# General Terms and Conditions for
# • IMLS Discretionary Awards
# • IMLS Native American Library Services Basic Awards
# • IMLS Native American Library Services Basic Awards with Education/Assessment Option

Organizations that receive IMLS grants or cooperative agreements are subject to these General Terms and Conditions for IMLS Discretionary Awards (General Terms and Conditions). The General Terms and Conditions are based on the administrative requirements of 2 CFR Part 215, (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations); 45 CFR Part 1180 (IMLS grants regulations); 45 CFR Part 1183 (IMLS administrative requirements for grants and cooperative agreements to State, local, and Indian tribal governments); and 2 CFR Chapter XXXI (IMLS debarment and suspension, and drug-free workplace) Organizations that receive grants that are subject to these General Terms and Conditions must be familiar with these regulations and comply with the relevant requirements and with other laws that may be applicable.

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## Glossary of Terms

**Authorized Representative/Authorized Organization Representative/Certified Authorizing Official** - An official of the institution 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.

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

**Central Contractor Registration (CCR)** - See "System for Award Management."

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

**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 non-expendable personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per unit.

**FFATA** - The Federal Funding Accountability and Transparency Act, as amended (currently at www.fsrs.gov).

**Grant** - A legal instrument of financial assistance between IMLS and a recipient to enter into a relationship that enables the recipient to carry out a public purpose.

**Grant Period** - The span of time designated in the grant award notification or an amendment, during which you, as the grantee, have the authority to obligate grant funds and undertake project activities.

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

**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.

**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 that includes, but is not limited to, trademarks, copyrights, patents and patent applications.

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

**Program Officer** - The IMLS program staff member designated in the cover letter of the official grant award package as the person responsible for the oversight of the grant.

**Program Income** - Gross income earned by a grantee that is directly earned as a result of the grant. It includes but is not limited to income from fees for services performed and from the sale of items created under a grant, usage or rental fees for equipment or property acquired under a grant, and license fees and royalties from patents and copyrights.

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

**Simplified Acquisition Threshold** - This term replaces "small purchase threshold," and the threshold is currently set at $150,000 [2 CFR 2.101]. (See "Contract Provisions" in the Appendix to these General Terms and Conditions.)

**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.

**Subgrant** - An award of financial assistance in the form of money or property, made under a grant by a grantee to an eligible sub-recipient or by a sub-recipient to a lower-tier sub-recipient. The term does not include the procurement of goods and services. **Discretionary program grantees of the Office of Museum Services (OMS) and the Office of Library Services (OLS) do not have the authority to make subgrants (re-grant) with funds they have received from IMLS (45 C.F.R. §1180.55).**

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

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

**System for Award Management (SAM)** - 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 https://www.sam.gov).

**Termination** - Cancellation of federal sponsorship of a project, including the withdrawal of authority to incur expenditures against previously awarded grant funds prior to the planned end of the grant period.

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

These General Terms and Conditions apply to grants 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 grant 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.

## 2. What are my responsibilities when accepting a grant?

In accepting an award, you assume the legal, financial, administrative, and programmatic responsibility for administering the award in accordance with these General Terms and Conditions and must comply with applicable laws, statutes, regulations, executive orders, OMB Circulars, and the terms of the award. You must also comply with the specific Assurances and Certifications that are part of a grant application.

While these General Terms and Conditions highlight those laws and requirements that apply most frequently to recipients of IMLS awards, you are responsible for following all applicable requirements of all other federal laws, executive orders, regulations, and policies governing this program, 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 grants 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 regulations (45 CFR Chapter XI and 2 CFR Chapter XXXI)
- IMLS appropriations laws

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

## 3. What are these Terms and Conditions based on?

These General Terms and Conditions are based on the administrative requirements of 2 CFR Part 215; 45 CFR Part 1180; 45 CFR Part 1183; 2 CFR Chapter XXXI. The above regulations apply to the majority of IMLS discretionary awards. Organizations that receive IMLS grants or

cooperative agreements that are subject to these General Terms and Conditions must be familiar with these regulations and any other applicable laws and follow the relevant requirements.

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

Grant 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 this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, more frequently if required by changes in your information or by other guidance.

