General Terms and Conditions for IMLS Discretionary Grant and Cooperative Agreement Awards For Awards Made After December 26, 2014

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Glossary of Terms

Authorized Official – An official of the non-Federal entity with the authority, in accordance with applicable law and requirements, to apply for Federal support and/or enter into agreements and/or sign grant-related documents. An Authorized Official is sometimes also referred to as an Authorized Representative/Authorized Organization Representative/Certified Authorizing Official/Authorized Certifying Official.

Contract – A legal instrument by which a non-Federal entity purchases property or services to carry out the project under the Federal award. It does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward. (2 CFR 200.22).

Cooperative Agreement – A legal instrument of financial assistance between IMLS and a non-Federal entity that is used to enter into a relationship that enables the non-Federal entity to carry out a public purpose. A Cooperative Agreement, unlike a Grant Agreement, provides for substantial involvement between IMLS and the non-Federal entity in carrying out the activity. (2 CFR 200.24; for comparison, see Grant Agreement definition in §200.51).

Cost Sharing – The portion of project costs not paid by Federal funds. (2 CFR 200.29, see also §200.306).

Data Universal Numbering System (D-U-N-S®) Number – The nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to give business entities a unique designation. A D-U-N-S® Number may be obtained from D&B by telephone or the Internet (currently at http://fedgov.dnb.com/webform).

Debarment – An action taken by an agency to exclude an organization from participating in Federal grants and contracts. (IMLS debarment and suspension regulations are found at 2 CFR Part 3185 and 2 CFR Part 180).

Equipment – Tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or $5,000. (2 CFR 200.33).

Federal Award – Has the meaning, depending on the context, of either:

(a) The Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency (e.g., IMLS) or indirectly from a pass-through entity (subaward), or

(b) The instrument setting forth the terms and conditions (e.g., grant agreement or cooperative agreement).

(2 CFR 200.38; also see 2 CFR 200.92 for definition of Subaward).

FFATA – The Federal Funding Accountability and Transparency Act of 2006 or Transparency Act – Public Law 109-282, as amended by section 6202(a) of Public Law 110-252 (31 U.S.C. 6101) (see also www.fsrs.gov).

FAIN – Federal Award Identification Number. (2 CFR 200.0).

Grant Agreement – A legal instrument of financial assistance between IMLS and a non-Federal entity that is used to enter into a relationship that enables the non-Federal entity to carry out a public purpose. A Grant Agreement, unlike a Cooperative Agreement, does not provide for substantial involvement between IMLS and the non-Federal entity in carrying out the activity. (2 CFR 200.51; for comparison, see Cooperative Agreement definition in §200.24).

Grantee – The organization to which a grant or cooperative agreement (for a cooperative agreement, the recipient organization may also be known as a "cooperator") is awarded and which is accountable for the use of the funds provided (see the term "Recipient" below).

Indian tribe – "Indian tribe" 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 Unites States to Indians because of their status as Indians. (20 U.S.C. 9101(5)).

In-Kind Contributions – The value of non-cash contributions provided by non-Federal third parties. In-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project.

Intangible Property – Property having no physical existence, such as trademarks, copyrights, patents and patent applications and property, such as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership (whether the property is tangible or intangible). (2 CFR 200.59).

Non-Federal Entity – A state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient. (2 CFR 200.69).

Obligations – When used in connection with a non-Federal entity's utilization of funds under a Federal award, "obligations" means orders placed for property or services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period. (2 CFR 200.71).

Pass-Through Entity – A non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal award. (2 CFR 200.74).

Period of Performance – The time during which the non-Federal entity may incur new obligations to carry out the work authorized under the Federal award. The start and end dates are included in the Federal award. (2 CFR 200.77).

Program Officer – The IMLS program staff member designated in the official award notification as the person responsible for the oversight of the grant.

Program Income – Gross income earned by a non-Federal entity that is directly earned as a result of the Federal award. It includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, the sale of items fabricated under a Federal award, license fees and royalties on patents and copyrights. (2 CFR 200.80)

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

Recipient – A non-Federal entity that receives a Federal award directly from a Federal awarding agency (e.g., IMLS) to carry out an activity under a Federal program. The term recipient does not include subrecipients. (2 CFR 200.86).

Simplified Acquisition Threshold – The dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. The Simplified Acquisition Threshold is currently set at $150,000. (2 CFR 200.88, see also 2 CFR 2.101 and "What rules govern our procurement procedures" below).

State – Each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau. (20 U.S.C. §9122(3) and §9172(2))

Subaward – An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. (2 CFR 200.92). Please note that under IMLS regulations at 2 CFR 3187.14, a recipient may not make a subaward unless expressly authorized by IMLS.

Subrecipient – A non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal award; but does not include an individual that is a beneficiary of such award. (2 CFR 200.93).

