

SC OFFICE OF REGULATORY STAFF – ENERGY OFFICE
Grant Funding Special Terms & Conditions (DOE Flow-Down Requirements)

SPECIAL TERMS AND CONDITIONS

The Grantee (“Recipient”), which is identified in Block 5 of the Assistance Agreement, and the Office of Energy Efficiency and Renewable Energy (“EERE”), an office within the United States Department of Energy (“DOE”), enter into this Award, referenced above, to achieve the project objectives and the technical milestones and deliverables stated in Attachment 1 to this Award.

This Award consists of the following documents, including all terms and conditions therein:

	Assistance Agreement
	Special Terms and Conditions
Attachment 1	Annual File
Attachment 2	Federal Assistance Reporting Checklist and Instructions
Attachment 3	Budget Information SF-424A
Attachment 4	Intellectual Property Provisions
Attachment 5	Master File
Attachment 6	NEPA Determination
Appendix A	Appendix A

The following are incorporated into this Award by reference:

- a) Applicable program regulations, including 10 CFR Part 420 – State Energy Program at <http://eCFR.gov>.
- b) Financial Assistance Regulations, 2 CFR part 200 as amended by 2 CFR part 910 at <http://www.eCFR.gov>.
- c) National Policy Assurances to be incorporated as Award Terms in effect on date of award at <http://www.nsf.gov/awards/managing/rtc.jsp>.
- d) The Recipient’s application/proposal as approved by EERE.

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SUBPART A. GENERAL PROVISIONS

Term 1. LEGAL AUTHORITY AND EFFECT

a. A DOE financial assistance award is valid only if it is in writing and is signed, either in writing or electronically, by a DOE Contracting Officer.

b. The Recipient may accept or reject the Award. A request to draw down DOE funds or acknowledgement of award documents by the Recipient's authorized representative through electronic systems used by DOE, specifically FedConnect, constitutes the Recipient's acceptance of the terms and conditions of this Award. Acknowledgement via FedConnect by the Recipient's authorized representative constitutes the Recipient's electronic signature.

Term 2. FLOW DOWN REQUIREMENT

The Recipient agrees to apply the terms and conditions of this Award, as applicable, including the Intellectual Property Provisions, to all subrecipients (and subcontractors, as appropriate) as required by 2 CFR 200.101 and to require their strict compliance therewith. Further, the Recipient must apply the Award terms as required by 2 CFR 200.326 to all subrecipients (and subcontractors, as appropriate) and to require their strict compliance therewith.

Term 3. COMPLIANCE WITH FEDERAL, STATE, AND MUNICIPAL LAW

The Recipient is required to comply with applicable Federal, state, and local laws and regulations for all work performed under this Award. The Recipient is required to obtain all necessary Federal, state, and local permits, authorizations, and approvals for all work performed under this Award.

Term 4. INCONSISTENCY WITH FEDERAL LAW

Any apparent inconsistency between Federal statutes and regulations and the terms and conditions contained in this Award must be referred to the DOE Award Administrator for guidance.

Term 5. FEDERAL STEWARDSHIP

EERE will exercise normal Federal stewardship in overseeing the project activities performed under this Award. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to address deficiencies that develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the project objectives have been accomplished.

Term 6. FEDERAL INVOLVEMENT

a. Review Meetings.

The Recipient, including but not limited to, the principal investigator (or, if applicable, co-principal investigators), is required to participate in periodic review meetings with EERE. Review meetings enable EERE to assess the work performed under this Award and determine whether the Recipient has timely achieved the technical milestones and deliverables stated in Attachment 1 to this Award.

EERE shall determine the frequency of review meetings and select the day, time, and location of each review meeting and shall do so in a reasonable and good faith manner. EERE will provide the Recipient with reasonable notice of the review meetings.

For each review meeting, the Recipient is required to provide a comprehensive overview of the project, including:

- The Recipient's technical progress compared to the Milestone Summary Table stated in Attachment 1 to this Award;
- The Recipient's actual expenditures compared to the approved budget in Attachment 3 to this Award; and
- Other subject matter specified by the DOE Technology Manager/Project Officer.

b. Project Meetings.

The Recipient is required to notify EERE in advance of scheduled tests and internal project meetings that would entail discussion of topics that could result in major changes to the baseline project technical scope/approach, cost, or schedule. Upon request by EERE, the Recipient is required to provide EERE with reasonable access (by telephone, webinar, or otherwise) to the tests and project meetings. The Recipient is not expected to delay any work under this Award for the purpose of government insight.

c. Site Visits.

EERE's authorized representatives have the right to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance, if required. The Recipient must provide, and must require subrecipients to provide, reasonable access to facilities, office space, resources, and assistance for the safety and convenience of the government representatives in the performance of their duties. All site visits and evaluations must be performed in a manner that does not unduly interfere with or delay the work.

e. EERE Access.

The Recipient must provide any information, documents, site access, or other assistance requested by EERE for the purpose of its Federal stewardship or substantial involvement.

Term 7. NEPA REQUIREMENTS

DOE must comply with the National Environmental Policy Act (NEPA) prior to authorizing the use of federal funds. Based on all information provided by the Recipient, EERE has determined the proposed activities fall under the bounded categories categorically excluded, as stated in the Attachment 6 NEPA Determination, and require no further NEPA review, absent extraordinary circumstances, cumulative impacts, or connected actions that may lead to significant impacts on the environment, or any inconsistency with “integral elements” (as contained in 10 C.F.R. Part 1021, Appendix B) as they relate to a particular project. The Recipient is thereby authorized to use current Program Year federal funds for the project activities defined in Attachment 6.

However, the state remains responsible for:

- Identifying and promptly notifying DOE of extraordinary circumstances, cumulative impacts, or connected actions that may lead to significant impacts on the environment, or any inconsistency with the “integral elements” (as contained in 10 C.F.R. Part 1021, Appendix B) as they relate to a particular Project; and
- Compliance with Section 106 of the National Historic Preservation Act (NHPA), as applicable.
- Documenting in writing the state's review of projects to determine there are no extraordinary circumstances, cumulative impacts, or connected actions that may lead to significant impacts on the environment, or any inconsistency with the “integral elements” (as contained in 10 C.F.R. Part 1021, Appendix B) as they relate to a particular Project; and Compliance with Section 106 of the National Historic Preservation Act (NHPA), as applicable.

If the Recipient later intends to add to or modify activities as described in the approved Annual File, those new activities/locations or modified activities/locations are subject to additional NEPA review and are not authorized for federal funding until the DOE Contracting Officer provides written authorization on those additions or modifications. Recipients are restricted from taking any action using federal funds, which would have an adverse effect on the environment or limit the choice of reasonable alternatives prior to authorization from the DOE Contracting Officer. Should the Recipient elect to undertake activities prior to authorization from the DOE Contracting Officer, the Recipient does so at risk of not receiving federal funding and such costs may not be recognized as allowable cost match.

