

# 2021 DHS Standard Terms and Conditions

The 2021 DHS Standard Terms and Conditions apply to all new federal financial assistance awards funded in FY 2021. These terms and conditions flow down to subrecipients, unless an award term or condition specifically indicates otherwise. The United States has the right to seek judicial enforcement of these obligations.

## **Assurances, Administrative Requirements, Cost Principles, Representations and Certifications**

DHS financial assistance recipients must complete either the Office of Management and Budget (OMB) [Standard Form 424B Assurances – Non-Construction Programs](#), or [OMB Standard Form 424D Assurances – Construction Programs](#), as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances applicable to their program as instructed by the awarding agency. Please contact the DHS FAO if you have any questions.

DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at [Title 2, Code of Federal Regulations \(C.F.R.\) Part 200](#), and adopted by DHS at [2 C.F.R. Part 3002](#).

By accepting this agreement, the recipient and its executives, as defined in 2 C.F.R. § 170.315, certify that the recipient's policies are in accordance with OMB's guidance located at 2 C.F.R. Part 200, all applicable federal laws, and relevant Executive guidance.

## **DHS Specific Acknowledgements and Assurances**

All recipients, subrecipients, successors, transferees, and assignees must 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 reviews or compliance investigations conducted by DHS.
2. Recipients must give DHS access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance.
3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports.
4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.
5. Recipients of federal financial assistance from DHS must complete the *DHS Civil Rights Evaluation Tool* within thirty (30) days of receipt of the Notice of Award or, for State Administrative Agencies, thirty (30) days from receipt of the DHS Civil Rights Evaluation Tool from DHS or its awarding component agency. After the initial submission for the first award under which this term applies, recipients are required to provide this information once every two (2) years if they have an active award, not every time an award is made. Recipients should submit the completed tool, including supporting materials, to [CivilRightsEvaluation@hq.dhs.gov](mailto:CivilRightsEvaluation@hq.dhs.gov). This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS Standard Terms and Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at <https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool>.

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The DHS Office for Civil Rights and Civil Liberties will consider, in its discretion, granting an extension if the recipient identifies steps and a timeline for completing the tool. Recipients should request extensions by emailing the request to [CivilRightsEvaluation@hq.dhs.gov](mailto:CivilRightsEvaluation@hq.dhs.gov) prior to expiration of the 30-day deadline.

## **Standard Terms & Conditions**

### **I. Acknowledgement of Federal Funding from DHS**

Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposal, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

### **II. Activities Conducted Abroad**

Recipients must ensure 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.

### **III. Age Discrimination Act of 1975**

Recipients must comply with the requirements of the *Age Discrimination Act of 1975*, Pub.L No. 94-135 (1975) (codified as amended at [Title 42, U.S. Code, § 6101 et seq.](#)), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

### **IV. Americans with Disabilities Act of 1990**

Recipients must comply with the requirements of Titles I, II, and III of the *Americans with Disabilities Act*, Pub. L. No. 101-336 (1990) (codified as amended at [42 U.S.C. §§ 12101–12213](#)), 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.

**V. Best Practices for Collection and Use of Personally Identifiable Information** Recipients who collect personally identifiable information (PII) are required to have a publicly available privacy policy that describes standards on the usage and maintenance of the PII they collect. DHS defines PII as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: [Privacy Guidance](#) and [Privacy Template](#) as useful resources respectively.

### **VI. Civil Rights Act of 1964 – Title VI**

Recipients must comply with the requirements of Title VI of the *Civil Rights Act of 1964* (codified as amended at [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. DHS implementing regulations for the Act are found at [6 C.F.R. Part 21](#) and [44 C.F.R. Part 7](#).

### **VII. Civil Rights Act of 1968**

Recipients must comply with Title VIII of the *Civil Rights Act of 1968*, [Pub. L. 90-284, as amended through Pub. L. 113-4](#), 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 (see [42 U.S.C. § 3601 et seq.](#)), as implemented by the U.S. Department of Housing and Urban Development at [24 C.F.R. 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

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buildings without elevators)—be designed and constructed with certain accessible features. (See [24 C.F.R. Part 100, Subpart D.](#))

## VIII. **Copyright**

Recipients must affix the applicable copyright notices of [17 U.S.C. §§ 401 or 402](#) and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

## IX. **Debarment and Suspension**

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) [12549](#) and [12689](#), which are at [2 C.F.R. Part 180](#) as adopted by DHS at [2 C.F.R. Part 3000](#). These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

## X. **Drug-Free Workplace Regulations**

Recipients 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 3001](#), which adopts the Government-wide implementation ([2 C.F.R. Part 182](#)) of Sec. 5152-5158 of the *Drug-Free Workplace Act of 1988* ([41 U.S.C. §§ 8101-8106](#)).

