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# General Terms and Conditions for IMLS Discretionary Grant and Cooperative Agreement Awards Issued After December 21, 2020

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## 1. Applicability

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

These General Terms and Conditions apply to discretionary Federal awards that IMLS issues on or after the date listed on the cover page of this document.

## 2. Your Responsibilities

In accepting an IMLS Federal award, you assume the legal, financial, administrative, and programmatic responsibility for administering the award in accordance with any provisions included in the award; the statutes, regulations, and Executive Orders governing Federal financial assistance awards; and these General Terms and Conditions, and any other applicable laws. You must also comply with the specific Assurances and Certifications part of the grant program Notice of Funding Opportunity, and with which you agreed to comply as part of the award application.

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

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

- IMLS's authorization statute (20 U.S.C. § 9101 *et seq.*)
- IMLS's African American grant program statute (20 U.S.C. § 80r-5)
- IMLS appropriations laws
- IMLS regulations (45 C.F.R. Chapter XI and 2 C.F.R. Chapter XXXI<sup>1</sup>)

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<sup>1</sup> **PLEASE NOTE:** The Office of Management and Budget (OMB) final guidance on Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (Uniform Guidance) has streamlined and consolidated grant requirements. The Uniform Guidance can be found at 2 C.F.R. part 200. With certain IMLS-specific additions, IMLS regulations at 2 C.F.R. part 3187 formally adopt the 2 C.F.R. part 200 Uniform Guidance. The Uniform Guidance as adopted by IMLS at 2 C.F.R. part 3187 is effective for all awards.

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 instructions, and other guidance for successfully managing an IMLS discretionary award 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. IMLS Contacts

If you have questions about your IMLS award or any part of these General Terms and Conditions, contact the IMLS staff member listed on your Official Notice of Action.

### 4. System for Award Management (SAM) Registration

Award payments can be made only to organizations that hold active System for Award Management (SAM) registrations. Please see [SAM](#) for additional information.

You must maintain your registration in SAM until you submit the final financial report required under your award or receive the final payment, whichever is later. This requires that you update your information as needed, and review and update your information at least annually after the initial registration. (See 2 C.F.R. parts 25 and 170).

### 5. Conflicts of Interest and Criminal Disclosures

#### **Conflicts of Interest**

As a non-Federal entity, you must follow IMLS conflict of interest policies for Federal awards. You must disclose in writing any potential conflict of interest to an IMLS program officer, or to the pass-through entity if you are a subrecipient or contractor. This disclosure must take place immediately whether you are an applicant or have an active IMLS award. (See also 2 C.F.R. §§ 200.112 and 200.318(c)).

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

1. As a non-Federal entity, you must maintain written standards of conduct covering conflicts of interest and governing the actions of your employees engaged in the selection, award, and administration of subawards and contracts.
2. None of your employees, officers, or agents may participate in the selection, award, or administration of a subaward or contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is

about to employ any of the parties indicated herein has a financial or other interest in or a tangible personal benefit from an organization considered for a subaward or contract. Your employees, officers, and agents must neither solicit nor accept gratuities, favors, or anything of monetary value from subrecipients or contractors or parties to subawards or contracts.

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

### **Criminal Disclosures**

As a non-Federal entity, you must disclose, in a timely manner, in writing to the Federal awarding agency, or to the pass-through entity if you are a subrecipient or contractor, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. (See also, 2 C.F.R. § 200.113 and 2 C.F.R. part 3185). Please see Appendix B to these General Terms and Conditions.

## **6. Compliance with the Federal Funding Accountability and Transparency Act (FFATA)**

You must comply with the Federal Funding Accountability and Transparency Act (as implemented in 2 C.F.R. part 170). In particular, this means reporting on subawards and executive compensation. (See also, 2 C.F.R. § 200.300(b) and [www.fsrc.gov](http://www.fsrc.gov)). Please see Appendix C to these General Terms and Conditions.

## **7. IMLS Subaward Requirements**

You may not make a subaward unless expressly authorized by IMLS. If the proposed subrecipient and its activities are specifically identified by you in your application and if IMLS approves that application with the IMLS award, you may consider that subaward as approved by IMLS. If, after the IMLS award has been made, you decide a new or different subaward is needed, your Authorized Official must submit a request in writing through eGMS Reach to IMLS for IMLS review and approval before any such proposed subaward is made. You must comply with 2 C.F.R. § 3187.14(a), 2 C.F.R. part 200, including but not limited to 2 C.F.R. §§ 200.331-200.333, for subawards that are authorized by IMLS.

## **8. Allowable Costs for IMLS-Funded Work**

Allowable costs and cost allocation methods for work performed under an IMLS award must be determined in accordance with the applicable IMLS and Federal cost principles

(see 2 C.F.R. part 200 (Subpart E) and 2 C.F.R. part 3187) and the terms and conditions of the award.