Supplies – All tangible personal property other than those described in 2 CFR 200.33 (Equipment). A computing device is a supply if the acquisition cost is less than the lesser

of the capitalization level established by the non-Federal entity for financial statement purposes or $5,000, regardless of the length of its useful life. (2 CFR 200.94).
Suspension of an organization - An action taken by an agency that immediately prohibits an organization from participating in Federal grants and contracts for a temporary period, pending completion of an agency investigation and any judicial or administrative proceedings. (IMLS debarment and suspension regulations are found at 2 CFR Part 3185 and 2 CFR Part 180).

Suspension of an award – The temporary withdrawal of Federal sponsorship. This includes the withdrawal of authority to incur expenditures against award funds, pending corrective action or a decision to terminate the award.

System for Award Management (SAM) (2 CFR 200.0) – The Federal repository into which an entity must provide information required in order to conduct business as a recipient. This information was previously collected at the Central Contractor Registration (CCR) repository. Additional information about registration procedures may be found at the SAM Internet site (currently at www.sam.gov).

Termination – The ending of a Federal award, in whole or in part at any time prior to the planned end of the period of performance. (2 CFR 200.95).

1. What do these General Terms and Conditions apply to?

These General Terms and Conditions apply to discretionary Federal awards that IMLS issues to private nonprofit organizations; institutions of higher education; and State, local, and federally recognized Indian tribal governments (unless we designate in the award that a different set of IMLS General Terms and Conditions apply). The IMLS Library Grants to States Program has a separate set of award terms and conditions.

These General Terms and Conditions apply to discretionary Federal awards that IMLS issues after December 26, 2014.

2. What are my responsibilities when accepting an award?

In accepting an IMLS Federal award, you assume the legal, financial, administrative, and programmatic responsibility for administering the award in accordance with these General Terms and Conditions and you must comply with applicable laws and the terms of the award. You must also comply with the specific Assurances and Certifications that are part of an award application.

While these General Terms and Conditions are based upon those laws and requirements that apply most frequently to recipients of IMLS awards, you are responsible for following all applicable laws and requirements, whether or not they are listed herein. Failure to comply could result in suspension or termination of the award, IMLS recovery of award funds, suspension/debarment of your organization, and/or other actions.

For reference, laws and requirements that relate specifically to IMLS awards include but are not limited to:

- IMLS's authorization statute (20 U.S.C. §9101 *et seq.*)
- IMLS's African American grant program statute (20 U.S.C. §80r-5)
- IMLS appropriations laws
- IMLS regulations (45 CFR Chapter XI and 2 CFR Chapter XXXI[1])

You assume responsibility for the conduct of project activities under an IMLS award, for adherence to the award conditions, for submitting financial and performance reports, and for informing IMLS during the course of the award of any significant programmatic, administrative, or financial problems that have arisen, including allegations of research misconduct. Forms, form instruction, and other guidance for successfully managing an IMLS discretionary award are

[1] **PLEASE NOTE**: The recent Office of Management and Budget (OMB) final guidance on Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Grant Reform) has streamlined and consolidated grant requirements. The Grant Reform can be found at 2 CFR part 200. With certain IMLS-specific additions, IMLS regulations at 2 CFR part 3187 formally adopt the 2 CFR part 200 Grant Reform. The Grant Reform as adopted by IMLS at 2 CFR part 3187 will be effective for all awards made after December 26, 2014.

available on the IMLS website. You must also maintain documentation, which is subject to audit, of all activities and expenditures affecting the award.

3. Whom do I contact at IMLS if I have questions about my award?

If you have questions about your IMLS award or any part of these General Terms and Conditions, you should contact the IMLS staff who are listed on your Official Award Notification for Grants and Cooperative Agreements, in the section "IMLS Contacts."

4. Do I have to be registered in the System for Award Management (SAM)?

Award payments cannot be made to organizations that do not hold current System for Award Management (www.SAM.gov) registrations.

You must maintain your registration in SAM until you submit the final financial report required under your 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, more frequently if required by changes in your information or by other guidance.

5. What conflict of interest requirements and criminal disclosures must I follow?

(a) Conflict of Interest (see also, 2 CFR 200.112 and 200.318)

As a non-Federal entity, you must follow IMLS conflict of interest policies for Federal awards. You must disclose in writing any potential conflict of interest to an IMLS Program Officer, or to the pass-through entity if you are a subrecipient or contractor. This disclosure must take place immediately whether you are an applicant or have an active IMLS award.

The IMLS conflict of interest policies apply to subawards as well as contracts, and are as follows:

1. As a non-Federal entity, you must maintain written standards of conduct covering conflicts of interest and governing the performance of your employees engaged in the selection, award, and administration of subawards and contracts.
2. None of your employees may participate in the selection, award, or administration of a subaward or contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when 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 parties indicated herein, has a financial or other interest in or a tangible personal benefit from an organization considered for a subaward or contract. The officers, employees, and agents of the non-Federal entity must

neither solicit nor accept gratuities, favors, or anything of monetary value from subrecipients or contractors or parties to subawards or contracts.

