

Awardee Name	
FNS Federal Agreement No.	

FOOD NUTRITION SERVICE
GENERAL TERMS AND CONDITIONS

Upon execution of this document, an award the National Environmental Health Association in the amount of \$_____ is made under the authority of <AUTHORITY>, Public Law <PUBLIC LAW NUMBER>. The <ORGANIZATION> accepts this award for the purpose described in the submitted proposal.

1. **General:** The National Environmental Health Association will conduct the cooperative agreement project as described in its submission of the Standard Form 424, 424A, and proposal signed and dated <INSERT DATE>, including any subsequent revisions and correspondence containing clarifications.
2. **Purpose:** Agency hereby awards \$<AMOUNT OF AWARD> to support the <GRANTEE NAME> on this project.
3. **Catalog of Federal Domestic Assistance Number:** The Catalog of Federal Domestic Assistance Number for this project is: 10.XXX
4. **Performance Period:** This agreement is effective from <EFFECTIVE DATE> through <TERMINATION DATE>. All agreement funds must be obligated and all program activities under the agreement (other than activities related to the close out of the agreement) must be completed by <TERMINATION DATE>. The closeout of the agreement must occur within 90 days of the expiration date (<90 DAYS AFTER TERMINATION DATE>), and all obligations incurred under the agreement must be liquidated by this date.
5. **Amendments/Revisions and Budget Changes:** The Grantee may request an amendment or revision to the agreement, including the proposal, in writing at any time during the duration of the agreement. Prior approval is required, as stated in 7 CFR 3016.30, for any revision of the scope or objectives of the project (regardless of whether there is an associated budget revision), changes in key personnel, such as the project director, or changes to budget line cost/expenditure. All amendments or revision must be submitted in writing to:

<GRANTS OFFICER>, Grants Officer
Grants and Fiscal Policy Division
3101 Park Center Drive, Suite 740
Alexandria, VA 22302

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The Grantee may re-budget within the approved direct cost budget to meet unanticipated requirements. However, as required in 7 CFR 3016.30 USDA FNS is requiring that prior approval be obtained for any budget revision that involves a shift of funds among line-items in excess of 10% of the total approved grant budget. Such revisions must be submitted in writing with a revised budget in the same format as the original budget. All other requirements within 7 CFR 3016.30 also applies.

The <GRANTEE> must include justification with any proposed amendment/revision and budget changes. All requests for changes must be made at least 45 days before the end of the grant period. Any request received after <DATE>, will not be considered.

6. **Non-agreement funds:** The <GRANTEE> may seek and apply for funds from other sources in support of the mission of the agreement. The <GRANTEE> must ensure that any funds obtained from other sources and used in support of the mission of the grant (including any funds for the administrative costs associated with the grant) are expended in accordance with this agreement.
7. **Programmatic changes:** The Recipient shall obtain prior approval for any change to the scope of objectives of the approved project, key personnel, or transfer of substantive programmatic work to another party.
8. **Financial Status Reports:** The Recipient is required to electronically enter the quarterly and final financial status report (SF-425) into the FNS, Food Programs Reporting System (FPRS). This report must be certified by the grantee’s chief fiscal officer or an officer of comparable rank. Included with the terms and conditions are instructions on how to obtain access and enter data into FPRS. This report must be entered within 30 days after the close of each quarter. The Final Financial Report must be entered into FPRS within 90 days of the expiration of the grant agreement. This report must also be certified by the grantee’s chief fiscal officer or an officer of comparable rank.
9. **Quarterly Progress Reports:** Progress reports must be sent to FNS 30 days following the end of each quarterly period. These reports should cover the preceding quarterly period of activity. A final report identifying the accomplishments of the project is due 90 days after the end date of this Agreement. At a minimum, progress reports should include the following information:
 - A narrative description of project progress, tasks completed, and roadblocks or problems;
 - Reasons why goals and objectives were not met, if appropriate, particularly at predefined go/no-go decision points, and justification of decision to proceed;
 - Discuss the budget impact and/or costs associated with in this reporting period;
 - List key activities planned for the next report period;
 - Findings or activities which may require changes in schedule, accomplishments, or costs, particularly those changes which may impact the grantee’s ability to utilize grant funds within the specified time period;

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- Other pertinent information including, when appropriate, analysis and explanation of cost overruns; and
- Any unique aspects that you would like to share.

The Grantee must report immediately any problems, delays, or adverse conditions that impair the Grantee’s ability to meet the grant objectives. The notification must include information on action taken or contemplated in response to the problem.

Materials developed with funding from this Agreement must be submitted in an electronic format (preferably Microsoft Word). **One hard copy** of developed materials must also be submitted at the end of the performance period.