Term 8. HISTORIC PRESERVATION

Prior to the expenditure of Federal funds to alter any structure or site, the Recipient is required to comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA), consistent with DOE's 2009 letter of delegation of authority regarding the NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. In order to fulfill the requirements of Section 106, the recipient must contact the State Historic Preservation Officer (SHPO), and, if applicable, the Tribal Historic Preservation Officer (THPO), to coordinate the Section 106 review outlined in 36 CFR Part 800. SHPO contact information is available at the following link: <http://www.ncshpo.org/find/index.htm>. THPO contact information is available at the following link: <http://www.nathpo.org/map.html>

Section 110(k) of the NHPA applies to DOE funded activities. Recipients shall avoid taking any action that results in an adverse effect to historic properties pending compliance with Section 106.

Recipients should be aware that the DOE Contracting Officer will consider the recipient in compliance with Section 106 of the NHPA only after the Recipient has submitted adequate background documentation to the SHPO/THPO for its review, and the SHPO/THPO has provided written concurrence to the Recipient that it does not object to its Section 106 finding or determination. Recipient shall provide a copy of this concurrence to the DOE Contracting Officer.

Term 9. PERFORMANCE OF WORK IN UNITED STATES

a. Requirement.

All work performed under this Award must be performed in the United States unless the Contracting Officer provides a waiver. This requirement does not apply to the purchase of supplies and equipment; however, the Recipient should make every effort to purchase supplies and equipment within the United States. The Recipient must flow down this requirement to its subrecipients.

b. Failure to Comply.

If the Recipient fails to comply with the Performance of Work in the United States requirement, the Contracting Officer may deny reimbursement for the work conducted outside the United States and such costs may not be recognized as allowable Recipient cost share regardless if the work is performed by the Recipient, subrecipients, vendors or other project partners.

c. Waiver for Work Outside the U.S.

All work performed under this Award must be performed in the United States. However, the Contracting Officer may approve the Recipient to perform a portion of the work outside the United States under limited circumstances. Recipient must obtain a waiver from the Contracting Officer prior to conducting any work outside the U.S. To request a waiver, the Recipient must submit a written waiver request to the Contracting Officer, which includes the following information:

- The rationale for performing the work outside the U.S.;
- A description of the work proposed to be performed outside the U.S.;
- Proposed budget of work to be performed; and
- The countries in which the work is proposed to be performed.

For the rationale, the Recipient must demonstrate to the satisfaction of the Contracting Officer that the performance of work outside the United States would further the purposes of the FOA that the Award was selected under and is in the economic interests of the United States. The Contracting Officer may require additional information before considering such request.

Term 10. NOTICE REGARDING THE PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS – SENSE OF CONGRESS

It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Award should be American-made.

Term 11. REPORTING REQUIREMENTS

a. Requirements.

The reporting requirements for this Award are identified on the Federal Assistance Reporting Checklist, attached to this Award. Failure to comply with these reporting requirements is considered a material noncompliance with the terms of the Award. Noncompliance may result in withholding of future payments, suspension, or termination of the current award, and withholding of future awards. A willful failure to perform, a history of failure to perform, or unsatisfactory performance of this and/or other financial assistance awards, may also result in a debarment action to preclude future awards by Federal agencies.

b. Dissemination of scientific/technical reports.

Scientific/technical reports submitted under this Award will be disseminated on the Internet via the DOE Information Bridge (www.osti.gov/bridge), unless the report contains patentable material, protected data or SBIR/STTR data. Citations for journal articles produced under the Award will appear on the DOE Energy Citations Database (www.osti.gov/energycitations).

c. Restrictions.

Reports submitted to the DOE Information Bridge must not contain any Protected Personal Identifiable Information (PII), limited rights data (proprietary data), classified information, information subject to export control classification, or other information not subject to release.

Term 12. LOBBYING

By accepting funds under this Award, the Recipient agrees that none of the funds obligated on the Award shall be expended, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before Congress, other than to communicate to Members of Congress as described in 18 U.S.C. § 1913. This restriction is in addition to those prescribed elsewhere in statute and regulation.

Term 13. PUBLICATIONS

EERE encourages the Recipient to publish or otherwise make publicly available the results of work performed under this Award. The Recipient is required to include the following acknowledgement in publications arising out of, or relating to, work performed under this Award, whether copyrighted or not:

- *Acknowledgment:* "This material is based upon work supported by the Department of Energy, Office of Energy Efficiency and Renewable Energy (EERE), under Award Number DE-EE0006996/0001."
- *Disclaimer:* "This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof."

Term 14. NO-COST EXTENSION

As provided in 2 CFR 200.308, the Recipient must provide the Contracting Officer with notice in advance if it intends to utilize a one-time, no-cost extension of this Award. The notification must include the supporting reasons and the revised period of performance. The Recipient must submit this notification in writing to the Contracting Officer and DOE Technology Manager/ Project Officer at least 30 days before the end of the current budget period.

Any no-cost extension will not alter the project scope, milestones, deliverables, or budget of this Award.

Term 15. PROPERTY STANDARDS

The complete text of the Property Standards can be found at 2 CFR 200.310 through 200.316. Also see 2 CFR 910.360 for additional requirements for real property and equipment for For-Profit recipients.

Term 16. INSURANCE COVERAGE

See 2 CFR 200.310 for insurance requirements for real property and equipment acquired or improved with Federal funds. Also see 2 CFR 910.360(d) for additional requirements for real property and equipment for For-Profit recipients.

Term 17. REAL PROPERTY

Subject to the conditions set forth in 2 CFR 200.311, title to real property acquired or improved under a Federal award will conditionally vest upon acquisition in the non-Federal entity. The non-Federal entity cannot encumber this property and must follow the requirements of 2 CFR 200.311 before disposing of the property.

Except as otherwise provided by Federal statutes or by the Federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose. When real property is no longer needed for the originally authorized purpose, the non-Federal entity must obtain disposition instructions from DOE or pass-through entity. The instructions must provide for one of the following alternatives: (a) retain title after compensating DOE as described in 2 CFR 200.311(c)(1);(b) Sell the property and compensate DOE as specified in 2 CFR 200.311(c)(2); or (c) transfer title to DOE or to a third party designated/approved by DOE as specified in 2 CFR 200.311(c)(3).

See 2 CFR 200.311 for additional requirements pertaining to real property acquired or improved under a Federal award. Also see 2 CFR 910.360 for additional requirements for real property for For-Profit recipients.