3. If you have a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, you must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, you are unable or appear to be unable to be impartial in conducting a subaward or procurement action involving a related organization.

(b) Criminal Disclosures (see also, 2 CFR 200.113, 2 CFR part 3185)

You must also disclose, in a timely manner, in writing to IMLS all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

6. Do I have to comply with the Federal Funding Accountability and Transparency Act (FFATA)?

You must comply with the Federal Funding Accountability and Transparency Act (as implemented in 2 CFR part 170). In particular, this means reporting on subawards and executive compensation. (See also, 2 CFR 200.300(b) and http://www.fsrs.gov/).

7. What are the IMLS requirements for subawards?

You may not make a subaward unless expressly authorized by IMLS. If the proposed subrecipient and its activities are specifically identified by you in your application and if IMLS approves that application with the IMLS award, you may consider that subaward as approved by IMLS. If, after the IMLS award has been made, you decide a new or different subaward is needed, your Authorized Official must submit a request in writing to IMLS for IMLS review and approval before any such proposed subaward is made. You must comply with 2 CFR 3187.14(a) and 2 CFR part 200 for subawards that are authorized by IMLS.

(See 2 CFR 3187.14(a) and 2 CFR part 200, including but not limited to 2 CFR sections 200.330 - 200.332)

8. What determines allowable costs for IMLS-funded work?

Allowable costs and cost allocation methods for work performed under an IMLS award must be determined in accordance with the applicable IMLS and federal cost principles (see 2 CFR Part 200 (subpart E) and 2 CFR Part 3187) and the terms and conditions of the award.

9. Are extensions of the award period of performance allowed?

If you determine toward the end of an award period of performance that additional time is required to complete the original scope of the project with the funds already made available, an Authorized Official of your institution may submit a request to the appropriate IMLS Program Officer to extend the award for up to a year.

Extension requests must be made at least 10 calendar days prior to the original grant ending date and explain in detail the reason for the request. Extensions are not automatic and not merely for the purpose of using unobligated balances and some IMLS programs may not allow extensions. We will inform you in writing as to whether an extension request has been granted. We do not typically extend an award more than once.

(See also, 2 CFR 200.308(d)(2)).

10. Are changes in project scope allowed?

Any project that is carried out under an IMLS award must be consistent with the scope of the approved proposal. The scope of a project encompasses the purpose for which the award 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 award 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 an award must be signed by an Authorized Official and submitted to the appropriate IMLS Program Officer.

(See also, 2 CFR 200.308 (c)(1)).

11. Are changes in key project personnel allowed?

The change in a key person specified in the application or the award, requires **prior** written approval from IMLS, as does the disengagement from the project for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

All requests for approval of changes in key project personnel must be signed by an Authorized Official and include evidence of the qualifications for replacement personnel. Such requests must be submitted to the appropriate IMLS Program Officer.

(See also, 2 CFR 200.308 (c)(2) and (3)).

12. How do I request changes to the budget and project plans?

The project budget is the schedule of anticipated project expenditures that is approved by IMLS for carrying out the purposes of the award. When you or a non-Federal third party supports a portion of the project costs, the project budget includes that portion as well as the IMLS share of project expenses.

You must obtain prior written approval from IMLS whenever a budget change is necessary because of:

a. A change in the scope or objectives of the project (even if there is no associated budget revision requiring prior written approval) (see Article 10 above).

b. The inclusion of costs that require prior approval in accordance with 2 CFR Subpart E (Cost Principles) or 45 CFR part 75 Appendix IX (Principles for Determining Costs Applicable to Research and Development under Awards and Contracts with Hospitals) or 48 CFR part 31 (Contract Cost Principles and Procedures). In particular, please see 2 CFR 200.407 list of costs that require prior approval (for example, participant support costs, pre-award costs, equipment and other capital expenditures, and other items).

c. The transfer of funds budgeted for participant support costs to other categories of expense.

d. Unless described in the application and funded in the approved Federal award, the subawarding, transferring or contracting out of any work under an IMLS award.[2] With respect to subawards that are not described in the application and funded in the approved Federal award, please also see Article 7 above (What are the IMLS requirements for subawards) and IMLS regulations at 2 CFR 3187.14 (recipient may not make a subaward unless expressly authorized by IMLS).

e. Changes in the approved cost-sharing or matching provided by the non-Federal entity.

f. The need arises for additional Federal funds to complete the project.

g. The transfer of funds among direct cost categories or programs, functions and activities, when the Federal share of the project exceeds the Simplified Acquisition Threshold (currently $150,000) and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by IMLS.

h. The addition of costs that are specifically disallowed by the terms and conditions of the award.