## 9. Award Period of Performance

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

Extension requests should be made 30 calendar days prior to the original award ending date and explain in detail the reason for the request. Extensions are not automatic and not merely for the purpose of using unobligated balances and some IMLS programs may not allow extensions. We will inform you in writing as to whether an extension request has been granted. We do not typically extend an award more than once.

## 10. Changes in Project Scope

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

All requests for a change in the scope of an award must be submitted through eGMS Reach by an Authorized Official.

(See also, 2 C.F.R. § 200.308(c) (Revision of budget and program plans)).

## 11. Changes in Key Project Personnel

A change in key project personnel from what was specified in the application or the award (including substituting personnel and filling open positions) requires **prior** written approval from IMLS. Prior written approval from IMLS is also required for the disengagement from the project for more than three months, or a 25 percent reduction in time devoted to the project, by the approved Project Director.

All requests for approval of changes in key project personnel must be submitted through eGMS Reach by an Authorized Official and include evidence of the qualifications for replacement personnel.

(See also, 2 C.F.R. § 200.308(c) (Revision of budget and program plans)).

## 12. Changes to Budget and Project Plans

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

You must obtain prior written approval from IMLS whenever a budget change is necessary relating to:

1. A change in the scope or objectives of the project even if there is no associated budget revision requiring prior written approval (see Article 10 above).
2. The inclusion of costs that require prior approval in accordance with 2 C.F.R. Subpart E (Cost Principles) or 45 C.F.R. part 75 Appendix IX (Principles for Determining Costs Applicable to Research and Development under Awards and Contracts with Hospitals) or 48 C.F.R. part 31 (Contract Cost Principles and Procedures). In particular, please see 2 C.F.R. § 200.407 list of costs that require prior approval (e.g., participant support costs, pre-award costs, equipment).
3. The transfer of funds budgeted for participant support costs as defined in 2 C.F.R. § 200.1 to other categories of expense.
4. The subawarding, contracting, or transfer of any work under an IMLS award. This provision does not apply to the acquisition of supplies, materials, equipment, or general support services.
5. Changes in the approved cost-sharing or matching provided by the non-Federal entity.
6. A need arising for additional Federal funds to complete the project.
7. The transfer of funds among direct cost categories or programs, functions, and activities, when the Federal share of the project exceeds the simplified acquisition threshold (as set by the Federal Acquisition Regulation at 48 C.F.R. Subpart 2.1)) and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by IMLS. IMLS cannot permit a transfer that would cause any appropriation to be used for purposes other than those consistent with the appropriation.
8. The addition of costs that are specifically disallowed by the terms and conditions of the award. Please also consult the corresponding Notice of Funding Opportunity.

When requesting approval for budget revisions, please use the same format for budget information that was used in the application. All requests for budget revisions must be submitted through eGMS Reach by an Authorized Official.



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

(See also, 2 C.F.R. § 200.308 (Revision of budget and program plans)).

### 13. Cost-sharing (or Matching) Requirements

As defined in 2 C.F.R. § 200.1, “cost sharing or matching” means the portion of project costs not paid by Federal funds or contributions.

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

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

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

Values for non-Federal entity contributions of services and property must be established in accordance with the principles in 2 C.F.R. part 200.

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

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

(See also 2 C.F.R. § 200.306 (Cost sharing or matching)).

## 14. Receiving Award Payments from IMLS

You can receive award payments from IMLS as advances or reimbursements. Award payments can be made only to organizations that hold active System for Award Management (SAM) registrations. You must maintain accurate 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 your SAM registration annually.

An Authorized Official or designee for your organization will request payments online using the Payments tab in eGMS Reach. If a request for payment is incomplete or inaccurate, payment will be delayed. Please submit separate requests for advances and reimbursements as we do not accept combined reimbursement and advance requests in eGMS.

Payment Requests submitted through eGMS Reach are normally processed within 10 business days.

You may submit an eGMS Payment Request whenever grant funds are needed. Requests for advance payment must be submitted through eGMS Reach no earlier than 15 business days prior to the beginning of the period for which you are requesting the funds.

### **Special Considerations for Advance Payments**

Unless otherwise stated in the special terms and conditions of the IMLS award notification (or subsequent action), you are authorized to be paid on an advance basis through electronic funds transfer, provided that the following conditions exist:

- Funds for the project period have been obligated in the form of an official award notification;
- 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;
- Your financial management system meets the standards for fund control and accountability as established in 2 C.F.R. part 200; and
- Your SAM registration is current and active.

The timing and amount of advance payments must be as close as administratively feasible to the actual disbursements by you for project costs.

