



State: _____

Assurances and Certifications for 2020 Grant Award

All State Library Administrative Agencies receiving Library Services and Technology assistance under 20 U.S.C. § 9121 et seq., must comply with applicable statutes and regulations including but not limited to those cited below. To receive Federal assistance, all applicants must provide this signed Statement of Assurances and Certifications.

The undersigned, on behalf of the State Library Administrative Agency (SLAA), agrees that the SLAA will comply with the following:

(a) Legal Authority and Capability

Pursuant to 20 U.S.C. § 9122(5), the SLAA provides assurance that it has the fiscal and legal authority and capability to administer all aspects of the Library Services and Technology subchapter of 20 U.S.C. Chap. 72, that it will establish the State's policies, priorities, criteria, and procedures necessary to the implementation of all programs under this subchapter (including the development of a State Plan), and that it will submit copies of these materials for approval as required by regulations promulgated by the Director of the Institute of Museum and Library Services (IMLS).

(b) Internet Safety

Pursuant to 20 U.S.C. § 9134(b)(7), the SLAA provides assurance that it will comply with 20 U.S.C. § 9134(f), which sets out standards relating to Internet Safety for public libraries and public elementary school and secondary school libraries that do not receive services at discount rates under § 254(h)(6) of 47 U.S.C., and for which IMLS State Program funds are used to purchase computers used to access the Internet or to pay for direct costs associated with accessing the Internet.

(c) State Plan

Pursuant to 20 U.S.C. 9134(b)(8), the SLAA provides assurance that it shall make reports, in such form and containing such information, as the Director may reasonably require to carry out the Library Services and Technology subchapter of 20 U.S.C. Chap. 72 and to determine the extent to which funds provided under this subchapter have been effective in carrying out the purposes of the LSTA.

(d) Compliance with IMLS Regulations

The SLAA agrees that it will comply with all applicable IMLS regulations, including those in 2 C.F.R. §3187.12 – Federal statutes and regulations on nondiscrimination; 45 C.F.R. part 1110 – Nondiscrimination in Federally Assisted Programs; and 2 C.F.R. Chapter XXXI, including 2 C.F.R. part 3185 – Nonprocurement Debarment and Suspension, 2 C.F.R. part

3186 – Requirements for Drug-Free Workplace (Financial Assistance), and 2 C.F.R. part 3187 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards).

(e) Federal Funding Accountability and Transparency Act

The SLAA agrees that it will comply with the Federal Funding Accountability and Transparency Act (FFATA or Transparency Act – P.L. 109-282, as amended by § 6202(a) of P.L. 110-252) subaward and executive compensation reporting requirements. With respect to FFATA, the SLAA agrees that it will comply with the Award Term in Appendix A hereto. The SLAA further provides assurance that it will comply with all other applicable Federal statutes and regulations and OMB circulars in effect with respect to the periods for which it receives grant funding.

(f) Trafficking in Persons

The SLAA agrees that it will comply with the Trafficking in Persons requirement set forth in Appendix B hereto.

(g) Nondiscrimination

The authorized representative, on behalf of the SLAA, certifies that the SLAA 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. § 2000d *et seq.*), which prohibits discrimination on the basis of race, color, or national origin (note: as clarified by Executive Order 13166, reasonable steps must be taken to ensure that limited English proficient (LEP) persons have meaningful access to the programs (see IMLS guidance at 68 Federal Register 47099, August 7, 2003));
- (b) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 701 *et seq.* including §794), which prohibits discrimination on the basis of disability (note: IMLS applies the regulations in 45 C.F.R part 1170 in determining compliance with § 504 as it applies to recipients of Federal assistance);
- (c) Title IX of the Education Amendments of 1972, as amended (see 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.
- (e) the requirements of any other nondiscrimination statute(s) which may apply.