[2] This provision does not apply to the acquisition of supplies, materials, equipment or general support services.

When requesting approval for budget revisions, please use the same format for budget information that was used in the application. All requests for budget revisions must be dated and signed by an Authorized Official and submitted to the appropriate IMLS Program Officer.

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

(See also, 2 CFR 200.308 (c)).

13. What are the cost-sharing (or matching) requirements?

As defined in 2 CFR 200.29, "cost sharing or matching" means the portion of project costs not paid by Federal funds.

You are required to share in project expenses at the level indicated in the approved project budget. You must also maintain auditable records of all project costs whether they are charged to award funds or supported by cost-sharing contributions. Any proposed change in the level of cost share must be submitted to IMLS for approval.

All cash and in-kind contributions to a project that you or a non-federal third party provide are acceptable as your cost share when such contributions are:

- verifiable from your records;
- not included as contributions for any other Federal award;
- necessary and reasonable for accomplishment of project or program objectives;
- are allowable under applicable law, including IMLS program cost restrictions, 2 CFR part 200 (Subpart E – Cost Principles), and 2 CFR part 3187 (including but not limited to 2 CFR 3187.15 (Allowable costs);
- not paid by the Federal government under another Federal award, except where authorized by statute;
- provided in the approved budget; and
- conform to other provisions in 2 CFR part 200 and 2 CFR part 3187.

Values for non-Federal entity contributions of services and property must be established in accordance with the cost principles in 2 CFR part 200 (Subpart E – Cost Principles).
Unless otherwise approved by IMLS, the following items are **not eligible** as cost share:

- resources that have been used as cost share for another IMLS award or other Federal program;
- contributions or gifts transferred to your organization that are restricted and cannot be used to support the project;
- gifts (testamentary or otherwise) that are not available to your organization during the project period.

(See also, 2 CFR 200.306).

14. What is the process for receiving payment from IMLS?

Award payments cannot be made to organizations that do not hold current System for Award Managment registrations (SAM.gov). You must maintain the currency of your information in SAM from the time of application until submission of the final financial report required under an award or receipt of the final payment, whichever is later. Generally, you must renew SAM registration annually.

You will request payments with form SF270, Request for Advance or Reimbursement, which you can find on the IMLS website at https://www.imls.gov/grants/grant-recipients/administration-info, and e-mail it in PDF format to IMLS Grants Administration at grantsadmin@imls.gov.

If you do not have the capability to email PDF documents, forms may be mailed to:

Institute of Museum and Library Services
Attn. Grants Administration
955 L'Enfant Plaza North, SW, Suite 4000
Washington, DC 20024-2135

If your SF270 form is incomplete or inaccurate, your payment will be delayed.

The SF270 must be signed by an Authorized Official of your institution.

You may submit a payment request whenever award funds are needed. Emailed payment requests are normally processed within ten business days. Mailed payment requests will take longer.

To avoid possible delays in processing a payment request, you should explain unusually high payment requests when they are submitted to IMLS.

Advance Payment
Unless otherwise stated in the special terms and conditions of the IMLS award notification (or subsequent action), you are authorized to be paid on an advance basis 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 IMLS award;
2. You maintain or demonstrate the willingness to maintain written procedures that will minimize the time elapsing between the transfer of funds to you from the U.S. Treasury and your disbursement of such funds;
3. Your financial management system meets the standards for fund control and accountability as established in 2 CFR part 200; and
4. Your SAM.gov registration is current and active.

Requests for advance payment must be limited to your actual immediate cash needs. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by you for project costs.

Frequency of Requests

You may submit a payment request whenever grant funds are needed. Requests for advance payment must be submitted no earlier than 15 business days prior to the beginning of the period for which the funds are requested.

Limitations on Advance Payments

Requests for advance payment must be limited to immediate cash needs. Federal funds advanced to the recipient should be fully disbursed (example: checks written, signed, and issued to the payees) within 30 calendar days of the date you receive the advance funds from IMLS. To avoid possible delays in processing a payment request, you should explain unusually high payment requests when they are submitted to IMLS.

Reporting on Advance Payments

You are required to report on the status of funds received from IMLS, using either Section 11 or Section 12 of the SF270 form. 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 you.

You must maintain advances of Federal awards in interest-bearing bank accounts unless the following would apply:

- You receive less than $120,000 in Federal awards per year.
- The best reasonably available interest-bearing account would not be expected to earn interest in excess of $500 per year on Federal cash balances.
- The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

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

Interest earned amounts up to $500 per year may be retained by the non-Federal entity for administrative expense. Any additional interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services Payment Management System (PMS) through an electronic medium using either Automated Clearing House (ACH) network or a Fedwire Funds Service payment.

(For States, see 2 CFR 200.305(a); for non-Federal entities other than States, see 2 CFR 200.305(b)).