Requests for advance payment must be limited to immediate cash needs. You should fully disburse advanced Federal funds (e.g., checks written, signed, and issued to the payees) within 30 calendar days of the date you receive them from IMLS.

You are required to report on the status of funds received from IMLS after the request period end date by replying to the eGMS Reach message sent to you after the advance

request is approved. We will not approve your next request for payment until you have fully liquidated any outstanding advance.

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

- You receive less than \$250,000 in Federal awards per year;
- The best reasonably available interest-bearing account would not be expected to earn interest in excess of \$500 per year on Federal cash balances; or
- The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

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

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

(For States, see 2 C.F.R. § 200.305(a); for non-Federal entities other than States, see 2 C.F.R. § 200.305(b) (Payment)).

## 15. Financial and Program Reports

You are responsible for submitting interim and final financial and performance reports. A final financial report and a final performance report must be submitted to IMLS no later than 120 calendar days after the completion date of the award period of performance. The IMLS Official Award Notification for Grants and Cooperative Agreements includes a schedule of interim and final report due dates. If a period of performance is extended, IMLS will provide a revised reporting schedule.

Information about interim and final reporting is available on the IMLS website, [www.imls.gov](http://www.imls.gov). Failure to submit reports on a timely basis may result in delayed payments, the suspension of action on pending applications, and possibly other actions.

### **Submitting Performance Reports**

Submit all performance reports in PDF format through your eGMS Reach account using the Forms and Reports tab.

If your report has attachments, you may either:

- Combine them into one PDF with your report form and submit the single PDF using the Forms and Reports tab; or
- Send them separately using the Messages tab.

PDF file size is limited to 100MB. IMLS does not accept emailed or faxed reports.

You are required to retain a copy of the submitted performance report in accordance with the standards set forth in Article 18 (Record Retention and Access) of these General Terms and Conditions.

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

### **Submitting Financial Reports**

Complete and submit all financial reports online through your eGMS Reach account using the Forms and Reports tab.

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

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

(See also 2 C.F.R. §§ 200.328 (Financial reporting) and 200.329 (Monitoring and reporting program performance)).

## **16. Requirements for Financial Management System and Internal Controls**

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

### **Financial Management**

- (a) The financial management system of each non-Federal entity must provide the following:
  1. Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received;

2. Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements set forth in 2 C.F.R. § 200.328 (Financial reporting) and 2 C.F.R. § 200.329 (Monitoring and reporting program performance);
  3. Records that identify adequately the source and application of funds for Federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation;
  4. Effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes;
  5. Comparison of expenditures with budget amounts for each Federal award;
  6. Written procedures to implement the requirements of 2 C.F.R. § 200.305 (Federal payment);
  7. Written procedures for determining the allowability of costs in accordance with Subpart E (Cost Principles) of 2 C.F.R. part 200 and the terms and conditions of the Federal award.
- (b) Each state must expend and account for the Federal award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, the state's and the other non-Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award.

## **Internal Controls**

The non-Federal entity must:

1. Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award;
2. Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards;
3. Evaluate and monitor the non-Federal entity's compliance with statutes, regulations and the terms and conditions of Federal awards;

4. Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings; and
5. Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the non-Federal entity considers sensitive consistent with applicable Federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

### **Allowable Charges During the Period of Performance**

You may charge to the IMLS award only allowable costs incurred during the period of performance (except for publication and printing costs described in 2 C.F.R. § 200.461) unless otherwise authorized (e.g., if IMLS authorizes pre-award costs). Such costs should normally be distributed by you no later than 120 calendar days after the end of the period of performance (e.g., by the date the final financial and performance reports are due).

(See also 2 C.F.R. § 200.309 (Modifications to period of performance), 2 C.F.R. § 200.302 (Financial management) and 2 C.F.R. § 200.303 (Internal controls), 2 C.F.R. § 200.461 (Publication and printing costs), 2 C.F.R. §§ 200.328 – 329 (Reporting), and 2 C.F.R. § 200.344 (Closeout)).

## **17. Audit Requirements**

Your organization is subject to the requirements of 2 C.F.R. Subpart F (Audit Requirements). Generally, if your organization expends \$750,000 or more in Federal awards during your fiscal year, you must have a single or program-specific audit conducted for that year in accordance with the provisions of 2 C.F.R. part 200.

## **18. Record Retention and Access**

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

- If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
- When you are notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.
- Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.

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

(See 2 C.F.R. §§ 200.334 – 200.338 (Record Retention and Access)).