## XI. **Duplication of Benefits**

Any cost allocable to a particular federal financial assistance award provided for in [2 C.F.R. Part 200, Subpart E](#) may not be charged to other federal financial assistance awards to overcome fund deficiencies; to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions; or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

## XII. **Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX**

Recipients must comply with the requirements of Title IX of the *Education Amendments of 1972*, Pub. L. 92-318 (1972) (codified as amended at [20 U.S.C. § 1681 et seq.](#)), which provide 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. DHS implementing regulations are codified at [6 C.F.R. Part 17](#) and [44 C.F.R. Part 19](#)

## XIII. **Energy Policy and Conservation Act**

Recipients must comply with the requirements of the *Energy Policy and Conservation Act*, Pub. L. 94- 163 (1975) (codified as amended at [42 U.S.C. § 6201 et seq.](#)), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

## XIV. **False Claims Act and Program Fraud Civil Remedies**

Recipients must comply with the requirements of the *False Claims Act*, [31 U.S.C. §§3729-3733](#), which prohibit the submission of false or fraudulent claims for payment to the federal government. (See [31 U.S.C. §§ 3801-3812](#), which details the administrative remedies for false claims and statements made.)

## XV. **Federal Debt Status**

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit

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overpayments. (See [OMB Circular A-129](#).)

## **XVI. Federal Leadership on Reducing Text Messaging while Driving**

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in [E.O. 13513](#), including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.

## **XVII. Fly America Act of 1974**

Recipients must comply with Preference for 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 B-138942.

## **XVIII. Hotel and Motel Fire Safety Act of 1990**

In accordance with Section 6 of the *Hotel and Motel Fire Safety Act of 1990*, [15 U.S.C. § 2225a](#), recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the *Federal Fire Prevention and Control Act of 1974*, (codified as amended at [15 U.S.C. § 2225](#).)

## **XIX. Limited English Proficiency (Civil Rights Act of 1964, Title VI)**

Recipients must comply with Title VI of the *Civil Rights Act of 1964*, ([42 U.S.C. § 2000d et seq.](#)) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance: <https://www.dhs.gov/guidance-published-help-department-supported-organizations-provide-meaningful-access-people-limited> and additional resources on <http://www.lep.gov>.

## **XX. Lobbying Prohibitions**

Recipients must comply with [31 U.S.C. § 1352](#), which provides that none of the funds provided under a federal financial assistance 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 related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.

## **XXI. National Environmental Policy Act**

Recipients must comply with the requirements of the [National Environmental Policy Act of 1969](#), (*NEPA*) [Pub. L. 91-190 \(1970\)](#) (codified as amended at [42 U.S.C. § 4321 et seq.](#) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which require recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.

## **XXII. Nondiscrimination in Matters Pertaining to Faith-Based Organizations**

It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in [6 C.F.R. Part 19](#)

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and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.

## XXIII. **Non-Supplanting Requirement**

Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.

## XXIV. **Notice of Funding Opportunity Requirements**

All the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated here by reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

## XXV. **Patents and Intellectual Property Rights**

Recipients are subject to the *Bayh-Dole Act*, [35 U.S.C. § 200 et seq](#), unless otherwise provided by law. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at [37 C.F.R. Part 401](#) and the standard patent rights clause located at 37 C.F.R. § 401.14.

## XXVI. **Procurement of Recovered Materials**

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, [Pub. L. 89-272](#) (1965), (codified as amended by the *Resource Conservation and Recovery Act*, [42 U.S.C. § 6962](#).) The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at [40 C.F.R. Part 247](#) that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

## XXVII. **Rehabilitation Act of 1973**

Recipients must comply with the requirements of Section 504 of the *Rehabilitation Act of 1973*, Pub. L. 93-112 (1973), (codified as amended at [29 U.S.C. § 794](#).) which provides that no otherwise qualified handicapped individuals 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.

## XXVIII. **Reporting of Matters Related to Recipient Integrity and Performance**

### 1. **General Reporting Requirements**

If the total value of any 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 the recipients 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 [Pub. L. 110-417, § 872](#), as amended [41 U.S.C. § 2313](#). As required by [Pub. L. 111-212, § 3010](#), 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 Recipients Must Report**

Recipients must submit the required information about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or

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procurement contract from the federal government;

- b. Reached its final disposition during the most recent five-year period; and
- c. One or more 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, that resulted in a finding of fault and liability and the recipient's payment 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:
    - a) It could have led to an outcome described in this award term and condition;
    - b) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on the recipient's part; and
    - c) 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

Recipients must enter the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition in the SAM Entity Management area. Recipients do not need to submit the information a second time under financial assistance awards that the recipient received if the recipient already provided the information through SAM because it was required to do so under federal procurement contracts that the recipient was awarded.