The Grantee is strongly encouraged to submit the Quarterly Progress Report and associated documentation and attachments via electronic mail to <**GRANTS OFFICER**>, Grants Officer (<**GRANTS OFFICER e-mail**>). If the <**GRANTEE**> wishes to send a hard copy, an original shall be sent to:

<GRANTS OFFICER>, Grants Officer
 Grants and Fiscal Policy Division
 3101 Park Center Drive, Suite 740
 Alexandria, VA 22302

10. Office of Management and Budget (OMB) and USDA Guidance: This Federal financial assistance award is subject to rules and regulations related to the Grantee’s organizational entity type as noted below.

Government-wide Regulations

- 2 CFR Part 25: “Universal Identifier and Central Locator Contractor Registration”
- 2 CFR Part 170: “Reporting Sub-award and Executive Compensation Information”
- 2 CFR Part 175: “Award Term for Trafficking in Persons”
- 2 CFR Part 180: “OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non-Procurement)”
- 2 CFR Part 417: “Office of the Chief Financial Officer: Department of Agriculture Implementation of OMB Guidance on Non-Procurement Debarment and Suspension”
- 2 CFR, Part 215 – Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations
- 2 CFR Part 421: Requirements for Drug-Free Workplace (Financial Assistance)
- OMB Circular A-102, Grants and Cooperative Agreements with State and Local Governments
- 41 U.S.C. Section 22 “Interest of Member of Congress”

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Cost Principles

- 2 CFR, Subtitle A, Chapter II, Part 225 - States, Local, and Indian Tribal Governments
- 2 CFR, Subtitle A, Chapter II, Part 220 – Institutions of Higher Education, Hospitals
- 2 CFR, Subtitle A, Chapter II, Part 230 - Non-Profit Organizations

USDA Regulations

- 7 CFR Part 15: “Nondiscrimination”
- 7 CFR Part 3015: “Uniform Federal Assistance Regulations”
- 7 CFR Part 3016: “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments”
- 7 CFR Part 3018: “New Restrictions on Lobbying”
- 7 CFR Part 3019: “Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations”
- 7 CFR Part 3052: “Audits of State, Local Governments, and Non-Profit Organizations”
- Freedom of Information Act (FOIA). Public access to Federal Financial Assistance records shall not be limited, except when such records must be kept confidential and would have been excepted from disclosure pursuant to the “Freedom of Information” regulation (5 U.S.C. 552)

11. Intangible Property:

- a. The recipient may copyright any work that is subject to copyright and was developed, or for which ownership was purchased, under the award. The FNS reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish or otherwise use these materials for federal purposes and to authorize others to do so (see 2 CFR Part 215.36, Intangible Property).

"Federal purposes" include the use of award products in activities or programs undertaken by the Federal Government, in response to a governmental request, or as otherwise required by federal law. However, the federal government's use of copyrighted materials is not intended to interfere with or disadvantage the recipient or assignee in the sale and distribution of the award product.

The FNS may request copies of an award product for non-profit use. These copies will be provided at the cost of reproduction and shipping, and no royalties or other fees will be charged.

- b. The FNS has the right to:

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1. obtain, reproduce, publish or otherwise use the data first produced under an award; and
 2. authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.
- c. In addition, in response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under an award that were used by the Federal Government in developing an agency action that has the force and effect of law, the FNS shall request, and the recipient 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. If the FNS obtains the research data solely in response to a FOIA request, FNS may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect costs incurred by the agency, the recipient, and applicable subrecipients. This fee is in addition to any fees the agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)). For additional information and definition of terms, please see 2 CFR Part 215.36(d), Intangible Property.
- d. Title to intangible property acquired under an award or subaward vests upon acquisition in the recipient. The recipient shall use that property for the originally authorized purpose and shall not encumber the property without FNS approval. The FNS reserves the right to determine the disposition of the intangible property when it is no longer needed for the originally authorized purpose.

12. Equipment:

Equipment is defined as tangible, nonexpendable personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. The purchase of equipment not included in the approved project budget is allowable only if it is specifically approved beforehand by the recipient 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 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. The grantee will share the results of this inventory. A Tangible Personal

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Property Report, SF-428, must be submitted at award close-out to report the status of the equipment, if requested.

The grantee will follow the Agency’s equipment disposition guidance and procedures. Disposition procedures will be provided by FNS.

In expending FNS award funds for equipment and products, Grantees and sub-grantees will comply with the Buy American Act, 41 U.S.C. 10a-c.