## 19. Procurement Procedures

You must comply with the applicable procurement standards in 2 C.F.R. §§ 200.317 – 200.327, including Appendix II to 2 C.F.R. part 200 (Contract Provisions for non-Federal Entity Contracts Under Federal Awards). The procurement standards include but are not limited to:

- procurements by states;
- general procurement standards;
- competition (including having written standards for procurement transactions);
- methods of procurement to be followed;
- contracting with small and minority businesses, women's business enterprises, and labor surplus area firms;
- domestic preferences for procurements;
- procurement of recovered materials;
- contract cost and price;
- Federal awarding agency or pass-through entity review;
- bonding requirements; and
- contract provisions to be contained in the non-Federal entity's contracts.

## 20. Property Standards for Equipment, Supplies, Intangible Property, and Other Property

You must comply with the applicable property standards in 2 C.F.R. §§ 200.310 – 200.316. The property standards include but are not limited to:

- insurance coverage;
- equipment;
- supplies;
- intangible property; and
- property trust relationship.

The equipment standards include various title, use, management, and disposition requirements. For example, you must maintain property records that include the description of the property; the serial number or other identification number; the source

of funding for the property (including the FAIN); the title holder; the acquisition date and cost of the property; percentage of Federal participation in the project costs for the Federal award under which the property was acquired; the location, use, and condition of the property; and any ultimate disposition data including the date of disposal and the sale price of the property. You must make a physical inventory of the equipment and reconcile the results with the property records at least once every two years. You must also develop a control system to ensure adequate safeguards.

The purchase of equipment not included in the approved project budget is allowable only if it is specifically approved by IMLS and there is documentation to support that the purchase is necessary and reasonable to carry out project activities.

(See 2 C.F.R. §§ 200.310 – 200.316 (Property Standards)).

## 21. Travel Costs

You must comply with the travel costs requirements, including 2 C.F.R. § 200.475. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by those on grant-related official business.

Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to the entire trip and not to selected days on a trip. The chosen method must be consistent with those normally allowed by your organization for non-Federally funded activities and in accordance with your written travel reimbursement policies.

For commercial air travel, airfare costs in excess of the basic least expensive unrestricted accommodations class offered by commercial airlines are unallowable except in limited circumstances.

## 22. Foreign Travel

For the purposes of these Terms and Conditions, foreign travel includes any travel outside the United States, and any United States territories and possessions. Each separate foreign trip must be itemized in the budget approved by IMLS. Foreign travel that is not included in the approved project budget must be specifically approved in writing by the appropriate IMLS program officer.

All air transportation of persons or property that is paid in whole or in part with IMLS funds must be performed in accordance with applicable law, including but not limited to the Fly America Act (49 U.S.C. § 40118) (see corresponding regulations at 41 C.F.R. §§ 301-10.131 – 10.143). There are some exceptions to the Fly America Act (see generally, 41 C.F.R. §§ 301-10.135 through 10.143). If you do use a foreign carrier, you must provide us with a certification, including a justification as to why your travel met one of the exceptions. We may request additional information if necessary.



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

## 23. Sharing Results and Work Products

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. Data Collection and Data Sharing

### **Data Collection**

Data collection activities performed under an IMLS grant are your responsibility, and IMLS support of the project does not constitute approval of the survey design, questionnaire content, or data collection procedures. You shall not represent to respondents that such data are being collected for, or in association with, IMLS or any other government agency without the specific written approval of the data collection plan or device by IMLS. However, this requirement is not intended to preclude mention of IMLS support of the project in response to an inquiry or acknowledgment of such support in any publication of this data; acknowledgement of IMLS support is still required.

## **Data Sharing**

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

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

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

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

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

## **25. Acknowledgment of IMLS and Federal Support**

### **Acknowledgement 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 invitations, brochures, and signage; audio/video programming for radio, television, or web broadcast; and websites, social media, PowerPoint presentations, and e-mail announcements. (See Grantee Communications Kit, available at [www.imls.gov](http://www.imls.gov), 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 (see Grantee Communications Kit, available at [www.imls.gov](http://www.imls.gov)) displayed in accordance with the Logo Standards Guide;
- Online products, digital publications, and websites should include links to the IMLS website, [www.imls.gov](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, article, catalogue, or other publication, video documentary, or online exhibition or website, the acknowledgement must also include the following statement:

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

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

### **Acknowledgement of Federal Support**

When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all awardees receiving IMLS appropriated funding, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state:

1. The percentage of the total costs of the program or project which will be financed with Federal money;
2. The dollar amount of Federal funds for the project or program; and
3. Percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

### **Prohibitions against Lobbying**

In accordance with Federal appropriations law, no IMLS funds may be used for publicity or propaganda purposes for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the Congress or any State or local legislature or legislative body or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government. No IMLS funds may be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations,

regulation, administrative action or Executive order proposed or pending before the Congress or any State government, State legislature or local legislature or legislative body.