15. What are the financial and program reporting requirements?

You are responsible for submitting interim and final performance and financial reports. A final performance report and a final financial report must be submitted to IMLS Grants Administration within 90 calendar days after the completion date of the award period of performance. The IMLS Federal award notification includes a schedule of interim and final report due dates. If an award is extended, IMLS will email a revised reporting schedule.

Interim and final report forms and instructions are available on the IMLS website: https://www.imls.gov/grants/grant-recipients/administration-info. Failure to submit reports on a timely basis may result in delayed payments and the suspension of action on pending applications.

Interim and final reports (reports of 20MB or less) should be emailed in PDF format to imlsreporting@imls.gov. The award number must be referenced in the 'Subject' of the email. If you do not have the capability to email PDF documents, the reports may be mailed to:

Institute of Museum and Library Services
Attn. Grants Administration
955 L'Enfant Plaza North, SW, Suite
4000 Washington, DC 20024-2135

Reports that exceed 20MB must be mailed.

When a signed report is emailed to IMLS, you are required to retain the original report in accordance with the standards set forth in Article 18 (Record Retention) of these General Terms and Conditions.

Please note that IMLS staff may review your final performance report and related deliverables to assess the extent to which your project met its performance goals.

You must also inform IMLS of any significant developments. Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, you must inform IMLS as soon as the following conditions become known:

(a) Problems, delays, or adverse conditions which will materially impact the objective of the Federal award.
(b) Favorable developments which enable meeting time schedules/objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

(See also, 2 CFR sections 200.327 and 200.328).

16. What are the requirements for my organization's financial management system and internal controls?

Your organization's financial management system and internal controls must meet applicable federal requirements, including the following.

Financial management

(a) Each state must expend and account for the Federal award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, the state's and the other non-Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statues, regulations, and the terms and conditions of the Federal award.

(b) The financial management system of each non-Federal entity must provide the following:
    (1) Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received.
    (2) Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements set forth in §§200.327 Financial reporting and 200.328 Monitoring and reporting program performance.
    (3) Records that identify adequately the source and application of funds for federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.
    (4) Effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes.
    (5) Comparison of expenditures with budget amounts for each Federal award.
    (6) Written procedures to implement the requirements of §200.305 Payment.
    (7) Written procedures for determining the allowability of costs in accordance with Subpart E (Cost Principles) of 2 CFR part 200 and the terms and conditions of the Federal award.

Internal controls

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award.

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(c) Evaluate and monitor the non-Federal entity's compliance with statutes, regulations and the terms and conditions of Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

(e) Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the non-Federal entity considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

Allowable Charges during the Period of Performance

You may charge to the IMLS award only allowable costs incurred during the period of performance (except for publication and printing costs described in 2 CFR 200.461) unless otherwise authorized (e.g., if IMLS authorizes pre-award costs). Such costs should normally be distributed by you no later than 90 calendar days after the end of the period of performance (e.g., by the date the final financial and performance reports are due).

(See also, 2 CFR 200.309 (Period of performance), 200.302 (Financial management) and 200.303 (Internal controls), 200.461 (Publication and printing costs), 200.327 – 328 (reporting), and 200.343 (Closeout)).

17. What are the audit requirements?

You are subject to the requirements of Subpart F (Audit Requirements) of 2 CFR part 200. Generally, if you expend $750,000 or more during your non-Federal entity's fiscal year in Federal awards you must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 CFR part 200.

(See Subpart F (Audit Requirements) of 2 CFR part 200).

18. What are the rules for record retention and access?

You must follow the record retention and access requirements in 2 CFR sections 200.333 – 200.337.

Generally, financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report, as reported to the Federal awarding agency or pass-through entity in the case of a subrecipient. Certain exceptions may apply, including but not limited to:

·If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

·When you are notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.

·Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.

The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.

(See, 2 CFR sections 200.333 – 200.337).

19. What rules govern our procurement procedures?

You must comply with the applicable procurement standards in 2 CFR sections 200.317 – 200.326, including Appendix II to 2 CFR part 200 (Contract Provisions for non-Federal Entity Contracts Under Federal Awards). The procurement standards include but are not limited to: procurements by states; general procurement standards; competition (including having written standards for procurement transactions); methods of procurement to be followed; contracting with small and minority businesses, women's business enterprises, and labor surplus area firms; procurement of recovered materials; contract cost and price; Federal awarding agency or pass-through entity review; and contract provisions to be contained in the non-Federal entity's contracts.

(See 2 CFR sections 200.317 – 200.326, and Appendix II to 2 CFR part 200 (Contract Provisions for non-Federal Entity Contracts Under Federal Awards)).

20. What are the property standards for equipment, supplies, intangible property, and other property?

You must comply with the applicable property standards in 2 CFR sections 200.310 – 200.316. The property standards include, but are not limited to: insurance coverage; equipment; supplies; intangible property; and property trust relationship.