Term 18. EQUIPMENT

Subject to the conditions provided in 2 CFR 200.313, title to equipment (property) acquired under a Federal award will conditionally vest upon acquisition with the non-Federal entity. The non-Federal entity cannot encumber this property and must follow the requirements of 2 CFR 200.313 before disposing of the property.

A state must use equipment acquired under a Federal award by the state in accordance with state laws and procedures.

Equipment must be used by the non-Federal entity in the program or project for which it was acquired as long as it is needed, whether or not the project or program continues to be supported by the Federal award. When no longer needed for the originally authorized purpose, the equipment may be used by programs supported by DOE in the priority order specified in 2 CFR 200.313(c)(1)(i) and (ii).

Management requirements, including inventory and control systems, for equipment are provided in 2 CFR 200.313(d).

When equipment acquired under a Federal award is no longer needed, the non-Federal entity must obtain disposition instructions from DOE or pass-through entity.

Disposition will be made as follows: (a) items of equipment with a current fair market value of \$5,000 or less may be retained, sold, or otherwise disposed of with no further obligation to DOE; (b) Non-Federal entity may retain title or sell the equipment after compensating DOE as described in 2 CFR 200.313(e)(2); or (c) transfer title to DOE or to an eligible third party as specified in 2 CFR 200.313(e)(3).

See 2 CFR 200.313 for additional requirements pertaining to equipment acquired under a Federal award. Also see 2 CFR 910.360 for additional requirements for equipment for For-Profit recipients. See also 2 CFR 200.439 Equipment and other capital expenditures.

Term 19. SUPPLIES

See 2 CFR 200.314 for requirements pertaining to supplies acquired under a Federal award. See also 2 CFR 200.453 Materials and supplies costs, including costs of computing devices.

Term 20. PROPERTY TRUST RELATIONSHIP

Real property, equipment, and intangible property, that are acquired or improved with a Federal award must be held in trust by the non-Federal entity as trustee for the beneficiaries of the project or program under which the property was acquired or improved. See 2 CFR 200.316 for additional requirements pertaining to real property, equipment, and intangible property acquired or improved under a Federal award.

Term 21. RECORD RETENTION

Consistent with 2 CFR 200.333 through 200.337, the Recipient is required to retain records relating to this Award.

Term 22. AUDITS

a. Government-Initiated Audits.

The Recipient is required to provide any information, documents, site access, or other assistance requested by EERE, DOE or Federal auditing agencies (e.g., DOE Inspector General, Government Accountability Office) for the purpose of audits and investigations. Such assistance may include, but is not limited to, reasonable access to the Recipient's records relating to this Award.

Consistent with 2 CFR part 200 as amended by 2 CFR part 910, DOE may audit the Recipient's financial records or administrative records relating to this Award at any time. Government-initiated audits are generally paid for by DOE.

DOE may conduct a final audit at the end of the project period (or the termination of the Award, if applicable). Upon completion of the audit, the Recipient is required to refund to DOE any payments for costs that were determined to be unallowable. If the audit has not been performed or completed prior to the closeout of the award, DOE retains the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from the final audit.

DOE will provide reasonable advance notice of audits and will minimize interference with ongoing work, to the maximum extent practicable.

b. Annual Compliance Audits.

The Recipient is required to comply with the annual compliance audit requirements in 2 CFR 200.500 through 521 for institutions of higher education, nonprofit organizations and state and local governments, and 2 CFR 910.500 through 521 for for-profit entities. The annual compliance audits are independent from Government-initiated audits discussed in paragraph (a) of this Term, and must be paid for by the Recipient. To minimize expense, the Recipient may have a compliance audit in conjunction with its annual audit of financial statements.

SUBPART B. FINANCIAL PROVISIONS

Term 23. MAXIMUM OBLIGATION

The maximum obligation of DOE for this Award is the total "Funds Obligated" stated in Block 13 of the Assistance Agreement to this Award.

Term 24. CONTINUATION APPLICATION AND FUNDING

a. Continuation Application.

A continuation/annual application shall be submitted to DOE in accordance with the annual Grant Guidance and Attachments that are issued by DOE.

b. Continuation Funding.

Continuation funding is contingent on (1) the availability of funds appropriated by Congress for the purpose of this program; (2) the availability of future-year budget authority; (3) satisfactory progress towards meeting the objective of the State Energy Program; (4) submittal of required reports; (5) compliance with the terms and conditions of the award; and (6) written approval of the continuation application by the Contracting Officer.

c. EERE waives prior written approval requirements to carry forward unobligated balances to subsequent periods of performance.

Term 25. COST MATCHING

a. Total Estimated Project Cost is the sum of the Federal Government share and Recipient match of the estimated project costs. The Recipient's cost match must come from non-Federal sources unless otherwise allowed by law. Cash and in-kind contributions used to meet the matching contribution requirement are subject to the limitations on expenditures described in 10 CFR 420.18(a), but are not subject to the 20 percent limitation in 10 CFR 420.18(b). Neither Warner, Chevron, nor Exxon Petroleum Violation Escrow (PVE) funds may be used to meet the required match.

b. By accepting Federal funds under this award, you agree that you are liable for your percentage match of Federal Government share, on a budget period basis, even if the project is terminated early or is not funded to its completion.

c. If you discover that you may be unable to provide cost matching of at least the amount identified in the Assistance Agreement, you should immediately provide written notification to the DOE Award Administrator, indicating whether you will continue or phase out the project. If you plan to continue the project, the notification must describe how replacement cost match will be secured.

d. You must maintain records of all project costs that you claim as cost matching, including in-kind costs, as well as records of costs to be paid by DOE. Such records are subject to audit.

e. Failure to provide the cost matching required by this term may result in the subsequent recovery by DOE of some or all the funds provided under the award.

Term 26. REFUND OBLIGATION

The Recipient must refund any excess payments received from EERE, including any costs determined unallowable by the Contracting Officer. Upon the end of the project period (or the termination of the Award, if applicable), the Recipient must refund to EERE the difference between (i) the total payments received from EERE and (ii) the Federal share of the costs incurred.

Term 27. ALLOWABLE COSTS

EERE determines the allowability of costs through reference to 2 CFR part 200 as amended by 2 CFR part 910. All project costs must be allowable, allocable, and reasonable. The Recipient must document and maintain records of all project costs, including, but not limited to, the costs paid by Federal funds, costs claimed by its subrecipients and project costs that the Recipient claims as cost sharing, including in-kind contributions. The Recipient is responsible for maintaining records adequate to demonstrate that costs claimed have been incurred, are reasonable, allowable and allocable, and comply with the cost principles. Upon request, the Recipient is required to provide such records to EERE. Such records are subject to audit. Failure to provide EERE adequate supporting documentation may result in a determination by the Contracting Officer that those costs are unallowable.

The Recipient is required to obtain the prior written approval of the Contracting Officer for any foreign travel costs.

