



Homeland Security

Part 6.1.1 – Financial Assistance Award Standard Terms and Conditions

The Department of Homeland Security (DHS) is finalizing policy on financial assistance award standard terms and conditions. The guidance below is to be used as a reference until the comprehensive DHS policy is issued.

DHS requires standard terms and conditions approved by the Division of Financial Assistance Policy and Oversight (FAPO) to be applied to all financial assistance awards.

Beginning in FY 2011, awarding offices must include the standard award terms and conditions contained in Appendix A for all funding opportunity announcements, program guidance, and awards for financial assistance.

Appendix A. Standard Terms and Conditions

The administrative requirements that apply to most DHS award recipients through a grant or cooperative agreement arise from two sources:

- Office of Management and Budget (OMB) Circular A-102, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments* (also known as the “A-102 Common Rule”), found under DHS regulations at [Title 44, Code of Federal Regulations \(CFR\) Part 13](#), “Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.”
- OMB Circular A-110, *Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations*, relocated [to 2 CFR Part 215](#).

The requirements for allowable costs/cost principles are contained in the A-102 Common Rule, OMB Circular A-110 (2 CFR § 215.27), DHS program legislation, Federal awarding agency regulations, and the terms and conditions of the award.

The four costs principles circulars are as follows:

- [OMB Circular A-21](#), *Cost Principles for Educational Institutions*, relocated to 2 CFR Part 220.
- [OMB Circular A-87](#), *Cost Principles for State, Local, and Indian Tribal Governments*, relocated to 2 CFR Part 225.
- [OMB Circular A-122](#), *Cost Principles for Non-Profit Organizations*, relocated to 2 CFR Part 230.
- [OMB Circular A-133](#), *Audits of States, Local Governments and Non-Profit Organizations*.

Civil Rights Act of 1964

All recipients of financial assistance will comply with the requirements of Title VI of the *Civil Rights Act of 1964* ([42 U.S.C. § 2000d et seq.](#)), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Civil Rights Act of 1968

All recipients of financial assistance will comply with Title VIII of the *Civil Rights Act of 1968*, which prohibits recipients from discriminating in the sale, rental, financing, and

advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex ([42 U.S.C. § 3601 et seq.](#)), as implemented by the Department of Housing and Urban Development at [24 CFR Part 100](#). The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—*i.e.*, the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features (see [24 CFR § 100.201](#)).

Americans with Disabilities Act of 1990

All recipients of financial assistance will comply with the requirements of Titles I, II, and III of the *Americans with Disabilities Act*, which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities ([42 U.S.C. §§ 12101–12213](#)).

Age Discrimination Act of 1975

All recipients of financial assistance will comply with the requirements of the *Age Discrimination Act of 1975* ([42 U.S.C. § 6101 et seq.](#)), which prohibits discrimination on the basis of age in any program or activity receiving Federal financial assistance.

Title IX of the Education Amendments of 1972 (Equal Opportunity in Education Act)

All recipients of financial assistance will comply with the requirements of Title IX of the Education Amendments of 1972 ([20 U.S.C. § 1681 et seq.](#)), which provides that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance. These regulations are codified at [44 CFR Part 19](#).

Rehabilitation Act of 1973

All recipients of financial assistance will comply with the requirements of Section 504 of the *Rehabilitation Act of 1973*, [29 U.S.C. § 794](#), as amended, which provides that no otherwise qualified handicapped individual in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. These requirements pertain to the provision of benefits or services as well as to employment.

Limited English Proficiency (Civil Rights Act of 1964, Title VI)

All recipients of financial assistance will comply with the requirements of [Executive Order 13166](#), *Improving Access to Services for Persons with Limited English Proficiency*, and resulting agency guidance, national origin and resulting agency guidance, national origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI, recipients must take reasonable steps to ensure that LEP persons have meaningful access to your programs. Meaningful access may entail providing language assistance services, including oral and written translation, where necessary. Recipients are encouraged to consider the need for language services for LEP persons served or encountered both in developing budgets and in conducting programs and activities. For assistance and information regarding LEP obligations, go to <http://www.lep.gov>.