## 5. 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) and report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, **if the following criteria are true for your organization** —

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

## 6. What determines allowable costs for IMLS-funded work?

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

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

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

Copies of the cost principles may be obtained from www.omb.gov.

## 7. Are extensions of the grant period allowed?

If you determine toward the end of a grant period that additional time is required to complete the original scope of the project with the funds already made available, an Authorized Representative/Authorized Organization Representative/Certified Authorizing Official of your institution may submit a request to the appropriate IMLS program officer to extend the grant for up to a year.

Extension requests must be made at least 30 calendar days prior to the original grant ending date and explain in detail the reason for the request. Extensions are not automatic and some IMLS programs do not allow extensions. We will inform you in writing as to whether an extension request has been granted. We do not typically extend a grant more than once.

## 8. Are changes in project scope allowed?

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

All requests for a change in the scope of a grant must be signed by an Authorized Representative/Authorized Organization Representative/Certified Authorizing Official and submitted to the appropriate IMLS program officer.

## 9. Are changes in key project personnel allowed?

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

All requests for approval of changes in key project personnel must be signed by an Authorized Representative/Authorized Organization Representative/Certified Authorizing Official and include evidence of the qualifications for replacement personnel.

## 10. How do I make changes to the project budget?

The project budget is the schedule of anticipated project expenditures that is approved by IMLS for carrying out the purposes of the grant. 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 the IMLS program officer whenever a budget change is necessary because of:

a. a change in the scope or objectives of the project (see Article 8);
b. the transfer to a third party (by contracting, or other means) of any work under a grant;[1]
c. the addition of costs that are specifically disallowed by the terms and conditions of the grant award or for which the applicable cost principles require prior approval, e.g., the purchase of equipment, participant support costs, foreign travel;
d. the transfer of funds among direct costs categories, or, if applicable, among separately budgeted programs, projects, functions or activities, when the federal share of project costs exceeds $100,000 and the cumulative amount transferred exceeds 10 percent of the total current approved project budget (IMLS funds plus cost share); or
e. the transfer of funds from stipends or training allowances to other budget categories.

All requests for budget revisions must be dated and signed by an Authorized Representative/Authorized Organization Representative/Certified Authorizing Official and submitted to the 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.

## 11. What are the cost-sharing requirements?

**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 grant funds or supported by cost-sharing contributions. Any proposed change in 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 federally assisted program;
- necessary and reasonable for the proper and efficient accomplishment of project objectives;
- types of charges considered allowable under the applicable cost principles;
- used to support activities that are included in the approved project work plan; and
- incurred during the grant period.

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

Contributions, such as property, space, or services that you provide for a project must be valued in accordance with the applicable federal cost principles.

When your cost sharing includes non-federal third-party in-kind contributions, the basis for determining the value of volunteer services and donated property or space must be documented and must conform to the applicable federal cost principles.

Unless otherwise approved by IMLS, the following items are **not eligible** as cost share:

- other federal funds, including IMLS funds. This includes federal funds that have been subgranted or disbursed to you from another grantor;
- 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.

## 12. What is the process for receiving payment from IMLS?

Grant 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 http://www.imls.gov/recipients/administration.aspx 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
1800 M Street, NW / 9th Floor
Washington, DC 20036-5802

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

The SF270 must be signed by an Authorized Representative/Authorized Organization Representative/Certified Authorizing Official of your institution.

You may submit a payment request whenever grant 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 grant 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 grant award notification;
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 prescribed in 2 CFR Part 215 (formerly OMB Circular A-110) or 45 CFR § 1183.20; and
4. Your SAM.gov registration is current and active.

Requests for advance payment must be limited to your immediate cash needs. Advance payments must be fully disbursed (example: checks written, signed, and issued to the payees) within 30 days of the date you receive the advance funds from the U.S. Treasury. Advance payment requests for must be submitted no earlier than 15 business days prior to the beginning of the period for which the funds are requested.

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. Grantees that email payment requests to IMLS can normally expect payment via electronic transfer within ten business days. Mailed payment requests will take longer to process.

Limitations on Advance Payments

Requests for advance payment must be limited to immediate cash needs. Federal funds advanced to the recipient must be fully disbursed (example: checks written, signed, and issued to the payees) within 30- 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 within 30 days of receiving an advance, 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 the recipient.