Term 28. INDIRECT COSTS

a. Fringe Benefit Costs.

The budget for this Award includes fringe benefits, but does not indirect charges. Therefore, indirect charges shall not be charged to nor shall reimbursement be requested for this project nor shall any indirect charges for this project be allocated to any other Federally sponsored project. In addition, indirect charges shall not be counted as cost share unless approved by the Contracting Officer. This restriction does not apply to subrecipients' indirect costs.

b. Subrecipient Indirect Costs.

Recipient must ensure its subrecipient's indirect costs are appropriately managed, allowable and otherwise comply with the requirements of this Award and 2 CFR part 200 as amended by 2 CFR part 910.

Term 28. DECONTAMINATION AND/OR DECOMMISSIONING (D&D) COSTS

Notwithstanding any other provisions of this Award, the Government shall not be responsible for or have any obligation to the Recipient for (1) Decontamination and/or Decommissioning (D&D) of any of the Recipient's facilities, or (2) any costs which may be incurred by the Recipient in connection with the D&D of any of its facilities due to the performance of the work under this Award, whether said work was performed prior to or subsequent to the effective date of the award.

Term 29. USE OF PROGRAM INCOME

If the Recipient earns program income during the project period as a result of this Award, the Recipient must add the program income to the funds committed to the Award and used to further eligible project objectives.

Term 30. PAYMENT PROCEDURES

a. Method of Payment.

Payment will be made by advances through the Department of Treasury's ASAP system.

b. Requesting Advances.

Requests for advances must be made through the ASAP system. The Recipient may submit requests as frequently as required to meet its needs to disburse funds for the Federal share of project costs. If feasible, the Recipient should time each request so that the Recipient receives payment on the same day that the Recipient disburses funds for direct project costs and the proportionate share of any allowable indirect costs. If same-day transfers are not feasible, advance payments must be as close to actual disbursements as administratively feasible.

c. Adjusting Payment Requests for Available Cash.

The Recipient must disburse any funds that are available from repayments to and interest earned on a revolving fund, program income, rebates, refunds, contract settlements, audit recoveries, credits, discounts, and interest earned on any of those funds before requesting additional cash payments from EERE.

d. Payments.

All payments are made by electronic funds transfer to the bank account identified on the Bank Information Form that the Recipient filed with the U.S. Department of Treasury.

e. Unauthorized Drawdown of Federal Funds.

For each budget period, the Recipient may not spend more than the Federal share authorized to that particular budget period, without specific written approval from the Contracting Officer. The Recipient must immediately refund EERE any amounts spent or drawn down in excess of the authorized amount for a budget period. The Recipient and subrecipients shall promptly, but at least quarterly, remit to DOE interest earned on advances drawn in excess of disbursement needs, and shall comply with the procedure for remitting interest earned to the Federal government per 2 CFR 200.305, as applicable.

f. Supporting Documents for Agency Approval of Payments.

DOE may require Agency pre-approval of payments. If the Agency approval requirement is in effect for the Recipient's Award, the ASAP system will indicate that Agency approval is required when the Recipient submits a request for payment. The Recipient must notify the DOE Technology Manager/Project Officer identified on the Assistance Agreement that a payment request has been submitted. The DOE payment authorizing official may request additional information from the Recipient to support the payment requests prior to release of funds, as deemed necessary. Recipient is required to comply with these requests. Supporting documents include invoices, copies of contracts, vendor quotes, and other expenditure explanations that justify the payment requests.

Term 31. BUDGET CHANGES

a. Budget Changes Generally.

The Contracting Officer has reviewed and approved the SF-424A in Attachment 3 to this Award.

Any increase in the total project cost, whether DOE share or Cost Share, which is stated as "Total" in Block 12 to the Assistance Agreement of this Award, must be approved in advance and in writing by the Contracting Officer.

Any budget change that alters the project scope, milestones or deliverables requires prior written approval of the Contracting Officer. EERE may deny reimbursement for any failure to comply with the requirements in this term.

b. Transfers of Funds Among Direct Cost Categories.

The Recipient is required to notify the DOE Technology Manager/Project Officer of any transfer of funds among direct cost categories which exceed or are expected to exceed ten percent of the current total approved budget.

c. Transfer of Funds Between Direct and Indirect Cost Categories.

The Recipient is required to obtain the prior written approval of the Contracting Officer for any transfer of funds between direct and indirect cost categories.

Term 32. CARRYOVER OF UNOBLIGATED BALANCES

The recipient is hereby authorized to carry over unobligated balances of Federal and non-Federal funds from one budget period to a subsequent budget period, for program activities consistent with their approved State Annual Plan, without prior approval by the DOE Contracting Officer. Should the recipient wish to use carryover funds for activities that are not consistent with the approved State Annual Plan, a budget revision application must be submitted for approval by DOE.

For purposes of this award, an unobligated balance is the portion of the funds authorized by DOE that have not been obligated by the recipient at the end of a budget period. Recipients are advised to carefully manage grant funds to minimize unobligated balances each year, but especially at the end of the grant project period.

Term 33. REBUDGETING IN EXCESS OF 10 PERCENT

The recipient is hereby authorized to transfer funds among direct cost categories for program activities consistent with their approved State Annual Plan, without prior approval of the Contracting Officer.

Recipients are required to submit written notification to the DOE Technology Manager/Project Officer of any transfer of funds among direct cost categories which exceed or are expected to exceed ten percent of the current total approved budget. Limitations on administration, supplies, and equipment as detailed in the respective year's SEP Grant Guidance still apply and are not waived under this provision.

SUBPART C. MISCELLANEOUS PROVISIONS

Term 34. INSOLVENCY, BANKRUPTCY, OR RECEIVERSHIP

- a. The Recipient shall immediately, but no later than five days, notify EERE of the occurrence of any of the following events: (1) the Recipient or the Recipient's parent's filing of a voluntary case seeking liquidation or reorganization under the Bankruptcy Act; (2) the Recipient's consent to the institution of an involuntary case under the Bankruptcy Act against the Recipient or the Recipient's parent;

(3) the filing of any similar proceeding for or against the Recipient or the Recipient's parent, or the Recipient's consent to the dissolution, winding-up or readjustment of its debts, appointment of a receiver, conservator, trustee, or other officer with similar powers over the Recipient, under any other applicable state or Federal law; or (4) the Recipient's insolvency due to its inability to pay debts generally as they become due.