Animal Welfare Act of 1966

All recipients of financial assistance will comply with the requirements of the *Animal Welfare Act*, as amended ([7 U.S.C. § 2131 et seq.](#)), which requires that minimum standards of care and treatment be provided for vertebrate animals bred for commercial sale, used in research, transported commercially, or exhibited to the public. Recipients must establish appropriate policies and procedures for the humane care and use of animals based on the [Guide for the Care and Use of Laboratory Animals](#) and comply with the [Public Health Service Policy and Government Principles Regarding the Care and Use of Animals](#).

Clean Air Act of 1970 and Clean Water Act of 1977

All recipients of financial assistance will comply with the requirements of 42 U.S.C. § 7401 *et seq.* and [Executive Order 11738](#), which provides for the protection and enhancement of the quality of the nation's air resources to promote public health and welfare and for restoring and maintaining the chemical, physical, and biological integrity of the nation's waters is considered research for other purposes.

Protection of Human Subjects

All recipients of financial assistance will comply with the requirements of the Federal regulations at [45 CFR Part 46](#), which requires that recipients comply with applicable provisions/law for the protection of human subjects for purposes of research. Recipients must also comply with the requirements in DHS Management Directive 026-04, [Protection of Human Subjects](#), prior to implementing any work with human subjects. For purposes of [45 CFR Part 46](#), research means a systematic investigation, including research, development, testing, and evaluation, designed to develop or contribute to general knowledge. Activities that meet this definition constitute research

for purposes of this policy, whether or not they are conducted or supported under a program that is considered research for other purposes. The regulations specify additional protections for research involving human fetuses, pregnant women, and neonates (Subpart B); prisoners (Subpart C); and children (Subpart D). The use of autopsy materials is governed by applicable State and local law and is not directly regulated by [45 CFR Part 46](#).

National Environmental Policy Act (NEPA) of 1969

All recipients of financial assistance will comply with the requirements of the *National Environmental Policy Act (NEPA)*, as amended, [42 U.S.C. § 4331 et seq.](#), which establishes national policy goals and procedures to protect and enhance the environment, including protection against natural disasters. To comply with NEPA for its grant-supported activities, DHS requires the environmental aspects of construction grants (and certain non-construction projects as specified by the Component and awarding office) to be reviewed and evaluated before final action on the application.

National Flood Insurance Act of 1968

All recipients of financial assistance will comply with the requirements of Section 1306(c) of the *National Flood Insurance Act*, as amended, which provides for benefit payments under the Standard Flood Insurance Policy for demolition or relocation of a structure insured under the Act that is located along the shore of a lake or other body of water and that is certified by an appropriate State or local land use authority to be subject to imminent collapse or subsidence as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels. These regulations are codified at [44 CFR Part 63](#).

Flood Disaster Protection Act of 1973

All recipients of financial assistance will comply with the requirements of the *Flood Disaster Protection Act of 1973*, as amended ([42 U.S.C. § 4001 et seq.](#)), which provides that no Federal financial assistance to acquire, modernize, or construct property may be provided in identified flood-prone communities in the United States, unless the community participates in the National Flood Insurance Program and flood insurance is purchased within one year of the identification. The flood insurance purchase requirement applies to both public and private applicants for DHS support. Lists of flood-prone areas that are eligible for flood insurance are published in the *Federal Register* by FEMA.

Coastal Wetlands Planning, Protection, and Restoration Act of 1990

All recipients of financial assistance will comply with the requirements of [Executive Order 11990](#), which provides that federally funded construction and improvements minimize the destruction, loss, or degradation of wetlands. The Executive Order provides that, in furtherance of Section 101(b)(3) of NEPA ([42 U.S.C. § 4331\(b\)\(3\)](#)), Federal agencies, to the extent permitted by law, must avoid undertaking or assisting with new construction located in wetlands unless the head of the agency finds that there is no practicable alternative to such construction, and that the proposed action includes all practicable measures to minimize harm to wetlands that may result from such use. In making this finding, the head of the agency may take into account economic, environmental, and other pertinent factors. The public disclosure requirement described above also pertains to early public review of any plans or proposals for new construction in wetlands. This is codified at [44 CFR Part 9](#).