## 26. Intellectual Property and Data Rules for Products that Result from IMLS Awards

You may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under the award. IMLS reserves a royalty-free, non-exclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes and to authorize others to do so. You shall also ensure that all publication and distribution agreements include provisions giving the government a royalty-free, non-exclusive 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.

IMLS reserves a royalty-free, non-exclusive, and irrevocable right to: (a) obtain, reproduce, publish or otherwise use the data first produced under the award; and (b) authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

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 C.F.R. Part 401, "Rights to Inventions made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements."

In response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under a Federal award that were used by the Federal Government in developing an agency action that has the force and effect of law, IMLS shall request, and you shall provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA (5 U.S.C. §552).

(See 2 C.F.R. §§ 200.1 and 200.315 (Intangible property)).

## 27. Project Income

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

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

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

Unless the grant award notification specifies how program income will be used, you must use the Federal share of program income earned during the grant period in one or more of the following ways:

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

You must be in contact with your IMLS program officer to discuss which of the three ways is appropriate for your award.

A report of program income must be submitted with your final financial report whenever program income is earned during the award period of performance or when the special conditions of the award specifically require such a report. The report must indicate the total amount of program income that was earned and how it was used. Costs related to the generation of income may be deducted from gross amount earned to determine the amount of program income that is subject to the requirements of this article, as long as they are not charged to the award or included in the recipient's cost sharing.

## **Income Earned After the Award Period of Performance**

You have no obligation to IMLS regarding program income earned after the end of the award period of performance, unless otherwise stated in the award notification.

(See 2 C.F.R. §§ 200.1 and 200.307 (Program income)).

## **28. Alleged Research Misconduct**

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 the prevention and detection of research misconduct and for the inquiry, investigation, and adjudication of research misconduct alleged to have occurred in association with your institution.

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

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

- Federal resources or interests are threatened,
- public health or safety is at risk,
- research activities should be suspended,
- there is a reasonable indication of possible violations of civil or criminal law,
- Federal action is required to protect the interests of those involved in the investigation,
- the awardee 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. Terminating an IMLS Award Before its Completion

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

- By IMLS if you fail to comply with the terms and conditions of a Federal award;
- 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;
- By you, upon sending to IMLS written notification of the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if IMLS determines in the case of partial termination that the reduced or modified portion of the Federal award will not accomplish the purposes for which the Federal award was made, IMLS may terminate the Federal award in its entirety;
- By IMLS, to the greatest extent authorized by law, if the award no longer effectuates the program goals or agency priorities. For instance, following the issuance of the Federal award, if additional evidence reveals that a specific award objective is ineffective at achieving program goals, it may be in the government's interest to terminate the Federal award. Further, additional evidence may cause the Federal awarding agency to significantly question the feasibility of the intended objective of the award, such that it may be in the interest of the government to terminate the Federal award; or
- By IMLS pursuant to any termination provisions that are included in the Federal award.

When we determine that you have failed to comply with the terms and conditions of the Federal award, we may suspend or terminate the award. Normally, this action will be taken only after you have been notified of the deficiency and given sufficient time to correct it. This does not preclude immediate suspension or termination when such action is required to protect the interests of the government.

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

Within 30 calendar days of the termination date, you must provide to IMLS a summary of progress achieved under the award, an itemized accounting of charges incurred against Federal award funds and cost sharing prior to the effective date of the suspension or termination, and a separate accounting and justification for any costs that may have been incurred after this date. Your failure to furnish this material may affect your organization's ability to receive future IMLS awards.

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

(See 2 C.F.R. §§ 200.339 through 200.343 (Remedies for noncompliance)).

Please note that when a Federal awarding agency terminates a Federal award prior to the end of the period of performance due to the non-Federal entity's material failure to comply with the Federal award terms and conditions, the Federal awarding agency must report the termination to the OMB-designated integrity and performance system accessible through SAM (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)).

(See 2 C.F.R. §§ 200.340(c) and 200.341 (Termination and Notification of termination requirement)).

### 30. Procedures for Requesting a Review of Suspension or Termination

If you receive a notice of termination, you may request IMLS review of the decision. The request must be submitted in writing no later than 30 calendar days after the date of the termination notice.

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

None of the review committee members may be from the IMLS program or administrative staff that recommended termination or were responsible for monitoring the programmatic or administrative aspects of the Federal award. The committee will have full access to all relevant IMLS background materials. The committee may also request the submission of additional information from your organization or IMLS staff. At its discretion, the committee may meet with representatives of both groups to discuss the pertinent issues. All review activities will be fully documented by the committee.



Based on its review, the committee will present its written recommendation to the Director, who will make the final decision and make it known to the parties involved.

(See also 2 C.F.R. § 200.342 (Opportunities to object, hearings, and appeals)).