### 4. Reporting Frequency

During any period of time when recipients are subject to the main requirement in paragraph 1 of this award term and condition, recipients must report proceedings information through SAM for the most recent five-year period, either to report new information about any proceeding(s) that recipients 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 the purpose of this award term and condition:

- a. *Administrative proceeding*: means a non-judicial process that is adjudicatory in nature to decide 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*: 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.

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- 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.

## **XXIX. Reporting Subawards and Executive Compensation**

### **1. Reporting of first tier subawards.**

- a. *Applicability. Unless the recipient is exempt as provided in paragraph 4 of this award term, the recipient 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 5 of this award term).*
- b. *Where and when to report.*
  - 1) Recipients must report each obligating action described in paragraph 1 of this award term to the [Federal Funding Accountability and Transparency Act Subaward Reporting System](#) (FSRS).
  - 2) For subaward information, recipients 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, 2016, the obligation must be reported by no later than December 31, 2016.
- c. *What to report.* The recipient must report the information about each obligating action that the submission instructions posted at <http://www.fsr.gov>.

### **2. Reporting Total Compensation of Recipient Executives.**

- a. *Applicability and what to report.* Recipients must report total compensation for each of the five most highly compensated executives for the preceding completed fiscal year, if—
  - 1) 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;
  - 2) In the preceding fiscal year, recipients received—
    - a) Eighty percent or more of recipients' annual gross revenues from federal procurement contracts (and subcontracts) and federal financial assistance subject to the *Federal Funding Accountability and Transparency Act* (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
    - c) 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

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6104 of the Internal Revenue Code of 1986. (See the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>. to determine if the public has access to the compensation information.)

- 3) *Where and when to report.* Recipients must report executive total compensation described in paragraph 2.a. of this award term:
  - a) As part of the recipient's registration profile at <https://www.sam.gov>.
  - b) By the end of the month following the month in which this award is made, and annually thereafter.

## 3. Reporting of Total Compensation of Subrecipient Executives.

- a. *Applicability and what to report.* Unless recipients are exempt as provided in paragraph 4. of this award term, for each first-tier subrecipient under this award, recipients 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—
  - 1) In the subrecipient's preceding fiscal year, the subrecipient received—
    - a) Eighty 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 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 (and subawards); and
  - 2) 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. (See the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>. to determine if the public has access to the compensation information.)
- b. *Where and when to report.* Subrecipients must report subrecipient executive total compensation described in paragraph 3.a. of this award term:
  - 1) To the recipient.
  - 2) By the end of the month following the month during which recipients 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), subrecipients must report any required compensation information of the subrecipient by November 30 of that year.

## 4. Exemptions

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

- a. Subawards, and
- b. The total compensation of the five most highly compensated executives of any subrecipient



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## 5. Definitions For purposes of this award term:

- a. 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).
- b. *Non-Federal Entity*: means all the following, as defined in 2 C.F.R. Part 25:
  - 1) A Governmental organization, which is a state, local government, or Indian tribe;
  - 2) A foreign public entity;
  - 3) A domestic or foreign nonprofit organization;
  - 4) A domestic or foreign for-profit organization;
- c. *Executive*: means officers, managing partners, or any other employees in management positions.
- d. *Subaward*: means a legal instrument to provide support for the performance of any portion of the substantive project or program for which the recipient received this award and that the recipient awards to an eligible subrecipient.
  - 1) The term does not include recipients' procurement of property and services needed to carry out the project or program (for further explanation, see 2 C.F.R. § 200.331).
  - 2) A subaward may be provided through any legal agreement, including an agreement that a recipient or a subrecipient considers a contract.

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- e. *Subrecipient*: means a non-federal entity or federal agency that:
  - 1) Receives a subaward from the recipient under this award; and
  - 2) Is accountable to the recipient for the use of the federal funds provided by the subaward.
- f. *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 (see [17 C.F.R. § 229.402\(c\)\(2\)](#)):
  - 1) *Salary and bonus*.
  - 2) *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.
  - 3) *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.
  - 4) *Change in pension value*. This is the change in present value of defined benefit and actuarial pension plans.
  - 5) *Above-market earnings on deferred compensation which is not tax-qualified*.
  - 6) *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.

