the IMLS program or administrative staff that recommended termination or was responsible for monitoring the programmatic or administrative aspects of the grant. The committee will have full access to all relevant IMLS background materials. The committee may also request the submission of additional information from the grantee or IMLS staff and, at its discretion, may meet with representatives of both groups to discuss the pertinent issues. All review activities will be fully documented by the committee. Based on its review, the committee will present its written recommendation to the Director, who will advise the parties concerned of the final decision.

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

Should there be any inconsistency between these general terms and conditions and the special terms of the grant or cooperative agreement, the latter shall govern.

## Appendix A

### **IMLS ASSURANCES AND CERTIFICATIONS**

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IMLS is required to obtain from all applicants certifications regarding federal debt status, debarment and suspension, nondiscrimination, and a drug-free workplace. Applicants requesting more than \$100,000 in grant funds must also certify regarding lobbying activities and may be required to submit a “Disclosure of Lobbying Activities” form (Standard Form LLL). Some applicants will be required to certify that they will comply with other federal statutes that pertain to their particular situation. These requirements are incorporated in the Assurances Statement below. The authorized representative must review the statement and provide the certification in item 9 on the Application for Federal Domestic Assistance/Short Organizational Form (SF424S).

#### ***Assurances Statement***

By signing the application form, the authorized representative, on behalf of the applicant, assures and certifies that, should a grant be awarded, the applicant will comply with the statutes outlined below and all related IMLS regulations (see 45 CFR Chapter XI and 2 CFR Chapter XXXI). These assurances are given in connection with any and all financial assistance from IMLS after the date this form is signed, but may include payments after this date for financial assistance approved prior to this date. These assurances shall obligate the applicant for the period during which the federal financial assistance is extended. The applicant recognizes and agrees that any such assistance will be extended in reliance on the representations and agreements made in these assurances, and that the United States government has the right to seek judicial enforcement of these assurances, which are binding on the applicant, its successors, transferees, and assignees, and on the authorized official whose signature appears on the application form.

#### ***Certifications Required of All Applicants***

##### **Financial, Administrative, and Legal Accountability**

The authorized representative, on behalf of the applicant, certifies that the applicant has legal authority to apply for federal assistance and the institutional, managerial, and financial capability (including funds sufficient to pay the nonfederal share of project costs) to ensure proper planning, management, and completion of the project described in this application.

The authorized representative, on behalf of the applicant, certifies that the applicant will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. § 7501 et seq.) and OMB Circular No. A-133, “Audits of States, Local Governments, and Non-Profit Organizations.”

The authorized representative, on behalf of the applicant, certifies that the applicant will comply with the provisions of applicable OMB Circulars.

**Federal Debt Status**

The authorized representative, on behalf of the applicant, certifies to the best of his or her knowledge and belief that the applicant is not delinquent in the repayment of any federal debt.

**Debarment and Suspension**

The applicant shall comply with 2 CFR, Part 3185. The authorized representative, on behalf of the applicant, certifies to the best of his or her knowledge and belief that neither the applicant nor any of its principals:

- (a) are presently excluded or disqualified;
- (b) have been convicted within the preceding three years of any of the offenses listed in 2 CFR § 180.800(a) or had a civil judgment rendered against it or them for one of those offenses within that time period;
- (c) are presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses listed in 2 CFR § 180.800(a); or
- (d) have had one or more public transactions (federal, state, or local) terminated within the preceding three years for cause or default.

Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

The applicant, as a primary tier participant, is required to comply with 2 CFR, Part 180 Subpart C (Responsibilities of Participants Regarding Transactions Doing Business with Other Persons) as a condition of participation in the award. The applicant is also required to communicate the requirement to comply with 2 CFR, Part 180 Subpart C (Responsibilities of Participants Regarding Transactions Doing Business with Other Persons) to persons at the next lower tier with whom the applicant enters into covered transactions.