### 31. Questions About These General Terms and Conditions

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



## Glossary of Terms

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

**Awardee** – The organization to which a grant or cooperative agreement is awarded and which is accountable for the use of the funds provided. For a grant, the recipient organization may also be known as a “grantee.” For a cooperative agreement, the recipient organization may also be known as a “cooperator.” (See Recipient below.)

**Closeout** – The process by which the Federal awarding agency or pass-through entity determines that all applicable administrative actions and all required work of the Federal award have been completed and take actions as described in 2 C.F.R. § 200.344

**Contract** – A legal instrument by which a non-Federal entity purchases property or services to carry out the project or program under a Federal award. It does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward. (2 C.F.R. § 200.1)

**Cooperative Agreement** – A legal instrument of financial assistance between IMLS and a non-Federal entity that is used to enter into a relationship that enables the non-Federal entity to carry out a public purpose. A cooperative agreement, unlike a grant agreement, provides for *substantial involvement* between IMLS and the non-Federal entity in carrying out the activity. (2 C.F.R. § 200.1; for comparison, see Grant Agreement definition in § 200.1)

**Cost Sharing** – The portion of project costs not paid by Federal funds. (2 C.F.R. § 200.1, see also § 200.306)

**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 C.F.R. part 3185 and 2 C.F.R. part 180)

**eGMS Reach** – A web-based system used by IMLS staff and awardees for tracking all aspects of IMLS applications and awards.

**Equipment** – Tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost equal to or greater than \$5,000. (2 C.F.R. § 200.1)

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

- (a) The Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency (e.g., IMLS) or indirectly from a pass-through entity (subaward), or
- (b) The instrument setting forth the terms and conditions (e.g., grant agreement or cooperative agreement). (2 C.F.R. § 200.1; also see 2 C.F.R. § 200.1 for definition of Subaward)

**FFATA** – The Federal Funding Accountability and Transparency Act of 2006 or Transparency Act – Public Law 109-282, as amended by section 6202(a) of Public Law 110-252 (see also [www.fsrs.gov](http://www.fsrs.gov))

**FAIN** – Federal Award Identification Number. (2 C.F.R. § 200.0)

**Grant Agreement** – A legal instrument of financial assistance between IMLS or pass-through entity and a non-Federal entity that is used to enter into a relationship that enables the non-Federal entity to carry out a public purpose. A grant agreement, unlike a cooperative agreement, does *not* provide for *substantial involvement* between IMLS and the non-Federal entity in carrying out the activity. (2 C.F.R. § 200.1; for comparison, see Cooperative Agreement definition in § 200.1)

**Indian Tribe** – 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 as eligible for the special programs and services provided by the United States to Indians because of their status as Indians. (20 U.S.C. § 9101(5))

**Intangible Property** – Property having no physical existence, such as trademarks, copyrights, patents and patent applications and property, such as loans, notes, and other debt instruments, lease agreements, stock, and other instruments of property ownership (whether the property is tangible or intangible). (2 C.F.R. § 200.1)

**Non-Federal Entity** – A state or local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient. (2 C.F.R. § 200.1)

**Obligations** – When used in connection with a non-Federal entity’s utilization of funds under a Federal award, “obligations” means orders placed for property or services, contracts, and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period. (2 C.F.R. § 200.1)

**Participant Support Costs** – Stipends, subsistence, travel allowances, and registration fees for conferences or training projects paid to or on behalf of participants or trainees. This does not include employees of the award recipient.

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

**Period of Performance** – The time during which the total estimated time interval between the start of an initial Federal award and the planned end date, which may include one or more funded portions, or budget periods. The start and end dates are included in the Official Notice of Action. (2 C.F.R. § 200.1)

**Program Officer** – The IMLS program staff member designated in the Official Notice of Action as the person responsible for the oversight of the award.

**Program Income** – Gross income earned by a non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award. It includes but is not limited to income from fees for services performed, the use or rental of real or personal property acquired under Federal awards, the sale of items fabricated under a Federal award, license fees, and royalties on patents and copyrights. (2 C.F.R. § 200.1)

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

**Recipient** – An entity, usually but not limited to non-Federal entities, that receives a Federal award directly from a Federal awarding agency (e.g., IMLS) to carry out an activity under a Federal program. The term recipient does not include subrecipients or individuals that are beneficiaries of the award. (2 C.F.R. § 200.1) (See Awardee above)

**Simplified Acquisition Threshold** – The dollar amount below which a non-Federal entity may purchase property or services using small purchase method (see § 200.320). The Simplified Acquisition Threshold is set by the Federal Acquisition Regulation at 48 C.F.R. Subpart 2.1. (2 C.F.R. § 200.1, see also 48 C.F.R. § 2.101 and General Procurement Standards below)