USA Patriot Act of 2001

All recipients of financial assistance will comply with the requirements of the *Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act* (USA PATRIOT Act), which amends [18 U.S.C. §§ 175–175c](#). Among other things, it prescribes criminal penalties for possession of any biological agent, toxin, or delivery system of a type or in a quantity that is not reasonably justified by a prophylactic, protective, bona fide research, or other peaceful purpose. The act also establishes restrictions on access to specified materials. “Restricted persons,” as defined by the act, may not possess, ship, transport, or receive any biological agent or toxin that is listed as a select agent.

Trafficking Victims Protection Act of 2000

All recipients of financial assistance will comply with the requirements of the government-wide award term which implements Section 106(g) of the *Trafficking Victims Protection Act (TVPA) of 2000*, as amended ([22 U.S.C. § 7104](#)), located at [2 CFR Part 175](#). This is implemented in accordance with OMB Interim Final Guidance, *Federal Register*, Volume 72, No. 218, November 13, 2007.

In accordance with the statutory requirement, in each agency award under which funding is provided to a private entity, Section 106(g) of the TVPA, as amended, requires the agency to include a condition that authorizes the agency to terminate the award, without penalty, if the recipient or a subrecipient —

- (a) Engages in severe forms of trafficking in persons during the period of time that the award is in effect;
- (b) Procures a commercial sex act during the period of time that the award is in effect; or

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- (c) Uses forced labor in the performance of the award or subawards under the award.

Full text of the award term is provided at [2 CFR § 175.15](#).

Drug-Free Workplace Regulations

All recipients of financial assistance will comply with the requirements of the *Drug-Free Workplace Act of 1988* ([412 U.S.C. § 701 et seq.](#)), which requires that all organizations receiving grants from any Federal agency agree to maintain a drug-free workplace. The recipient must notify the awarding office if an employee of the recipient is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment. These regulations are codified at [44 CFR Part 17](#).

Fly America Act of 1974

All recipients of financial assistance will comply with the requirements of the Preference for U.S. Flag Air Carriers: Travel supported by U.S. Government funds requirement, which states preference for the use of U.S. flag air carriers (air carriers holding certificates under [49 U.S.C. § 41102](#)) for international air transportation of people and property to the extent that such service is available, in accordance with the *International Air Transportation Fair Competitive Practices Act of 1974* ([49 U.S.C. § 40118](#)) and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, [amendment](#) to Comptroller General Decision B138942.

Lobbying Prohibitions

None of the funds provided under an award may be expended by the recipient to pay any person to influence, or attempt 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 any Federal action concerning the award or renewal of any Federal contract, grant, loan, cooperative agreement. These lobbying prohibitions can be found at [31 U.S.C. § 1352](#).

Activities Conducted Abroad

All recipients of financial assistance will comply with the requirements that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

Acknowledgement of Federal Funding from DHS

All recipients of financial assistance will comply with requirements to acknowledge Federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with Federal funds.

Copyright

All recipients of financial assistance will comply with requirements that publications or other exercise of copyright for any work first produced under Federal financial assistance awards hereto related unless the work includes any information that is otherwise controlled by the Government (e.g., classified information or other information subject to national security or export control laws or regulations). For any scientific, technical, or other copyright work based on or containing data first produced under this award, including those works published in academic, technical or professional journals, symposia proceedings, or similar works, the recipient grants the Government a royalty-free, nonexclusive and irrevocable license to reproduce, display, distribute copies, perform, disseminate, or prepare derivative works, and to authorize others to do so, for Government purposes in all such copyrighted works. The recipient shall affix the applicable copyright notices of [17 U.S.C. § 401 or 402](#) and an acknowledgement of Government sponsorship (including award number) to any work first produced under an award.

Use of DHS Seal, Logo and Flags

All recipients of financial assistance must obtain DHS's approval prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

DHS Specific Acknowledgements and Assurances

All recipients of financial assistance must acknowledge and agree—and require any subrecipients, contractors, successors, transferees, and assignees acknowledge and agree—to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff.

1. Recipients must cooperate with any compliance review or complaint investigation conducted by DHS.