- b. Such notification shall be in writing and shall: (1) specifically set out the details of the occurrence of an event referenced in paragraph A; (2) provide the facts surrounding that event; and (3) provide the impact such event will have on the project being funded by this Award.
- c. Upon the occurrence of any of the four events described in paragraph A. of this term, EERE reserves the right to conduct a review of the Recipient's Award to determine the Recipient's compliance with the required elements of the Award (including such items as cost share, progress towards technical project objectives, and submission of required reports). If the EERE review determines that there are significant deficiencies or concerns with the Recipient's performance under the Award, EERE reserves the right to impose additional requirements, as needed, including (1) change of payment method; or (2) institute payment controls.
- d. Failure of the Recipient to comply with this term may be considered a material noncompliance of this Award by the Contracting Officer.

Term 35. REPORTING SUBAWARDS AND EXECUTIVE COMPENSATION

a. Reporting of first-tier subawards.

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

2. Where and when to report.

i. The Recipient must report each obligating action described in paragraph a.1. of this award term to <https://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. The Recipient must report the information about each obligating action that the submission instructions posted at <https://www.fsrs.gov> specify.

b. Reporting Total Compensation of Recipient Executives.

1. Applicability and what to report. The Recipient must report total compensation for each of its five most highly compensated executives for the preceding completed fiscal year, if

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

ii. In the preceding fiscal year, the Recipient received;

(A) 80 percent or more of the Recipient's 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, as defined at 2 CFR 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 <http://www.sec.gov/answers/execomp.htm>).

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

i. As part of the Recipient's registration profile at <https://www.sam.gov>.

ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1. Applicability and what to report. Unless the Recipient is exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, the Recipient 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 <http://www.sec.gov/answers/execomp.htm>).

2. Where and when to report. The Recipient 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 the Recipient makes 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), the Recipient must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions.

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

i. Subawards and;

ii. The total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this Award term:

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

- i. A Governmental organization, which is a State, local government, or Indian tribe;
- ii. A foreign public entity;
- iii. A domestic or foreign nonprofit organization;
- iv. A domestic or foreign for-profit organization;
- v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

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

3. 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 the Recipient received this award and that the recipient awards to an eligible subrecipient.
- ii. The term does not include the Recipient's procurement of property and services needed to carry out the project or program (for further explanation, see Sec. __ .210 of the attachment to OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations).
- iii. A subaward may be provided through any legal agreement, including an agreement that the Recipient or a subrecipient considers a contract.

4. Subrecipient means an entity that:

- i. Receives a subaward from the Recipient under this award; and
- ii. Is accountable to the Recipient for the use of the Federal funds provided by the subaward.

5. 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 CFR 229.402(c)(2)):

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

Term 36. SYSTEM FOR AWARD MANAGEMENT AND UNIVERSAL IDENTIFIER REQUIREMENTS

- a. Requirement for Registration in the System for Award Management (SAM)

Unless the Recipient is exempted from this requirement under 2 CFR 25.110, the Recipient must maintain the currency of its information in SAM until the Recipient submits the final financial report required under this Award or receive the final payment, whichever is later. This requires that the Recipient reviews and updates the information at least annually after the initial registration, and more frequently if required by changes in its information or another award term.

If the Recipient had an active registration in the CCR, it has an active registration in SAM.

- b. Requirement for Data Universal Numbering System (DUNS) Numbers

If the Recipient is authorized to make subawards under this Award, the Recipient:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from the Recipient unless the entity has provided its DUNS number to the Recipient.

2. May not make a subaward to an entity unless the entity has provided its DUNS number to the Recipient.

c. Definitions

For purposes of this award term:

1. System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at <https://www.sam.gov>).

2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).

3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR Part 25, subpart C:

- i. A Governmental organization, which is a State, local government, or Indian Tribe;
- ii. A foreign public entity;
- iii. A domestic or foreign nonprofit organization;
- iv. A domestic or foreign for-profit organization; and
- v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

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 the Recipient received this Award and that the Recipient awards to an eligible subrecipient.

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

iii. A subaward may be provided through any legal agreement, including an agreement that the Recipient considers a contract.

5. Subrecipient means an entity that:

- i. Receives a subaward from the Recipient under this Award; and
- ii. Is accountable to the Recipient for the use of the Federal funds provided by the subaward.

Term 37. NONDISCLOSURE AND CONFIDENTIALITY AGREEMENTS ASSURANCES

By entering into this agreement, the Recipient attests that it does not and will not require its employees or contractors to sign internal nondisclosure or confidentiality agreements or statements prohibiting or otherwise restricting its employees or contractors from lawfully reporting waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

The Recipient further attests that it **does not and will not** use any Federal funds to implement or enforce any nondisclosure and/or confidentiality policy, form, or agreement it uses unless it contains the following provisions:

- i. *“These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.”*
- ii. The limitation above shall not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.
- iii. Notwithstanding provision listed in paragraph (a), a nondisclosure or confidentiality policy form or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such form or agreement shall,

at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure or confidentiality forms shall also make it clear that they do not bar disclosures to Congress, or to an authorized official of an executive agency or the Department of Justice, that are essential to reporting a substantial violation of law.

Term 38. CONFERENCE SPENDING

The Recipient shall not expend any funds on a conference not directly and programmatically related to the purpose for which the grant or cooperative agreement was awarded that would defray the cost to the United States Government of a conference held by any Executive branch department, agency, board, commission, or office for which the cost to the United States Government would otherwise exceed \$20,000, thereby circumventing the required notification by the head of any such Executive Branch department, agency, board, commission, or office to the Inspector General (or senior ethics official for any entity without an Inspector General), of the date, location, and number of employees attending such conference.

Term 39. RECIPIENT INTEGRITY AND PERFORMANCE MATTERS

A. General Reporting Requirement

If the total value of your currently active Financial Assistance awards, 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 term. 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.

B. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

- i. Is in connection with the award or performance of a Financial Assistance, cooperative agreement, or procurement contract from the Federal Government;
- ii. Reached its final disposition during the most recent five year period; and

- iii. Is one of the following:
1. A criminal proceeding that resulted in a conviction, as defined in paragraph E 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 E of this term, that resulted in a finding of fault and liability and your 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 paragraph B.iii.1, 2, or 3 of this term;
 - b. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and
 - c. The requirement in this term to disclose information about the proceeding does not conflict with applicable laws and regulations.

C. Reporting Procedures

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph B of this term. 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.

D. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph A of this term, 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, Financial Assistance awards, (including 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.

E. Definitions

For purposes of this term:

- i. 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 Financial Assistance awards. It does not include audits, site visits, corrective plans, or inspection of deliverables.

- ii. 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*.
- iii. Total value of currently active Financial Assistance awards, 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.