You must maintain advances of federal funds in interest-bearing bank accounts unless you receive less than $120,000 per year in advanced grant funds or the most reasonably available interest-bearing account would not earn more than $100 (State, Local and Indian Tribal Governments) or $250 (Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations) per year on the federal cash balance, or would entail bank services charges in excess of the interest earned. (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 in excess of $250 annually that is earned on advanced payments must be remitted annually to IMLS. You must mail a check identified as interest earned on advances of IMLS funds to:

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

## 13. What are the 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 grant period. The grant award notification includes a schedule of interim and final report due dates. If a grant is extended, IMLS will email a revised reporting schedule.

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

Interim and final reports (reports of 20MB or less) should be emailed in PDF format to imlsreporting@imls.gov. The grant 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
1800 M Street, NW / 9th Floor
Washington, DC 20036-5802

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 16 (Record Retention) of these General Terms and Conditions.

## 14. What are the requirements for my organization's financial management system?

Your organization's financial management system must meet the applicable federal requirements (for example, 45 CFR § 1180.53 and 45 CFR §1183.20), consistent with the following standards.

Accounting System

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

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

Source Documentation

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

The documentation required for salary charges to grants is prescribed by the cost principles applicable to your organization, for example:

- 2 CFR, Part 220 (Cost Principles for Educational Institutions)
- 2 CFR, Part 230 (Cost Principles for Non-Profit Organizations),
- 2 CFR, Part 225 (Cost Principles for State, Local, and Indian Tribal Governments)

Personnel activity reports must account on an after-the-fact basis for one hundred percent of the employee's actual time, separately indicating the time spent on the IMLS grant, other grants or projects, vacation or sick leave, and administrative time if applicable. The reports must be signed by the employee, approved by the appropriate official, and coincide with a pay period. These time records should be used to record the distribution of salary costs to the appropriate accounts no less frequently than quarterly.

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

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

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

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

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

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

**Grant funds may only be obligated during the grant period, and they must be distributed no later than 90 days after the end of the grant period.**

## 15. Do I need to get an audit of my organization's finances?

You must obtain an audit, as required by the Single Audit Act Amendments of 1996 (31 U.S.C. §§7501-7507), and comply with the requirements of OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," if you expend in the aggregate of $500,000 or more in federal funds on financial assistance awards or cost-reimbursement contracts in any fiscal year ending after December 31, 2003. (Copies of A-133 may be obtained from www.omb.gov )

## 16. What are the rules for retaining records after a grant is finished?

You must meet the applicable federal requirements for record retention (for example, see 2 CFR §215.53 and 45 CFR §1183.42), as consistent with the following standards:

You must retain financial records, supporting documentation, statistical records, and all other records pertinent to the grant for three years from the date of submission of the final Federal Financial Status Report Form (SF425 form). Other requirements may apply for program income and indirect cost rate proposals, etc.

If any litigation, claim, or audit is started before the end of the three year period, you must retain the records until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

IMLS, the Comptroller General of the United States, and any of their duly authorized representatives, have the right of access to any pertinent books, documents, papers, and records to make audits, examinations, excerpts, transcripts, and copies. Further, any contract you negotiate in excess of the simplified acquisition threshold for the purposes of carrying out the grant project must include a provision to the effect that you as the grantee, IMLS, the Comptroller General, or any of their duly authorized representatives shall have access for similar purposes to any books, documents, papers, and records that are directly pertinent to the project for the purpose of making audits, examinations, excerpts, and transcriptions (for example, 2 CFR §215.48(d) or 45 CFR §1183.36(i)(10)).

## 17. What rules govern our procurement procedures?

You are responsible for complying with the applicable procurement standards, for example set forth in 2 CFR Part 215 (for institutions of higher education, hospitals, and other non-profit organizations) and 45 CFR Part 1183 (for state, local, and Indian tribal governments).

You must have standards to ensure that materials and services acquired under federal awards are obtained in an effective manner and in compliance with the provisions of applicable federal statutes, regulations, and executive orders.

Written procedures should include, among other things, determining economical approaches; providing for competition; dealing with conflict of interest; efforts to use small businesses, minority-owned firms, and women's business enterprises; and maintaining records sufficient to detail the procurement process.