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

**Subaward** – An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual who is a beneficiary of a Federal program. (2 C.F.R. § 200.1)

**Subrecipient** – An entity, usually but not limited to non-Federal entities, that receives a subaward from a pass-through entity to carry out part of a Federal award; but not an individual who is a beneficiary of such an award. (2 C.F.R. § 200.1)

**Supplies** – Tangible items costing less than \$5,000. A basic computing device is considered a supply for use and disposition purposes, regardless of the length of its useful life. (2 C.F.R. § 200.1)

**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 C.F.R. part 3185 and 2 C.F.R. part 180)

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

**System for Award Management (SAM)** – The Federal repository into which an entity must provide information required in order to conduct business as a recipient. Additional information about registration procedures may be found at [SAM](#). (2 C.F.R. § 200.0)

**Termination** – The ending of a Federal award, in whole or in part at any time prior to the planned end of the period of performance. A lack of available funds is not a termination. (2 C.F.R. § 200.1)

**Third-party In-Kind Contributions**– The value of non-cash contributions (i.e., property or services) that:

- (a) Benefit an IMLS Federally assisted project or program; and
- (b) Are contributed by non-Federal third parties, without charge, to a non-Federal entity under an IMLS Federal award. (2 C.F.R. § 200.1)

## Appendix A

### Statutory and National Policy Requirements that Govern Your Award

You are responsible for complying with all laws related to Federal awards, including but not limited to those in the Assurances and Certifications to which you agreed 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:

#### **Nondiscrimination**

You must comply with the following nondiscrimination statutes and their implementing regulations:

1. Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000d et seq.), which prohibits discrimination on the basis of race, color, or national origin (note: as clarified by Executive Order No. 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));
2. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 701 et seq. including §794), which prohibits discrimination on the basis of disability (note: IMLS applies the regulations in 45 C.F.R. part 1170 in determining compliance with section 504 as it applies to recipients of Federal assistance);
3. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1683, 1685–1686), which prohibits discrimination on the basis of sex in education programs;
4. The Age Discrimination in Employment Act of 1975, as amended (42 U.S.C. § 6101 et seq.), which prohibits discrimination on the basis of age; and
5. The requirements of any other nondiscrimination statute(s) which may apply to the application.

#### **Debarment and Suspension**

You are prohibited from doing business with any organization or person (i.e. as a recipient, subrecipient, contractor, or key employee) if they have been debarred or suspended by any Federal department or agency.

You shall comply with the *OMB Guidelines to Agencies on Governmentwide Debarment and Suspension* (Nonprocurement) contained in 2 C.F.R. part 180 and the corresponding IMLS regulations contained in 2 C.F.R. part 3185.

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

If you plan to use IMLS awards to fund contracts you must comply with the communication and verification requirements set forth in the above Debarment and Suspension provisions.

### **Federal Debt Status**

You must not be delinquent in the repayment of any Federal debt.

### **Drug-Free Workplace**

You must provide a drug-free workplace by complying with the requirements in 2 C.F.R. part 3186 (Requirements for Drug-Free Workplace (Financial Assistance)). In particular, you must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. part 3186, which adopts the Government wide implementation (2 C.F.R. part 182) of Sections 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. §§ 701–707). This includes, but is not limited to: making a good faith effort, on a continuing basis, to maintain a drug-free workplace; publishing a drug-free workplace statement; establishing a drug-free awareness program for employees; taking actions concerning employees who are convicted of violating drug statutes in the workplace; and identifying (in documents kept on file in your offices) all known workplaces under Federal awards.

### **Trafficking in Persons**

You must comply with Federal law pertaining to trafficking in persons. Under 22 U.S.C. §7104(g), any grant, contract, or cooperative agreement entered into by a Federal agency under which funds are to be provided to a private entity shall include a condition that authorizes the Federal agency (IMLS) to terminate the grant, contract, or cooperative agreement, or take other authorized actions, if the grantee or any subgrantee, or the contractor or any subcontractor, engages in, or uses labor recruiters, brokers, or other agents who engage in trafficking in persons, the procurement of a commercial sex act, the use of forced labor, or acts that directly support or advance trafficking in persons. 2 C.F.R. 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 C.F.R. part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 C.F.R. 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 C.F.R. part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 C.F.R. part 3185.

c. *Provisions applicable to any recipient.*

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
  2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
    - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. §7104(g)), and
    - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
  3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.
- d. *Definitions.* For purposes of this award term:
1. "Employee" means either:
    - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
    - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
  2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
  3. "Private entity":
    - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. § 175.25.
    - ii. Includes:
      - A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 C.F.R. § 175.25(b).
      - B. A for-profit organization.
    - iii. "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).