Term 40. REVOLVING LOAN FUND AND/OR LOAN LOSS RESERVE PROGRAM REQUIREMENTS

- a. Under the annual SEP formula award, the grantee may continue its Revolving Loan Fund (RLF) and/or Loan Loss Reserve (LLR) program(s) initiated with SEP Recovery Act funding beyond the period of performance of the Recovery Act award. To ensure the continuation of the required reporting and DOE oversight of the federal requirements that apply to the federally funded RLF and LLR programs in perpetuity or so long as the grantee continues to operate the programs, the grantee is subject to the terms and conditions of the SEP formula award and the Recovery Act terms and conditions set forth in the grantee's original Recovery Act award. The Recovery Act terms and conditions applicable to the RLF and/or LLR program(s) (Appendix A) are hereby incorporated into the grantee's annual SEP formula award and will remain incorporated into the award so long as the grantee chooses to continue to operate the RLF and/or LLR program(s) capitalized by Recovery Act Funding.
- b. The Recovery Act terms incorporated into the annual SEP award are only applicable to grantee's RLF and LLR program(s) originally funded under the SEP Recovery Act award and only where the grantee chooses to continue operating the RLF or LLR program beyond the period of performance of the Recovery Act award. The Recovery Act terms incorporated into the annual SEP award do not extend to the other programs funded under the annual SEP award. This action does not extend to other activities funded under the grantee's SEP Recovery Act award.
- c. Continued administration of the existing RLF and/or LLR program(s) beyond the period of performance of the Recovery Act award, including the necessary reporting, is an eligible use of annual SEP formula award funds as set forth in 10 CFR 420.17(a)(3). Use of annual SEP formula award funds for the administration of a RLF and/or LLR program capitalized with Recovery Act funds does not constitute a comingling of funds. If the grantee or third party administrator elects to discontinue

a RLF and/or LLR program, the grantee may elect to move funds to other eligible currently approved SEP program activities for energy efficiency measures and renewable energy measures, upon written approval by the DOE Contracting Officer.

- d. The NEPA provision for the RLF and/or LLR program(s) funded under the SEP Recovery Act Award are incorporated into the annual SEP award by reference. If the Grantee utilized the SEP NEPA Template under the SEP Recovery Act Award, then it will be extended into the annual SEP award for the RLF and LLR. If the Grantee did not utilize the SEP NEPA Template, the Grantee must continue to submit projects for individual NEPA review.
- e. ***If the grantee later (1) adds to or modifies the activities reviewed and approved under the original DOE NEPA determination or (2) opts to discontinue the RLF or LLR and move the funds to another currently eligible SEP activity,*** the grantee must notify the DOE Project Officer before proceeding with the new activities. Those additions or modifications are subject to review by the NEPA Compliance Officer and approval by the DOE Contracting Officer. Recipients are restricted from taking any action using Federal funds, which would have an adverse effect on the environment or limit the choice of reasonable alternatives prior to DOE providing a final NEPA determination. DOE may require the grantee to submit additional information to support a revised NEPA determination. Should the grantee move forward with activities that are not authorized for Federal funding by the DOE Contracting Officer in advance of the final NEPA determination, the grantee is doing so at risk of not receiving Federal funding and such costs may not be recognized as allowable cost match.
- f. By accepting this award or amendment, the grantee agrees to comply with the provisions listed below for RLF and LLR programs originally funded under the SEP Recovery Act award (see Appendix A for full text of provisions):
- **SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 (MAR 2009)**
 - **REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS (COVERED UNDER INTERNATIONAL AGREEMENTS)--SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**
 - **WAGE RATE REQUIREMENTS UNDER SECTION 1606 OF THE RECOVERY ACT**
 - **RECOVERY ACT TRANSACTIONS LISTED IN SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS AND RECIPIENT RESPONSIBILITIES FOR INFORMING SUBRECIPIENTS**
 - **HISTORIC PRESERVATION**
 - **DAVIS BACON ACT AND CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**
 - **RECIPIENT FUNCTIONS**

National Policy Requirements Matrix - December 26, 2014

This listing of statutory/regulatory/and executive requirements is provided for information purposes only, and may not reflect all requirements that are applicable to a specific award.

Statutory/Regulatory/and Executive Based Requirements	Used For:			Requirement(s) that should be noted by the recipient
	Type of Award	Type of Recipient	Specific Situation	
National Policy Requirements Applicable to all research agencies:				
Environmental Standards				
By signing the agreement or accepting funds under this agreement, the recipient assures that it will:				
1. Comply with applicable provisions of the Clean Air Act (42 U.S.C. 7401, et. Seq.) and Clean Water Act (33 U.S.C. 1251, et. seq.), as implemented by Executive Order 11738 [3 CFR, 1971-1975 Comp., p. 799]	All	All	All, for Clean Air Act, Clean Water Act, and Executive Order 11738.	Requirements flow down to subrecipients
2. Identify to the awarding agency all impact this award may have on:				
a. The quality of the human environment, and provide help the agency may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321, et. seq.) and to prepare Environmental Impact Statements or other required environmental documentation. In such cases, the recipient agrees to take no action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) until the agency provides written notification of compliance with the environmental impact analysis process. NSF at 45 CFR Part 640	All	All	All actions that may affect the environment	
b. Flood-prone areas, and provide help the agency may need to comply with the National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973 (42 U.S.C. 4001, et. seq.), which require flood insurance, when available, for Federally assisted construction or acquisition in flood-prone areas. DOE at 10 CFR Part 1022	All	All	Awards involving construction, land acquisition or development, with some exceptions [see 42 U.S.C. 4001, et. seq.].	The Council on Environmental Quality's regulations for implementing NEPA are at 40 C.F.R. Parts 1500-1508. Executive Order 11514 [3 CFR, 1966-1970 Comp., p. 902], as amended by Executive Order 11991, sets policies and procedures for considering actions in the U.S. Executive Orders 11988 [3 CFR, 1977 Comp., p. 117] and 11990 [3 CFR, 1977 Comp., p. 121] specify additional considerations, when actions involve floodplains or wetlands, respectively.
c. Coastal barriers, and provide help the agency may need to comply with the Coastal Barriers Resource Act (16 U.S.C. 3501, et. seq.), concerning preservation of barrier resources. EPA at 40 CFR Part 6	Grants, cooperative agreements, and other "financial assistance" (see 42 U.S.C. 4003).	All	Awards that may affect barriers along the Atlantic and Gulf coasts and Great Lakes' shores	42 U.S.C. 4012a prohibits awards for acquisition or construction in flood-prone areas (Federal Emergency Management Agency publishes lists of such areas in the Federal Register), unless recipient has required insurance. If action is in a floodplain, Executive Order 11988 [3 CFR, 1977 Comp., p. 117] specifies additional pre-award procedures for Federal agencies. Recipients are to apply requirements to subawards ("financial assistance," defined at 42 U.S.C. 4003, includes indirect Federal assistance).