**Nondiscrimination**

The authorized representative, on behalf of the applicant, certifies that the applicant will comply with the following nondiscrimination statutes and their implementing regulations:

- (a) Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000 et seq.), which prohibits discrimination on the basis of race, color, or national origin;
- (b) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 701 et seq.), which prohibits discrimination on the basis of disability (note: IMLS applies the regulations in 45 CFR, Part 1170 in determining compliance with section 504 as it applies to recipients of federal assistance);

- (c) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–83, 1685–86), which prohibits discrimination on the basis of sex in education programs; and
- (d) the Age Discrimination in Employment Act of 1975, as amended (42 U.S.C. § 6101 et seq.), which prohibits discrimination on the basis of age.

### **Drug-Free Workplace**

The authorized representative, on behalf of the applicant, certifies, as a condition of the award, that the applicant will or will continue to provide a drug-free workplace by complying with the requirements in 2 CFR, Part 3186 (Requirements for Drug-Free Workplace (Financial Assistance)). In particular, you as the recipient must comply with drug-free workplace requirements in subpart B (or subpart C, if the recipient is an individual) of 2 CFR, Part 3186, which adopts the Governmentwide implementation (2 CFR, Part 182) of sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707).

This includes, but is not limited to: making a good faith effort, on a continuing basis, to maintain a drug-free workplace; publishing a drug-free workplace statement; establishing a drug-free awareness program for your employees; taking actions concerning employees who are convicted of violating drug statutes in the workplace; and identifying (either at the time of application or upon award, or in documents you keep on file in your offices) all known workplaces under your Federal awards.

### **Trafficking in Persons**

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

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—

i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;

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

iii. Use forced labor in the performance of the award or subawards under the award.

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

i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or

ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—

A. Associated with performance under this award; or

B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR Chapter XXXI, part 3185.

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

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—

i. Associated with performance under this award; or

ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 CFR Chapter XXXI, part 3185.

*c. Provisions applicable to any recipient .*

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.

2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:

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

ii. Is in addition to all other remedies for noncompliance that are available to us under this award.

3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

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

1. “Employee” means either:

i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

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

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

3. “Private entity”:

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

ii. Includes:

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

B. A for-profit organization.

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

**Certification Regarding Lobbying Activities (Applies to Applicants Requesting Funds in Excess of \$100,000)**

The authorized representative certifies, to the best of his or her knowledge and belief, that:

- (a) no federal appropriated funds have been paid or will be paid by or on behalf of the authorized representative to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of a federal contract, the making of a federal grant, the making of a federal loan, the entering into of a cooperative agreement, or the extension, continuation, renewal, amendment, or modification of a federal contract, grant, loan, or cooperative agreement;
- (b) if any funds other than appropriated federal funds have been paid or will be paid to any person (other than a regularly employed officer or employee of the applicant) for influencing or attempting to influence an officer or employee of any

- agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the authorized representative shall request, complete, and submit Standard Form LLL, "Disclosure of Lobbying Activities," in accordance with its instructions; and
- (c) the authorized representative shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

### **General Certification**

The authorized representative, on behalf of the applicant, certifies that the applicant will comply with all applicable requirements of all other federal laws, executive orders, regulations, and policies governing the program. IMLS grant regulations may be found at 45 CFR Chapter XI and 2 CFR Chapter XXXI.

### ***Certifications Required of Some Applicants***

The following certifications are required if applicable to the project for which an application is being submitted. Applicants should be aware that additional federal certifications, not listed below, might apply to a particular project.

### **Subcontracts**

A grantee may not make a subgrant (for more details, see 45 CFR Chapter XI, Subchapter E [Institute of Museum and Library Services]). Applicants who plan to use awards to fund contracts and subcontracts should be aware that they must comply with the communication and verification requirements set forth in the above Debarment and Suspension provisions.

### **Native American Human Remains and Associated Funerary Objects**

The authorized representative, on behalf of the applicant, certifies that the applicant will comply with the provisions of the Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. § 3001 et seq.), which applies to any organization that controls or possesses Native American human remains and associated funerary objects, and which receives federal funding, even for a purpose unrelated to the Act.