- 13. Sub-grantee’s compliance:** The Grantee will ensure that sub-grantee’s are in compliance with applicable Federal administrative requirements and cost principles. No funds shall be provided to an eligible collaborator or contractor before such an agreement is signed by all parties.
- 14. Suspension/Debarment:** (a) The Grantee agrees to ensure that all sub-Grantees are neither excluded nor disqualified under the Suspension and Debarment rules found at 2 CFR part 180.300 by doing any one of the following:

1. Checking the System for Awards Management (SAM). This information can be found at www.sam.gov.
2. Collecting a certification that the entity is neither excluded nor disqualified. Because a Federal certification form is no longer available, the Grantee or sub-Grantee electing this must devise its own.
3. Including a clause to this effect in the sub-grant agreement and in any procurement contract expected to equal or exceed \$25,000, awarded by the Grantee or a sub-Grantee under its grant or sub-grant.

(b) As a condition of this award, the grantee will ensure that all sub-Grantees are informed and comply with the requirements of 2 CFR part 180, subpart C.

(c) The grantee agrees to comply with the requirements of 2 CFR part 180.335, and will provide notification to FNS if the organization or principal officials:

- Are presently excluded or disqualified;
- Have been convicted within the preceding 3 years of any offenses listed at 2 CFR part 180.800(a), including: (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; (2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of

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customers between competitors, and bid rigging; (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or (4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

- Are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any offense listed at 2 CFR part 800(a); or
- Have had a transaction (Federal, State or local) terminated within the preceding 3 years for cause or default.

14. Nondiscrimination: The Grantee will comply with following the nondiscrimination statutes and regulations, other related regulations and any USDA nondiscrimination directives:

- a. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d- *et seq.*) and USDA regulations at 7 CFR Part 15, Nondiscrimination, an Department of Justice regulations at 28 CFR Part 42, Non discrimination; Equal Employment Opportunity: Policies And Procedures;
- b. Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*) and USDA regulations at 7 CFR Part 15a, Education Programs or Activities Receiving or Benefiting from Federal Financial Assistance;
- c. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 1681 *et seq.*) and USDA regulations at 7 CFR Part 15a, Education Programs or Activities Receiving or Benefiting or Benefiting from Federal Financial Assistance, and Department of Justice regulations at 28 CFR Part 41, Implementation of Executive Order 12250, Nondiscrimination On the Basis of Handicap In Federally Assisted Programs; and
- d. Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*) The Grantee assures that it will immediately take any measures necessary to effectuate the requirements in these laws, regulations and directives. The Grantee gives this assurance in consideration of and for the purpose of obtaining the funds provided under this agreement.
- e. The Americans with Disabilities Act of 1990 (ADA) prohibits discrimination on the basis of disability in employment (Title I), state and local government services (Title II), places of public accommodation and commercial facilities (Title III). (42 U.S.C. 12101-12213).

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The following nondiscrimination statement shall be included, in full, on all materials that are produced by the grant recipient for public information, public education, or public distribution.

“In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color national origin, sex, age, or disability.

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights; Room, 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer.”

15. Evaluation: The <GRANTEE> will cooperate with any evaluation of the program by providing USDA/FNS requested data and access to records. The <GRANTEE> will cooperate with any, as needed, on-site financial and/or technical reviews and audits at any time during the term of the agreement. In addition, the Grantee shall make all records pertaining to activities under the grant available for audit purposes.

The <GRANTEE> will require any sub-Grantees or contractors to comply with the requirements of this agreement and ensure that USDA FNS has access to any sub-Grantees or contractors for purposes of evaluating, monitoring or reviewing other operations or records as they relate to this grant. When entering into a sub-grant, the Grantee shall ensure that the sub-Grantee’s agreement contains any clause required by Federal Statute or Executive Order and their implementing regulations.

16. USDA/FNS acknowledgement: Unless otherwise advised by USDA FNS, the <GRANTEE> will acknowledge the support of USDA FNS whenever publicizing the work under this grant. To this end, the Grantee must include in any publication resulting from work performed under this grant an acknowledgment in substantially the form set below:

“This project has been funded at least in part with Federal funds from the U.S. Department of Agriculture. The contents of this publication do not necessarily reflect the view or policies of the U.S. Department of Agriculture, nor does mention of trade names, commercial products, or organizations imply endorsement by the U.S. Government.”

17. Liabilities: The Grantee may not seek any financial recourse from USDA FNS as a result of any liabilities the Grantee might incur for bodily injury or personal property damage resulting from negligent acts, errors, or omissions of the Grantee, their officers, agents or employees, or if applicable its sub-Grantees or their officers, agents, or employees, in performing this agreement. Liabilities of the United States are governed by the Federal Tort Claims Act, 28 U.S.C. 2671 *et seq.*

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18. Funding: USDA FNS will provide funds to the Grantee in the amount stated on the Grant/Cooperative Agreement Form FNS-529, Box 10, as specified in the grant award letter, for use in accordance with this agreement. Funds will be provided through the Letter of Credit process, upon receipt of a properly executed Cooperative Agreement.