National Policy Requirements Matrix - December 26, 2014

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Statutory/Regulatory/and Executive Based Requirements	Used For:			Requirement(s) that should be noted by the recipient
	Type of Award	Type of Recipient	Specific Situation	
National Policy Requirements Applicable to all research agencies:				
d. All existing or proposed component of the National Wild and Scenic Rivers system, and provide help the agency may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271, et seq.). EPA at 40 CFR Part 6	Grants, cooperative agreements, and other "financial assistance" (see 16 U.S.C. 3502).	All	Awards that may affect existing or proposed element of National Wild and Scenic Rivers system.	Requirements flow to subawards (16 U.S.C. 3502 includes indirect assistance as "financial assistance").
e. Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source, and provide help the agency may need to comply with the Safe Drinking Water Act (42 U.S.C. 300h-3). EPA at 40 CFR Part 6	All	All	Construction in All area with aquifer that the EPA finds would create public health hazard, if contaminated.	42 U.S.C. 300h-3(e) precludes awards of Federal financial assistance for All project that the EPA administrator determines may contaminate a sole-source aquifer so as to threaten public health
3. Resource Conservation and Recovery Act 42 USC 6901	All	Awards to states or a political subdivision of a state (which for this purpose includes state and local institutions of higher education or hospitals)		
General/Miscellaneous Requirements				
By signing or accepting funds under the agreement, the recipient agrees that will comply with the following general national policy requirements:				
1. CCR Registration - 2 CFR Part 25	All	Recipient only; does not apply to subrecipients		CCR registration must be renewed annually.
2. Drug Free Workplace Public Law 100-690, Title V NSF at 45 CFR Part 630	All	All		41 USC 701 et seq.
3. DUNS number - 2 CFR Part 25	All	Recipient and 1st tier subrecipient		DUNS number required at time of application
4. False Claims Act Provisions				
a. Civil False Claims Act	All	All	All	31 USC 2739
b. Criminal False Claims Act 18 USC 287 and 1001	All	All	All	18 USC 287 and 1001
c. Program Fraud and Civil Remedies and False Claims Act 31 USC 3801, 45 CFR 79	All	All	All	31 USC 3801, 45 CFR 79



National Policy Requirements Matrix - December 26, 2014

This listing of statutory/regulatory/and executive requirements is provided for information purposes only, and may not reflect all requirements that are applicable to a specific award.

Statutory/Regulatory/and Executive Based Requirements	Used For:			Requirement(s) that should be noted by the recipient
	Type of Award	Type of Recipient	Specific Situation	
National Policy Requirements Applicable to all research agencies: 5. Government-wide Debarment and Suspension (Nonprocurement) NSF at 2 CFR Part 2520	All	All		42 USC 1870 (a); Sec. 2455, PL 103-355, 108 Stat. 3327 (31 USC 6101 note); EO 12549 (3 CFR, 1986 Comp., p. 189); EO 12689 (3 CFR, 1989 Comp., p. 235)
6. Lobbying Prohibitions 31 USC 1352 , stipulates that (1) No Federal appropriated funds have been paid or will be paid, any person 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 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. (2) If any funds other than Federal apaporpriated funds have been paid or will be paid to any person 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 grant or cooperative agreement, the undersigned shall complete and submit the SF Form LLL, "Disclosure of Lobbying Activities", in accordance with its instructions. NSF at 45 CFR Part 604	All			31 USC 1352 requires the grantee to include certification language in the award documents for all subawards at all tiers, including subcontracts, subgrants,
7. Metric System 15 USC 205 a-k and Executive Order 12770	All	All	All	15 CFR Part 19, Subpart B
8. Misconduct in Science Policies and responsibilities associated with prevention, detection, and handling of misconduct in science allegations as stipulated in agency implementing regulations: NSF at 45 CFR Part 620	All	All	All	[Federal Register: December 6, 2000 (Volume 65, Number 235)] [Notices] [Page 76260-76264]



National Policy Requirements Matrix - December 26, 2014

This listing of statutory/regulatory/and executive requirements is provided for information purposes only, and may not reflect all requirements that are applicable to a specific award.

Statutory/Regulatory/and Executive Based Requirements	Used For:			Requirement(s) that should be noted by the recipient
	Type of Award	Type of Recipient	Specific Situation	
9. National Historic Preservation The recipient agrees to identify to the awarding agency all property listed or eligible for listing on the National Register of Historic Places that will be affected by this award, and to provide all the help the awarding agency may need, with respect to the award. 16 USC 470f EPA at 40 CFR Part 6, Section 204 (b)(4)	All	All	All	
10. Paperwork Reduction Act	All	All	When data is collected from respondents using a questionnaire or other survey instrument. See, however, M-11-07 dated 12/9/10 entitled, "Facilitating Scientific Research by Streamlining the Paperwork Reduction Act Process."	Data collection activities, if any, performed under this project are the responsibility of the recipient, and awarding agency support of the project does not constitute approval of any survey design, questionnaire content, or data collection procedures. The recipient shall not represent to respondents that such data are being collected for or in association with the awarding agency without the specific written approval of the cognizant awarding agency official of such data collection plan or instrument. However, this requirement is not intended to preclude mention of awarding agency support of the project in response to an inquiry or acknowledgment of such support in any publication of these data.
11. Transparency Act - FFATA Public Law 109-282	All	All, including 1st tier subrecipients	Awards of 25K or more	Reporting grants and 1st tier subrecipients of 25K or more, and executive compensatio reporting of same; limited exceptions.
12. U.S. Flag Air Carriers	All	All	Any air transportation to, from, between, or within a country other than the U.S. of persons or property, the expense of which will be assisted by Federal funding, must be performed by or under a code-sharing arrangement with a U.S.-flag air carrier if service provided by such a carrier is available (see Comp Gen. Decision B-240956, dated September 25, 1991).	49 USC 40118 See also General Services Administration amendment to the Federal Travel Regulations, Federal Register (Vol. 63, No. 219, 63417-63421)



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National Policy Requirements Applicable to all research agencies:	Type of Award	Type of Recipient	Specific Situation	
<p>13. Trafficking in Persons By signing or accepting funds under the agreement, the recipient agrees that it will comply with Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)) as implemented by 2 CFR 175</p>	Grants and Cooperative Agreements and contracts	175.15(b)l.a. applies to private entities 175.15(b)l.b. applies to other than private entities if award includes subrecipient award to a private entity 117.15(b)l.c.applies to all recipients		A. Associated with performance under this award; or B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by the agency in its regulatory implementation of the OMB guidelines in 2 CFR part 180. b. Provision applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity-- 1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or 2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either-- i. Associated with performance under this award; or ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency . 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.
<p>14. Whistleblower Protection Awardees are notified of the applicability of 41 U.S.C. § 4712, as amended by P.L. 112-239, providing protection for whistleblowers.</p>	All	All	All	