The property standards include various title, use, management, and disposition requirements. For example, equipment records must be maintained that include the description of the equipment; the serial number or other identification number; the source of funding for the equipment (including the FAIN); the title holder; the acquisition date and cost of the equipment; percentage of Federal participation in the project costs for the Federal award under which the equipment was acquired; 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. A control system must also be developed to ensure adequate safeguards.

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.

(See 2 CFR sections 200.310 – 200.316).

21. What are the rules for travel costs?

You must comply with the travel costs requirements, including 2 CFR section 200.474. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by those on grant-related official business.

Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to the entire trip and not to selected days on a trip. The chosen method must be consistent with those normally allowed by your organization for non-federally funded activities and in accordance with your written travel reimbursement policies.
For commercial air travel, airfare costs in excess of the basic least expensive unrestricted accommodations class offered by commercial airlines are unallowable except in limited circumstances.

(See 2 CFR 200.474).

22. Are there additional rules for foreign travel?

For the purposes of these Terms and Conditions, foreign travel includes any travel outside 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 in accordance with applicable law, including but not limited to the Fly America Act (49 U.S.C. §40118) (see corresponding regulations at 41 CFR 301-10.131 through 10.143). There are some exceptions to the Fly America Act (see 41 CFR 301-10.135 through 10.138). If you do use a foreign carrier, you must provide us with a certification, including a justification as to why your travel met one of the exceptions. We may request additional information if necessary.

Lower cost, more convenience, or traveler preferences are not acceptable reasons for using a foreign carrier.

(See, Fly America Act (49 U.S.C. §40118) and corresponding regulations at 41 CFR 301-10.131 through 10.143).

23. Are there specific requirements for my sharing of results and work products, and what may IMLS share?

Wide dissemination of the results of IMLS-funded projects advances the body of knowledge and professional practice in 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.

All work products resulting from IMLS funding should be distributed for free or at cost unless IMLS has given you written approval for another arrangement. IMLS expects you to ensure that final peer-reviewed manuscripts resulting from research conducted under an award are made available in a manner that permits the public to access, read, download, and analyze the work without charge.

Unless otherwise specified in the award documents, IMLS requires that at the end of your project, you provide IMLS at least one copy 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. You should consult with IMLS regarding software development projects.

IMLS may share grant applications, grant products, and performance and other reports with grantees, potential grantees, and the general public to further the mission of the agency and the

development of museum and library services. These materials may be disseminated in a variety of ways and formats, including online.

24. What are the requirements for data collection and data sharing?

Data Collection

Data collection activities performed under an IMLS grant are your responsibility, and IMLS support of the project does not constitute approval of the survey design, questionnaire content, or data collection procedures. You 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; acknowledgement of IMLS support is still required.

Data Sharing

Research data sharing is an essential component of research and expedites the translation of research results into new knowledge and practices.

If you collect and analyze data as part of an IMLS funded project, IMLS expects you to deposit data resulting from IMLS-funded research in a broadly accessible repository that allows the public to use the data without charge no later than the date upon which you submit your final report to IMLS. You should deposit the data in a machine-readable, non-proprietary digital format to maximize search, retrieval, and analysis.

Your project budget may include the costs of preparing the data for public release and for making the data publicly available, as long as these activities are charged before closeout. (see 2 CFR 200.461 for additional details). In your final report to IMLS, you will be required to identify where your data has been deposited and can be accessed by the public.

IMLS recognizes that data sharing may be complicated or limited in some cases by institutional policies; local Institutional Review Board (IRB) rules; and local, state, and federal laws and regulations, including those protecting confidentiality and personal privacy. The rights and privacy of people who participate in IMLS-supported research must be protected at all times. Thus, data intended for broader use should be free of anything that could lead to disclosure of the identity of individual participants. For data files containing personally identifiable information (PII), it is your responsibility to employ a standard and systematic statistical disclosure limitation methodology to limit the risk of PII disclosure. Additional guidance on statistical disclosure limitation methodology is available at https://www.imls.gov/research-evaluation/research-guidance. You should identify and explain the reasons for any limitations in your data management plan.

For the purposes of this section, “data” is defined consistent with the definition of “research data” in 2 CFR 200.315.

25. What are the rules for Acknowledgment of IMLS Support?

All materials publicizing or resulting from grant activities must contain an acknowledgement of IMLS support, unless you are advised otherwise. This includes items such as invitations, brochures, and signage; audio/video programming for radio, television, or web broadcast; and electronic items such as websites and e-mail announcements. (See https://www.imls.gov/grants/grant-recipients/grantee-communications-kit/imls-acknowledgement-requirments for specific guidance).