(h) Debarment and Suspension

The SLAA shall comply with 2 C.F.R. part 3185 and 2 C.F.R. part 180, as applicable. The authorized representative, on behalf of the SLAA, certifies to the best of his or her knowledge and belief that neither the SLAA nor any of its principals for the Five Year Plan:

- (a) Are presently excluded or disqualified;

- (b) Have been convicted within the preceding three years of any of the offenses listed in 2 C.F.R. §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 C.F.R. §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 SLAA is unable to certify to any of the statements in this certification, the authorized representative shall attach an explanation to this form.

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

As noted in the preceding paragraph, SLAAs who plan to use IMLS awards to fund contracts should be aware that they must comply with the communication and verification requirements in the above Debarment and Suspension provisions.

(i) Drug-Free Workplace

The authorized representative, on behalf of the SLAA, certifies, as a condition of the award, that the SLAA will or will continue to provide a drug-free workplace by complying with the requirements in 2 C.F.R. part 3186 (Requirements for Drug-Free Workplace (Financial Assistance)). In particular, the SLAA as the recipient must comply with drug-free workplace requirements in subpart B of 2 C.F.R. part 3186, which adopts the Government-wide implementation (2 C.F.R. part 182) of the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 701-707, as amended).

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 the SLAA's 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 that the SLAA keeps on file in its offices) all known workplaces under its Federal awards.

(j) Federal Debt Status

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

(k) Certification Regarding Lobbying Activities (Applies to Applicants Requesting Funds in Excess of \$100,000) (31 U.S.C. §1352)

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 any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person (other than a regularly employed officer or employee of the applicant, as provided in 31 U.S.C. § 1352) 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 complete and submit Standard Form LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (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.

This certification is a material representation of fact upon which reliance is placed when the transaction is made or entered into. Submission of this certification is a prerequisite for making or entering into the transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure, or as otherwise required by law.

(l) Reporting of Matters Related to Recipient Integrity and Performance

The authorized representative, on behalf of the SLAA, certifies that, as part of its award and as applicable, it will comply with Award Term for Recipient Integrity and Performance Matters attached hereto as Appendix C.

(m) Acknowledgement of IMLS Support

In accordance with Federal appropriations law, no IMLS funds may be used 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 the enactment of legislation before the Congress or any State or local legislature or legislative body 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. No IMLS funds may be used to pay the salary or expenses of any grant or contract 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.

(n) Acknowledgement of Federal Support

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 grantees receiving IMLS appropriated funding, including but not limited to State and local governments and recipients of Federal research grants, 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. Percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

(See IMLS fiscal year 2020 appropriations act – Section 505 of the Title V (General Provisions) of Division A of Public Law 116-94, December 20, 2019).

(o) General Certification

The authorized representative, on behalf of the SLAA, certifies that the SLAA will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

(p) 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.

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, and any related applicable preservation laws.

Environmental Protections:

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

- (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended and related Executive Orders, as applicable;
- (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;
- (f) conformity of federal actions to State (Clean Air) Implementation Plans under the Clean Air Act, as amended;
- (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended and
- (h) protection of endangered species under the Endangered Species Act of 1973, as amended.

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, 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 purchase requirements of the Flood Disaster Protection Act of 1973, as amended, 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, or as otherwise designated.

Research on Human Subjects:

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

Research on Animal Subjects:

The authorized representative, on behalf of the applicant, certifies that the project will comply with the Laboratory Animal Welfare Act of 1966, as amended (see 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.

These assurances and certifications are provided in connection with any and all financial assistance from the Institute of Museum and Library Services after the date this form is signed. This includes payments after such date for financial assistance approved before such date. The SLAA recognizes and agrees that any such assistance will be extended in reliance on the representations and agreements made in this assurance, and that the U.S. shall have the right to seek judicial enforcement of this Statement of Program Assurances and Certifications. These assurances and certifications are binding on the SLAA, its

successors, transferees, and assignees, and on the Authorized Certifying Official whose signature appears below.

The undersigned further provides assurances that it will include, as applicable, the language of the assurances and certifications in all subawards and that all subrecipients shall certify and disclose accordingly.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above assurances and certifications.