(See Appendix A for further guidance on procurement.)

## 18. What are the rules for equipment and supplies?

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.

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

Title to equipment purchased or fabricated with IMLS funds belongs to your organization with the understanding that the equipment will be used for the approved project. We reserve the right to request the transfer of title to the federal government or to a third party when the current per-unit fair market value of the equipment is $5,000 or more and the equipment is no longer needed to carry out the purposes of the project or other projects funded by government agencies.

Title to supplies and other expendable property belongs to you upon acquisition. If there are unused supplies exceeding $5,000 in total aggregate value upon termination or completion of the project and the supplies are not needed for any other federally sponsored project or program, you may keep the supplies for use on non-Federal sponsored activities or sell them, but must, in either case, compensate the Federal Government for its share.

## 19. What are the rules for travel costs?

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 basis, on a per diem or mileage basis in lieu of actual costs, or on a combination of the two. The chosen method must be consistent with those normally allowed by your organization, as stated in your written travel policy.

Travelers must use the lowest commercial discount or customary standard (coach) airfare unless such accommodations are not reasonably available to accomplish the purpose of travel.

## 22. Are there additional rules for foreign travel?

For the purposes of these Terms and Conditions, foreign travel includes any travel outside Canada, Mexico, the United States, and any United States territories and possessions.

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). 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.

(See Appendix B for additional information on rules for foreign travel.)

## 23. Are there specific requirements for your 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 undertaken and the costs are incurred during the grant award period. 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 http://www.imls.gov/research/research_guidance.aspx. 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 OMB circular A-110.

## 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 http://www.imls.gov/recipients/imls_acknowledgement.aspx 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 http://www.imls.gov/recipients/logos.aspx), displayed in accordance with the Logo Standards Guide;
- Electronic items should link to the IMLS Web site, http://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, catalogue, video documentary, or online exhibition, the acknowledgement must also include the following statement: "The views, findings, conclusions or recommendations expressed in this (publication) (program) (exhibition) (website) do not necessarily represent those of the Institute of Museum and Library Services."

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

a. You may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under the grant. IMLS reserves a royalty-free, worldwide, nonexclusive, and irrevocable right to reproduce, publish or otherwise use the work for Federal purposes and to authorize others to do so (*see also*, Intangible Property, 2 CFR Part 215.36, and 45 CFR Part 1183.34 Copyrights). 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 grant; 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).

## 27. What happens if a funded project earns income?

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

<u>Income Earned During the Grant Period</u>
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 project funds and used to further eligible project objectives.
- It may be used to meet the grantee's cost-sharing requirement.
- 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 grant.

You must be in contact with your IMLS program officer to discuss which of the three ways are 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 grant period or when the special conditions of the grant 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 grant or included in the grantee's cost sharing.

Income Earned After the Grant Period
The grantee has no obligation to the federal government regarding program income earned after the end of the grant period, unless otherwise stated in the grant award notification.

## 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, the grantee will 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 a grant get terminated before its completion?

Grants may be terminated in whole or in part

a) by IMLS, if you materially fail to comply with the terms and conditions of an award;
b) 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
c) 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 of the project to be terminated. However, if we determine that the reduced or modified portion of the grant will not accomplish the purposes for which the grant was made, we may terminate the grant in its entirety either unilaterally or with your consent.

When we determine that you have failed to comply with the terms and conditions of the grant award, we may suspend or terminate the grant 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 grant 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 grant, an itemized accounting of charges incurred against grant funds and cost sharing prior to the effective date of the suspension or termination, and a separate accounting and justification for any costs that may have been incurred after this date. 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 award cannot exceed the obligated award amount.

## 30. What are the procedures for requesting a review of 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
1800 M Street, NW, 9th Floor
Washington, D.C. 20036-5802

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 grant. 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.

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

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

## 32. What are the government-wide requirements for implementing federal grants?

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; 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.

**(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. 111-117, Division D, Title V General Provisions, sec. 503(b)).

(g) 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.

**Subgrants in IMLS Discretionary Programs**

Discretionary program grantees of the Office of Museum Services (OMS), the Office of Library Services (OLS) and the Office of Policy, Research and Evaluation (OPRE) do not have the authority to make a subgrant (re-grant) with funds they have received from IMLS unless expressly authorized by IMLS (45 C.F.R. §1180.55). The OLS State

Library Program grantees are subject to different requirements and may make subgrants under certain circumstances (45 C.F.R. §1183.37).