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

- Written materials must include a credit line indicating IMLS as a source of support;
- Graphic items such as posters or brochures should include the IMLS logo (available at https://www.imls.gov/grants/grant-recipients/grantee-communications-kit/imls-logos) displayed in accordance with the Logo Standards Guide;
- Electronic items should link to the IMLS website, www.imls.gov;
- Audio/video broadcasts must include a tagline indicating IMLS as a source of support. Video broadcasts should display the IMLS logo.

In materials that contain or present substantive project content, such as an exhibition, article, catalogue or other publication, video documentary, or online exhibition or website, the acknowledgement must also include the following statement:

> "The views, findings, conclusions or recommendations expressed in this (publication) (program) (exhibition) (website) (article) do not necessarily represent those of the Institute of Museum and Library Services."

If you have any question about whether your product requires this statement, please contact the IMLS Office of Communications and Government Affairs.

26. What are the intellectual property and data rules for products that result from IMLS awards?

a. You may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under the award. 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. You shall also ensure that all publication and distribution agreements 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 for IMLS to authorize others to do so, and requiring the acknowledgment of IMLS support.
b. IMLS reserves a royalty-free, worldwide, nonexclusive, and irrevocable right to: (1) obtain, reproduce, publish or otherwise use the data first produced under the award; and

(2) authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

c. If you are awarded funds for experimental, developmental, or research work, you 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."
d. 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 you 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).

(See also, Intangible Property, 2 CFR sections 200.59 and 200.315).

27. What happens if a funded project earns income?

Program income is the gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance except as provided in 2 CFR 200.307(f)(income earned after the period of performance).

The federal share of program income is determined by the percentage of total project costs supported by IMLS.

Income Earned During the Grant Period
You will retain the federal share of program income earned during the grant period and, unless the grant award notification specifies how such income will be used, must use it in one or more of the following ways:

- It may be added to the existing Federal award and must be used for the purposes and under the conditions of the Federal award.
- It may be used to meet your cost-sharing requirement. The amount of the Federal award remains the same.
- It may be deducted from the <u>total</u> allowable costs to determine the net allowable project costs that may be charged to the IMLS award.

You must be in contact with your IMLS Program Officer to discuss which of the three ways is appropriate for your grant.

A report of program income must be submitted with the final Federal Financial Report Form (SF425) whenever program income is earned during the award period of performance or when the special conditions of the award specifically require such a report. The report must indicate the total amount of program income that was earned and how it was used. Costs related to the generation of income may be deducted from gross amount earned to determine the amount of

program income that is subject to the requirements of this article, as long as they are not charged to the award or included in the recipient's cost sharing.

Income Earned After the Award Period of Performance
The grantee has no obligation to IMLS regarding program income earned after the end of the award period of performance, unless otherwise stated in the award notification.

(See also, Program Income, 2 CFR sections 200.80 and 200.307).

28. What do we do when research misconduct is alleged or discovered?

Research misconduct is defined as the fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

You bear 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 your institution.

If an allegation of research misconduct is first made to your institution, you must notify IMLS if the allegation meets the definition of research misconduct given above, and if your institution's inquiry into the allegation determines there is sufficient evidence to proceed to an investigation.

At any time during an inquiry or investigation, you must immediately notify IMLS if

- federal 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.

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

29. How does an IMLS award get terminated before its completion?

The Federal award may be terminated in whole or in part as follows:

(1) By IMLS if you fail to comply with the terms and conditions of a Federal award;

(2) By IMLS for cause;

(3) By IMLS with your consent, in which case the two parties must 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

(4) By you, upon sending to IMLS written notification of the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if we determine in the case of partial termination that the reduced or modified portion of the Federal award will not accomplish the purposes for which the Federal award was made, we may terminate the Federal award in its entirety.

When we determine that you have failed to comply with the terms and conditions of the Federal award, we may suspend or terminate the award for cause. Normally, this action will be taken only after you have been notified of the deficiency and given sufficient time to correct it. 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 Federal award is suspended and corrective action is not taken within 90 calendar days of the effective date, we 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 specifically authorized by the suspension or termination notice or those that, in the opinion of IMLS, could not have been reasonably avoided.

Within 30 calendar days of the termination date, you must provide to IMLS a summary of progress achieved under the award, an itemized accounting of charges incurred against Federal award 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. Should you fail to furnish this material, we may place your organization on the list of ineligible grantees.

The total of IMLS payments under a terminated Federal award cannot exceed unliquidated balance of the Federal award amount obligated by IMLS.

(See also, Remedies for Noncompliance, 2 CFR sections 200.338 through 200.342).