### **Historic Properties**

The authorized representative, on behalf of the applicant, certifies that the applicant will assist the awarding agency in ensuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470f), Executive Order (E.O.) 11593, and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. § 469 et seq.).

### **Environmental Protections**

The authorized representative, on behalf of the applicant, certifies that the project will comply with environmental standards, including the following:

- (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended (42 U.S.C. § 4321 et seq.) and E.O. 11514;
- (b) notification of violating facilities pursuant to E.O. 11738;
- (c) protection of wetlands pursuant to E.O. 11990, as amended by E.O. 12608;
- (d) evaluation of flood hazards in floodplains in accordance with E.O. 11988, as amended;
- (e) assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1451 et seq.);
- (f) conformity of federal actions to State (Clean Air) Implementation Plans under section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.);
- (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (42 U.S.C. § 300f et seq.); and
- (h) protection of endangered species under the Endangered Species Act of 1973, as amended (16 U.S.C. §§ 1531–1543).

The authorized representative, on behalf of the applicant, certifies that the project will comply with the Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. § 1271 et seq.), related to protecting components or potential components of the national wild and scenic rivers system.

The authorized representative, on behalf of the applicant, certifies that the applicant will comply with the flood insurance requirements of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. § 4001 et seq.), which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.

### **Research on Human and Animal Subjects**

The authorized representative, on behalf of the applicant, certifies that the project will comply with 45 CFR part 46 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

The authorized representative, on behalf of the applicant, certifies that the project will comply with the Laboratory Animal Welfare Act of 1966, as amended (7 U.S.C. § 2131 et seq.) pertaining to the care, handling, and treatment of warm-blooded animals held for research, teaching, or other activities supported by this award of assistance.



For further information on these certifications, contact IMLS, 1800 M Street, NW, 9th Floor, Washington, DC 20036. Or call 202/653-IMLS (4657).

## Appendix B

### 1. Procurement Standards

NOTE: The standards contained in this section do not relieve the grantee of the contractual responsibilities arising under its contracts. The grantee is the responsible authority, without recourse to IMLS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of a grant or other agreement. Matters concerning the violation of a statute are to be referred to such federal, state, or local authority as may have proper jurisdiction.

When procuring property or services under a grant, the grantee's procurement policies must adhere to the standards set forth below. Subrecipients of grant funds are subject to the same policies and procedures as the grantee.

a. The grantee will maintain a system for contract administration that ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders. Grantees shall evaluate contractor performance and document, as appropriate, whether or not contractors have met the terms, conditions, and specifications of the contract.

b. A written standard of conduct for awarding and administering contracts shall be maintained by the grantee. No employee, officer, or agent of the grantee shall participate in the selection, or in the awarding or administration of a contract supported by federal funds if a real or apparent conflict of interest would be involved. Such a conflict would arise when any of the following has a financial or other interest in the firm selected for a contract: the employee, officer, or agent; any member of his or her immediate family; his or her partner; or an organization which employs or is about to employ any of the preceding.

The officers, employees, and agents of the grantee will neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, or parties to subagreements. However, the grantee may set standards governing when the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct shall provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the grantee.

c. All procurement transactions will be conducted in a manner to provide, to the maximum extent practical, open and free competition. The grantee should be alert to organizational conflicts of interest or noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to insure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids and/or requests for proposals should be excluded from competing for such procurements. Awards shall be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the grantee, price, quality, and other factors

considered. Solicitations shall clearly set forth all requirements that the bidder/offeror must fulfill in order for the bid/offer to be evaluated by the grantee. When it is in the grantee's interest to do so, any bid/offer may be rejected.

d. All grantees shall establish written procurement procedures that meet the requirements set forth in the Appendix to these general grant provisions.

The following section also contains the provisions that **must be included in procurement contracts** when applicable.

## **2. Contract Provisions**

a. Grantee contracts in excess of the simplified acquisition threshold (currently \$100,000) must provide for:

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and such remedial actions as may be appropriate.