**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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# Appendix A

**1. Procurement Standards**

The grantee is responsible for complying with the procurement standards set forth in 2 CFR Part 215 (for institutions of higher education, hospitals, and other non-profit organizations) and 45 CFR Part 1183 (for State, local, and Indian tribal governments) and, to the extent consistent with such regulations, the standards set forth below.

The standards contained in this section do not relieve the grantee of the contractual responsibilities arising under its contracts. The grantee is the responsible authority, without recourse to IMLS, regarding the settlement and satisfaction of all contractual and administrative issues arising out of procurements entered into in support of a grant or other agreement. This includes disputes, claims, protests of award, source evaluation or other matters of a contractual matter. Matters concerning the violation of a statute are to be referred to such Federal, State, or local authority as may have proper jurisdiction.

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

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

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

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

c. All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The grantee should be alert to organizational conflicts of interest or noncompetitive practices among contractors that may restrict or eliminate competition.

d. All grantees shall establish written procurement procedures that meet the requirements set forth in applicable statutes, regulations, and related laws, and in this Appendix.

**2. Contract Provisions**

The following section also contains the types of provisions that **must be included in IMLS-funded grantee procurement contracts** when applicable and consistent with applicable law. Please note that the Contract Provisions below are given for general guidance; the grantee should follow the **specific** regulations and provisions that correspond to the grantee's organizational identity (e.g. 2 CFR Part 215 for institutions of higher education, hospitals, and nonprofit organizations or 45 CFR Part 1183 for State, local, and Indian tribal governments) and other law, as applicable.

a. Grantee contracts must provide for:

(1) Administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and such remedial actions as may be appropriate.
(2) Termination by the grantee, including the manner by which it will be effected and the basis for settlement.
(3) Access by the grantee, IMLS, the Comptroller General of the United States, or any other duly authorized representatives to any books, documents, papers, and records of the contractor which are directly pertinent to that specific contract for the purpose of making audit, examination, excerpts, and transcriptions.

b. Contracts shall contain the following provisions as applicable:

(1) Equal Employment Opportunity
(2) Copeland "Anti-Kickback" Act
(3) Contract Work Hours and Safety Standards Act
(4) Clean Air Act
(5)Rights to Inventions and Materials Generated Under a Contract or Agreement (Contracts or agreements for the performance of experimental, developmental, or research work shall provide for the rights of the Government and the recipient in any resulting invention in accordance with 37 CFR Part 401 and any implementing regulations issued by the awarding agency.)
(6) Federal Water Pollution Control Act (33 U.S.C. §1251 et seq.), as amended
(7) Byrd Anti-Lobbying Amendment (31 U.S.C. §1352)
(8) Debarment and Suspension (E.O. 12549 and 12689)

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

Under certain circumstances, grantees are required to obtain a certification regarding debarment and suspension from subrecipients and from parties with whom they contract for goods or services.

# Appendix B

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

All air travel funded by IMLS must be on U.S.-flag air carriers or under a code-sharing arrangement with a U.S.-flag air carrier, unless otherwise permitted by law. The fact that comparable service provided by a foreign-flag carrier is less expensive, more convenient, or can be paid for with excess foreign currency is not sufficient justification for using a foreign flag carrier that does not have a code-sharing arrangement with a U.S. flag air carrier.

The following **general rules** apply unless their application would result in the first or last leg of travel from or to the U.S. being performed by a foreign-flag air carrier:
(a) a U.S.-flag air carrier shall be used to destination or, in the absence of direct or through service, to the farthest interchange point on a usually traveled route.
(b) if a U.S.-flag air carrier does not serve an origin or interchange point, a foreign-flag air carrier shall be used only to the nearest interchange point on a usually traveled route to connect with a U.S. flag air carrier.
(c) a U.S.-flag air carrier involuntarily reroutes the traveler via a foreign-flag air carrier, the foreign-flag air carrier may be used notwithstanding the availability of alternative U.S.-flag air carrier service.

Use of Foreign-Flag Air Carriers

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

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

3. Short Distance Travel

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