## **Lobbying**

You may not conduct political lobbying within the Federally-supported project. In addition, you 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 you or on your behalf, 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) You 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.

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

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. 114-113, Division H, Title V General Provisions, sec. 503).

## **General Requirements**

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

### **Requirements for Certain Projects**

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

#### **Subawards**

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

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

You 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**

You must assist IMLS in ensuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. § 470f, see 54 U.S.C. § 306108), Executive Order (Exec. Order) No. 11593, and any related applicable preservation laws.

#### **Environmental Protections**

Your 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 Exec. Order No. 11514;
- b. notification of violating facilities pursuant to Exec. Order No. 11738;
- c. protection of wetlands pursuant to Exec. Order No. 11990, as amended by Exec. Order No. 12608;
- d. evaluation of flood hazards in floodplains in accordance with Exec. Order No. 11988, as amended by Exec. Order No. 12148;

- 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. protection of components or potential components of the national wild and scenic rivers system under the Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. § 1271 et seq.); and
- j. 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, or as otherwise designated.

### **Research on Human Subjects**

You 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. You must ensure that the project complies with 45 C.F.R. 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**

You 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.

## Appendix B<sup>2</sup>

### Reporting of Matters Related to Recipient Integrity and Performance

#### 1. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information reported to the System for Award Management (SAM) that is made available in the designated integrity and performance system (currently the Federal Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. § 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

#### 2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b. Reached its final disposition during the most recent five-year period; and
- c. Is one of the following:
  - (1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
  - (2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
  - (3) An administrative proceeding, as defined in paragraph 5. of this award term and condition, that resulted in a finding of fault and liability and your payment

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<sup>2</sup> Pursuant to 2 C.F.R. § 200.210(b)(iii) if the total Federal share of the Federal award may include more than \$500,000 over the period of performance, this Award Term must be included. See also 2 C.F.R. § 200.113 Mandatory disclosures by non-Federal entity or applicant; Appendix XII to 2 C.F.R. part 200.

of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or

(4) Any other criminal, civil, or administrative proceeding if:

- (i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
- (ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
- (iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

### 3. Reporting Procedures

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

### 4. Reporting Frequency

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

### 5. Definitions

For purposes of this award term and condition:

- a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether

entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—

(1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and

(2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

## Appendix C

### Reporting Subaward and Executive Compensation Information

You must comply with Federal law pertaining to reporting subawards and executive compensation information (Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by Section 6202 of Public Law 110-252). Accordingly, IMLS includes the following award term from Appendix A to 2 C.F.R. part 170 (Reporting Subaward and Executive Compensation Information) in each award to a non-Federal entity under which the total funding will include \$30,000 or more in Federal funding at any time during the project or program period:

#### I. Reporting Subawards and Executive Compensation.

##### a. *Reporting of first-tier subawards.*

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds \$30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).
2. *Where and when to report.*
  - i. The non-Federal entity or Federal agency must report each obligating action described in paragraph a.1. of this award term to [www.fsrs.gov](http://www.fsrs.gov).
  - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
3. *What to report.* You must report the information about each obligating action that the submission instructions posted at [www.fsrs.gov](http://www.fsrs.gov) specify.

##### b. *Reporting total compensation of recipient executives for non-Federal entities.*

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 Federal award equals or exceeds \$30,000 as defined in 2 C.F.R. § 170.320;
  - 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 C.F.R. § 170.320 (and subawards); and

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

iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), § 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at [www.sec.gov/answers/execomp.htm](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 [SAM](#).
- ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. *Reporting of total compensation of subrecipient executives.*

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

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

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

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

ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), § 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security



and Exchange Commission total compensation filings at [www.sec.gov/answers/execomp.htm](http://www.sec.gov/answers/execomp.htm).

2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
  - i. To the recipient.
  - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.
- d. *Exemptions:* If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:
  1. Subawards, and
  2. The total compensation of the five most highly compensated executives of any subrecipient.
- e. *Definitions.* For purposes of this award term:
  1. *Federal Agency* means a Federal agency as defined at 5 U.S.C. § 551(1) and further clarified by 5 U.S.C. § 552(f).
  2. *Non-Federal entity* means all of the following, as defined in 2 C.F.R. 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; and
    - iv. A domestic or foreign for-profit organization.
  3. *Executive* means officers, managing partners, or any other employees in management positions.
  4. *Subaward:*
    - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.

- ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 C.F.R. § 200.1).
  - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.
5. *Subrecipient* means a non-Federal entity or Federal agency that:
- i. Receives a subaward from you (the recipient) under this award; and
  - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
6. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 C.F.R. § 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.

(See Appendix A to 2 C.F.R. part 170 (Reporting Subaward and Executive Compensation Information)).

[ed. May 21, 2021]