19. Noncompliance: As provided in sections 7 CFR 3016.43 and 3016.44, USDA/FNS may unilaterally terminate this grant agreement or recover, withhold, or cancel payment of up to 100 percent of the funds made available under the agreement if the Grantee fails to comply with any term of the agreement. USDA/FNS will consider failure to comply with the reporting requirements of this agreement to be a material failure to comply with the agreement and a basis for termination. If USDA or FNS decides to take action against the Grantee for noncompliance under the grant agreement, USDA or FNS will provide the recipient written notice of the basis for its determination.

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

Within 30 days of the termination date, the recipient shall furnish to the FNS a summary of progress achieved under the award, an itemized accounting of charges incurred against 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.

20. Federal Conviction or Tax Delinquent Status: Compliance with sections 738 and 739 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2012 (P.L. 112-55): Corporate Felony Convictions and Corporate Federal Tax Delinquencies

This award is subject to the provisions contained in the Department of Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2012, P.L. No. 112-55, Division A, Sections 738 and 739 regarding corporate felony convictions and corporate federal tax delinquencies. Accordingly, by accepting this award the recipient acknowledges that it: (1) does not have a tax delinquency, meaning that it is not subject to any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, and (2) has not been convicted (or had an officer or agent acting on its behalf convicted) of a felony criminal violation under any Federal law within 24

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months preceding the award, unless a suspending and debarring official of the United States Department of Agriculture has considered suspension or debarment of the recipient corporation, or such officer or agent, based on these convictions and/or tax delinquencies and determined that suspension or debarment is not necessary to protect the interests of the Government. If the recipient fails to comply with these provisions, the United States Department of Agriculture, Food and Nutrition Service, will annul this agreement and may recover any funds the recipient has expended in violation of sections 738 and 739.

Appendix A – Award Term for Trafficking in Persons (2 CFR Part 175)

Appendix B – Reporting Sub-awards and Executive Compensation (2 CFR Part 170)

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Trafficking Victims Protection Act 2000 as detailed in 2 CFR Part 175

This part establishes a Government-wide award term for grants and cooperative agreements to implement the requirement in paragraph (g) of section 106 of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)).

- a. Provisions applicable to a recipient that is a private entity.
 - 1. You as the recipient, your employees, sub-recipients under this award, and sub-recipients' 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 sub-awards under the award.
 - 2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a sub-recipient 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 sub-recipient 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 Government-wide Debarment and Suspension (Non-procurement),” as implemented by our agency at 7 CFR 3017.
- 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 sub-recipient 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 sub-recipient 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

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Agencies on Government-wide Debarment and Suspension (Non-procurement),” as implemented by our agency at 7 CFR 3017.

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 sub-award 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 sub-recipient 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 non-profit organization, including any non-profit 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.

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

Appendix B – Reporting Sub-awards and Executive Compensation (2 CFR Part 170)

I. Reporting Sub-awards and Executive Compensation

a. Reporting first-tier sub-awards

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

2. *Where and when to report.*

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

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

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

b. *Reporting Total Compensation of Recipient Executives.*

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

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

ii. in the preceding fiscal year, you received—

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

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

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

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

- i. As part of your registration profile at <http://www.ccr.gov>.
- ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. *Reporting of Total Compensation of Sub-recipient Executives.*

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

i. in the sub-recipient's preceding fiscal year, the sub-recipient received—

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

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

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

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

- i. To the recipient.
- ii. By the end of the month following the month during which you make the sub-award. For example, if a sub-award is obligated on any date during the month of October of a given year (*i.e.*, between

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October 1 and 31), you must report any required compensation information of the sub-recipient by November 30 of that year.

d. *Exemptions*

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

i. Sub-awards,

and

ii. The total compensation of the five most highly compensated executives of any sub-recipient.

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

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

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

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization;

iv. A domestic or foreign for-profit organization;

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

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

3. *Sub-award*:

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

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

iii. A sub-award may be provided through any legal agreement, including an agreement that you or a sub-recipient considers a contract.

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4. *Sub-recipient* means an entity that:

- i. Receives a sub-award from you (the recipient) under this award; and
- ii. Is accountable to you for the use of the Federal funds provided by the sub-award.

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

- i. *Salary and bonus.*
- ii. *Awards of stock, stock options, and stock appreciation rights.* Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.
- iii. *Earnings for services under non-equity incentive plans.* This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.
- iv. *Change in pension value.* This is the change in present value of defined benefit and actuarial pension plans.
- v. *Above-market earnings on deferred compensation which is not tax-qualified.*
- vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.