30. What are the procedures for requesting a review of suspension or termination?

If you receive a notice of termination, you may request IMLS review of the decision. The request must be postmarked no later than 30 calendar days after the date of the termination notice and should be addressed to:

IMLS Director

Institute of Museum and Library Services
955 L'Enfant Plaza North, SW, Suite
4000 Washington, DC 20024-2135

The request for review must contain a full statement of your 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 were responsible for monitoring the programmatic or administrative aspects of the Federal award. The committee will have full access to all relevant IMLS background materials. The committee may also request the submission of additional information from your organization or IMLS staff. At its discretion, the committee 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 make the final decision and make it known to the parties involved.

(See also, 2 CFR 200.341).

31. How do I proceed if this document contradicts other IMLS materials related to grants and cooperative agreements?

Should there be any inconsistency between these General Terms and Conditions, the special terms of the grant or cooperative agreement award, and any IMLS Notice of Funding Opportunities, brochures, or other IMLS materials cited or included by reference in the award, contact the IMLS Program Office or Grants Administration Office for guidance.

Appendix A. Statutory and National Policy Requirements that Govern Your Award.

You are responsible for complying with all laws related to Federal awards, including but not limited to those in the Assurances and Certifications you agreed to when applying for an IMLS award, the IMLS-specific statutes and regulations referenced in Article 2 of these General Terms and Conditions, and the following U.S. government-wide requirements:

(a) Nondiscrimination
The grantee must comply with the following nondiscrimination statutes and their implementing regulations and must also comply with the requirements of any other nondiscrimination laws which may apply:

(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 (note: as clarified by Executive Order 13166, the applicant must take reasonable steps to ensure that limited English proficient (LEP) persons have meaningful access to the applicant's programs (see IMLS guidance at 68 Federal Register 17679, April 10, 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 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;
(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; and
(e) the requirements of any other nondiscrimination statute(s) which may apply to the application.

(b) Debarment and Suspension
Grantees are prohibited from doing business with any organization or person (as a recipient, subrecipient, contractor, or key employee) if they have been debarred or suspended by any Federal department or agency.

The *OMB Guidelines to Agencies on Governmentwide Debarment and Suspension* (Nonprocurement) contained in 2 CFR Part 180 and the corresponding IMLS regulations contained in 2 CFR Part 3185 apply to IMLS grants.

The grantee, 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 grantee 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 grantee enters into covered transactions.

(c) Drug-Free Workplace

The grantee must provide a drug-free workplace by complying with the requirements in 2 CFR Part 3186 (Requirements for Drug-Free Workplace (Financial Assistance)). In particular, the grantee must comply with drug-free workplace requirements in subpart B (or subpart C, if the recipient is an individual) of 2 CFR Part 3186.

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

(d) Trafficking in Persons
The grantee 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 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 CFR Part 175 requires IMLS to include the following award term, which is made a part of these General Terms and Conditions:

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 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).

(e) Federal Debt Status
The grantee should not be delinquent in the repayment of any Federal debt.

(f) Lobbying
The grantee may not conduct political lobbying within the Federally-supported project. In addition, the grantee may not use Federal funds for lobbying specifically to obtain awards, extensions, amendments, or other Federal actions. (31 U.S.C. §1352) Certain other lobbying restrictions, such as the following, may also apply:

Lobbying Activities (Applies to Applicants Requesting Funds in Excess of $100,000) (31 U.S.C. §1352). The following provisions, which were part of the grant application, remain in effect for the award:

(a) No Federal appropriated funds may be paid, by or on behalf of the grantee, to any person for influencing or attempting to influence an officer or employee of an 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, and 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 grantee shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

(c) The grantee shall require that the language of the 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.

In addition, no IMLS grant funds shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, relating to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature. (P.L. 113-235, Division G, Title V General Provisions, sec. 503).

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 section 1352, title 31, U.S. Code. 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.

(g) General Certification

The Grantee must comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing the program.

(h) Requirements for Certain Projects

The grantee must comply with the following requirements if applicable to the project. The grantee should also be aware that additional Federal laws, not listed below, might apply to a particular project and that the grantee is responsible for compliance, as applicable.

Subawards

Under IMLS regulations at 2 CFR 3187.14, a recipient may not make a subaward unless expressly authorized by IMLS. A recipient may contract for supplies, equipment, and services, subject to applicable law, including but not limited to applicable Office of Management and Budget (OMB) Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards set forth in 2 CFR part 200.

Native American Human Remains and Associated Funerary Objects

The grantee must 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 grantee must assist the awarding agency (IMLS) 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 project must 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.*);
(h) protection of endangered species under the Endangered Species Act of 1973, as amended (16 U.S.C. §1531–1543);
(i) 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; and
(j) the grantee must 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 Subjects

The grantee must protect the rights and welfare of any human subjects involved in research, development, and related activities that are supported by an IMLS grant award. The grantee must ensure that the project complies with 45 CFR Part 46 regarding the

protection of human subjects involved in research, development, and related activities supported by the IMLS award of assistance.

Research on Animal Subjects
The grantee must ensure that the project complies 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 the IMLS award of assistance.

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