## **XXX. SAFECOM**

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the [SAFECOM](#) Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

## **XXXI. Terrorist Financing**

Recipients must comply with [E.O. 13224](#) and U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

## **XXXII. Trafficking Victims Protection Act of 2000 (TVPA)**

Trafficking in Persons.

### **1. Provisions applicable to a recipient that is a private entity.**

- a. Recipients, the employees, subrecipients under this award, and subrecipients' employees may not—
  - 1) Engage in severe forms of trafficking in persons during the period of time the award is in effect;
  - 2) Procure a commercial sex act during the period of time that the award is in effect; or
  - 3) Use forced labor in the performance of the award or subawards under the award.

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- b. DHS may unilaterally terminate this award, without penalty, if a recipient or a subrecipient that is a private entity —
    - 1) Is determined to have violated a prohibition in paragraph 1.a of this award term; or
    - 2) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph 1.a of this award term through conduct that is either—
      - a) Associated with performance under this award; or
      - b) Imputed to recipients or subrecipients 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 Government-wide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 C.F.R. Part 3000.
- 2. Provision applicable to recipients other than a private entity.**  
DHS may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—
- a. Is determined to have violated an applicable prohibition in paragraph 1.a of this award term; or
  - b. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph 1.a of this award term through conduct that is either—
    - 1) Associated with performance under this award; or
    - 2) 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 Government-wide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 C.F.R. Part 3000.
- 3. Provisions applicable to any recipient.**
- a. Recipients must inform DHS immediately of any information received from any source alleging a violation of a prohibition in paragraph 1.a of this award term.
  - b. It is DHS’s right to terminate unilaterally that is described in paragraph 1.b or 2 of this section:
    - 1) Implements TVPA, Section 106(g) as amended by 22 U.S.C. 7104(g)), and
    - 2) Is in addition to all other remedies for noncompliance that are available to us under this award.
  - c. Recipients must include the requirements of paragraph 1.a of this award term in any subaward made to a private entity.

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## 4. Definitions. For the purposes of this award term:

- a. *Employee*: means either:
  - 1) An individual employed by a recipient or a subrecipient who is engaged in the performance of the project or program under this award; or
  - 2) Another person engaged in the performance of the project or program under this award and not compensated by the recipient 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.
- b. *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 subsection to involuntary servitude, peonage, debt bondage, or slavery.
- c. *Private entity*: 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. It includes:
  - 1) 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).
  - 2) A for-profit organization.
- d. *Severe forms of trafficking in persons, commercial sex act, and coercion* are defined in [TVPA, Section 103](#), as amended (22 U.S.C. § 7102).

## XXXIII. Universal Identifier and System of Award Management

### 1. Requirements for System for Award Management and Unique Entity Identifier

Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at [2 C.F.R. Part 25, Appendix A](#), the full text of which is incorporated here by reference.

### 2. Definitions

For purposes of this term:

- a. *System for Award Management (SAM)*: means the federal repository into which a recipient must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found on [SAM.gov](#).
- b. *Unique Entity Identifier*: means the identifier assigned by SAM to uniquely identify business entities.
- c. *Entity*: includes non-Federal entities as defined at 2 C.F.R. § 200.1 and includes the following, for purposes of this part:
  - 1) A foreign organization;
  - 2) A foreign public entity;
  - 3) A domestic for-profit organization; and

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- 4) A federal agency.
- d. *Subaward*: means a legal instrument to provide support for the performance of any portion of the substantive project or program for which a recipient received this award and that the recipient awards to an eligible subrecipient.
  - 1) The term does not include the recipients' procurement of property and services needed to carry out the project or program (for further explanation, see 2 C.F.R. § 200.330).
  - 2) A subaward may be provided through any legal agreement, including an agreement that a recipient considers a contract.
- e. *Subrecipient* means an entity that:
  - 1) Receives a subaward from the recipient under this award; and
  - 2) Is accountable to the recipient for the use of the federal funds provided by the subaward.

## **XXXIV. USA PATRIOT Act of 2001**

Recipients must comply with requirements of Section 817 of the [Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 \(USA PATRIOT Act\)](#), which amends 18 U.S.C. §§ 175–175c.

## **XXXV. Use of DHS Seal, Logo and Flags**

Recipients must obtain permission from their DHS FAO 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.

## **XXXVI. Whistleblower Protection Act**

Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at [10 U.S.C § 2409](#), [41 U.S.C. § 4712](#), and [10 U.S.C. § 2324](#), [41 U.S.C. §§ 4304](#) and [4310](#).