(2) Termination for cause and for convenience by the grantee, including the manner by which it will be effected and the basis for settlement. In addition, these contracts shall also contain a description of the conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

(3) Access by the grantee, IMLS, the Comptroller General of the United States, or any other duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

b. All contracts, including small purchases, shall contain the following provisions as applicable:

(1) Equal Employment Opportunity

All contracts awarded by grantees and their contractors and subrecipients having a value of more than \$10,000 must contain a provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity" as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR, Part 60).

(2) Rights to Inventions and Materials Generated Under a Contract or Agreement

Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Government and the recipient in any resulting invention in accordance with 37 CFR Part 401 and any implementing regulations issued by the awarding agency.

(3) Clean Air Act of 1970 (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) as Amended

Contracts of amounts in excess of \$100,000 shall contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251 et seq.). Violations shall be reported to the Federal sponsoring agency and the Regional Office of the Environmental Protection Agency (EPA).

(4) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)

Contractors who apply or bid for an award of \$100,000 or more must file a certification with the grantee stating that they will not and have not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, cooperative agreement, loan, or any other award covered by 31 U.S.C. 1352. Such contractors must also disclose to the grantee any lobbying that takes place in connection with obtaining any Federal award.

(5) Debarment and Suspension (E.O. 12549 and 12689)

No contracts shall be made to parties listed on the General Services Administration's Lists of Parties Excluded From Federal Procurement or Nonprocurement Programs in accordance with Executive Orders 12549 and 12689. These lists contain the names of contractors debarred, suspended, or proposed for debarment by agencies, and contractors declared ineligible under other statutory or regulatory authority other than Executive Order 12549.

Grantees are required to obtain a certification regarding debarment and suspension from all subrecipients and from all parties with whom they contract for goods or services when (1) the amount of the contract is \$100,000 or more, or (2) when, regardless of the amount of the contract, the contractor will have a critical influence or substantive control over the covered transaction. Such persons would be project directors and providers of federally-required audit services.

### **3. Use of Foreign-Flag Air Carriers**

The fact that comparable service provided by a foreign-flag carrier is less expensive, more convenient, or can be paid for with excess foreign currency is not sufficient justification for using a foreign flag carrier that does not have a code-sharing arrangement with a U.S. flag air carrier.

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

- (a) a U.S.-flag air carrier shall be used to destination or, in the absence of direct or through service, to the farthest interchange point on a usually traveled route.
- (b) if a U.S.-flag air carrier does not serve an origin or interchange point, a foreign-flag air carrier shall be used only to the nearest interchange point on a usually traveled route to connect with a U.S. flag air carrier.
- (c) a U.S.-flag air carrier involuntarily reroutes the traveler via a foreign-flag air carrier, the foreign-flag air carrier may be used notwithstanding the availability of alternative U.S.-flag air carrier service.

#### Use of Foreign-Flag Air Carriers.

##### 1. Travel To and From the U.S.

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

- (a) the airport abroad is the traveler's origin or destination airport, and use of U.S.-flag air carrier service would extend the time in a travel status by at least 24 hours more than travel by a foreign-flag air carrier; or
- (b) the airport abroad is an interchange point, and use of U.S.-flag air carrier service would increase the number of aircraft changes the traveler must make outside of the U.S. by 2 or more, would require the traveler to wait four hours or more to make connections at that point, or would extend the time in a travel status by at least six hours more than travel by a foreign-flag air carrier.

##### 2. Travel Between Points Outside the U.S.

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

- (a) travel by a foreign-flag air carrier would eliminate two or more aircraft changes en route;
- (b) travel by a U.S.-flag air carrier would require a connecting time of four hours or more at an overseas interchange point; or
- (c) the travel is not part of the trip to or from the U.S., and use of a U.S.-flag air carrier would extend the time in a travel status by at least six hours more than travel by a foreign-flag air carrier.

##### 3. Short Distance Travel.

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