Signature of Authorized Certifying Official

Date

Authorized Certifying Official Print Name and Title

For additional information on these Assurances and Certifications, contact the IMLS State Programs Office at 955 L'Enfant Plaza North, SW, Suite 4000, Washington, DC 20024.

[Ed. 1/10/2020]

APPENDIX A

The SLAA must comply with Federal law pertaining to reporting subawards and executive compensation information. Accordingly, IMLS includes the following award term from Appendix A to 2 C.F.R. part 170 (Reporting Subaward and Executive Compensation Information) in each award to a non-Federal entity under which the total funding will include \$25,000 or more in Federal funding at any time during the project or program period:

Appendix A to Part 170—Award term

I. Reporting Subawards and Executive Compensation.

a. *Reporting of first-tier subawards.*

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e. of this award term).

2. *Where and when to report.*

i. You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.

ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)

3. *What to report.* You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

b. *Reporting Total Compensation of Recipient Executives.*

1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—

i. the total Federal funding authorized to date under this award is \$25,000 or more;

ii. in the preceding fiscal year, you received—

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

(B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term:

i. As part of your registration profile at <https://www.sam.gov>.

ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. *Reporting of Total Compensation of Subrecipient Executives.*

1. *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—

i. in the subrecipient's preceding fiscal year, the subrecipient received—

(A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

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

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:

i. To the recipient.

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

d. *Exemptions*

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

i. Subawards,

and

ii. The total compensation of the five most highly compensated executives of any subrecipient.

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

1. *Entity* means all of the following, as defined in 2 CFR part 25:

i. A Governmental organization, which is a State, local government, or Indian tribe;

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization;

iv. A domestic or foreign for-profit organization;

v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

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

3. *Subaward:*

i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. ____ .210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").

iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. *Subrecipient* means an entity that:

i. Receives a subaward from you (the recipient) under this award; and

ii. Is accountable to you for the use of the Federal funds provided by the subaward.

5. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

i. *Salary and bonus.*

ii. *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.

v. *Above-market earnings on deferred compensation which is not tax-qualified.*

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

[75 FR 55669, Sept. 14, 2010, as amended at 79 FR 75879, Dec. 19, 2014]

APPENDIX B

Trafficking in Persons

The SLAA must comply with Federal law pertaining to trafficking in persons. Under 22 U.S.C. § 7104(g), any grant, contract, or cooperative agreement entered into by a Federal agency and a private entity shall include a condition that authorizes the Federal agency (IMLS) to terminate the grant, contract, or cooperative agreement, if the grantee, subgrantee, contractor, or subcontractor engages in trafficking in persons, procures a commercial sex act, or uses forced labor. 2 C.F.R. part 175 requires IMLS to include the following award term in a grant to a State government if funding could be provided under the award to a private entity as a subrecipient:

- 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 C.F.R. part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 C.F.R. 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 C.F.R. part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 C.F.R. 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 C.F.R. part 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 C.F.R part 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).

Appendix C¹

Award Term and Condition for Recipient Integrity and Performance Matters

A. Reporting of Matters Related to Recipient Integrity and Performance

1. General Reporting Requirement

If the total value of your 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 you as the 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 You 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 five year period; and
- c. Is one of the following:
 - (1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
 - (2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
 - (3) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
 - (4) Any other criminal, civil, or administrative proceeding if:
 - (i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
 - (ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and

¹ 3 Pursuant to 2 CFR 200.210(b)(iii) if the total Federal share of the Federal award may include more than \$500,000 over the period of performance, this Award Term must be included. See also 2 CFR 200.113 Mandatory disclosures by non-Federal entity or applicant.

- (iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

3. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

4. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

5. Definitions

For purposes of this award term and condition:

- 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., Securities and Exchange Commission 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 but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- b. Conviction, for purposes of this award term and condition, 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—
 - (1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
 - (2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

B. [Reserved]

[80 FR 43310, July 22, 2015] [see also, 2 C.F.R. pt 200, Appendix XII to Part 200 – Award Term and Condition for Recipient Integrity and Performance Matters]

Version: 1/10/2020