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National Policy Requirements Applicable to all research agencies:				
15. Use of United States Flag Vessels 46 CFR 381	Grants, Cooperative Agreements, Loans and Guarantee and Advance of Funds Agreements	All		
16. Patents, Trademarks and Copyrights 35 USC 202-204 and 37 CFR 401	Grants and Cooperative Agreements	Awards to non-profits and small businesses		
17. Privacy Act 5 USC 552a	All	All		
18. Pro Children Act 20 USC 7183	All	All	All awards performed in facilities where children are served.	
19. Uniform Relocation Assistance and Real Property Acquisition Policies Act 42 USC 4601 and 49 CFR 24	All	All		
20. Confidentiality of Patient/Client Records 42 USC 290dd-2 and 42 USC 290ee-3	All	All\		
21. Constitution Day PL 108-447	All	All		
22. Copeland Act 40 USC 4135	All	All		
23. Davis Bacon Act 40 USC 3141 et.seq	All	All		
24. Earthquake Hazards Reduction Act 42 USC 7701 et seq., EO 12699	All	All	Construction awards within applicable geographic areas	
25. Faith-Based and Other Neighborhood Organizations EO 13559	All	All		
26. Federal Technology Transfer Act 15 USC 63	All	All		



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27. Freedom of Information Act 5 USC 552	All	All		
28. Hatch Act 5 USC 7321-7328	All	State or Local Governments		
29. Limited English Proficiency EO 13166	All	All		
30. Military Recruiting and Reserve Officer Training Access to Institutions of Higher Education 10 USC 983	All	Domestic Institutions of Higher Education		
31. Native American Graves Protection and Repatriation 25 USC 3001-3013	All	All		
32. Conflict of Interest (Financial Disclosure) Requires each recipient to maintain an appropriate and enforced policy on conflict of interest consistent with the provisions of the NSF Proposal & Award Policies & Procedures Guide (PAPPG), Award & Administration Guide (AAG), Chapter IV.A (which also is published at 60 Federal Register 35820).	Grants & Cooperative Agreements	Applies to each grantee institution employing more than 50 persons		Flowdown to subrecipients shall be as stipulated in agency implementation of the conflict of interest requirements. NSF Proposal & Award Policies & Procedures Guide (PAPPG), Award & Administration Guide, Chapter IV.A. http://www.nsf.gov/publications/pub_summ.jsp?ods_key=aag
33. Pre-college Students and Experimental Curriculum Development Projects 42 USC 1869 a. And b.	Grants & Cooperative Agreements	All	Research projects that involve pre-college students in research or development, pilot testing, evaluation or revision of, experimental or innovative curriculum development projects	NSF Proposal & Award Policies & Procedures Guide, Award & Administration Guide, Chapter VI.M.2 http://www.nsf.gov/publications/pub_summ.jsp?ods_key=nsf15001&org=NSF
34. Recombinant DNA Molecules All research that falls within the scope of the Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines) shall comply with the Guidelines, including all procedural requirements. See 59 FR Volume 598, No. 127, July 5, 1994, 34495-34547	All	All	Research involving recombinant DNA	
Health & Safety Guidelines				
By signing the agreement or accepting funds under this agreement, the recipient assures it will comply with the following requirements:				



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National Policy Requirements Applicable to all research agencies:				
1. Applicable OSHA Standards in Laboratories	All	All	Research involving use of hazardous chemicals or bloodborne pathogens	29 CFR 1910.1030 Bloodborne Pathogens; 29 CFR 1910.1450, Occupational Exposure to Hazardous Chemicals in Laboratories
2. Handling and transport of etiologic agents	All	All	Research involving etiologic agents	Procedures for Domestic Handling and Transport of Diagnostic Specimens and Etiologic Agents, 1994 (3rd ed.), H5a3doc.75, National Committee for Clinical Laboratory Standards
3. Biosafety standards in microbiological and biomedical laboratories	All	All	Microbiological and biomedical research	Biosafety in Microbiological and Biomedical Laboratories; 5th Edition http://www.cdc.gov/biosafety/publications/bmb15/index.htm
4. Controlled Substances	All	All	Research involving controlled substances	Drug Enforcement Administration (DEA) registration, inspection and certification
5. Disposal of high-level radioactive waste and spent nuclear fuel. Note however, that some States are exempt if they have established separate requirements.	All	All	Research involving radioactive waste and spent nuclear fuel	Nuclear Regulatory Commission Standard and Regulation, pursuant to the Energy Reorganization Act of 1974, (42 USC, 5801, et seq.)
6. Investigational New Drug Applications	All	All	All clinical trial investigations of products that are subject to section 505 or 507 of the Federal Food, Drug, and Cosmetic Act or to the licensing provisions of the PHS Act (58 Stat. 632, as amended (42 USC 201, et seq.)	Food and Drug Administration (FDA), 21 CFR parts 50 and 312
7. Hotel and Motel Fire Safety Act of 1990 - P.L. 101-39	Conference or meeting support	All	Alterations and Renovations > \$500,000	40 USC 327-333
8. Labor Standards under Federally Assisted Construction: Construction Work Hours and Safety Standards Act	All	All	Alterations and Renovations > \$500,000	40 USC 327-333
9. Text Messaging While Driving - EO 13513	All	All	When performing work for or on behalf of government	Adopt and enforce policies that ban text messaging while driving.
10. Increasing Seat Belt Use in the United States Executive Order 13043, Increasing Seat Belt Use in the United States, dated, April 16, 1997	Grants and Cooperative Agreements	All		In accordance with the Executive Order, "grantees are encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles."
11. Dual Use Research of Concern	All	All	Life Sciences awards	http://www.phe.gov/s3/dualuse/Documents/us-policy-durc-032812.pdf
Live Organisms				
By signing or accepting funds under the agreement, the recipient assures that it will comply with applicable provisions of the following national policies concerning live organisms:				
1. For human subjects:				



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<p>National Policy Requirements Applicable to all research agencies:</p> <p>a. For human subjects, the Common Federal Policy for the Protection of Human Subjects. Codified by the: NSF at 45 CFR Part 690</p>	All	All	Research, development, test, or evaluation involving live human subjects, with some exceptions [see agency implementations for exemptions.	Requirements flow down to subrecipients
<p>b. Human Stem Cell Research</p> <p>In accordance with the President's Executive Order 13505 of March 9, 2009, and July 30, 2009 Memorandum for the Heads of Executive Departments and Agencies. See NIH Guidelines for Human Stem Cell Research, July 7, 2009.</p> <p>Other regulations that may apply: HHS Human Subjects Protection Regulation, 45 CFR Pt 46 FDA Regulations governing INDs or IDEs (Title 21 CFR Parts 312 or 812) FDA IRB & informed consent regulations (Title 21 CFR Parts 50 & 56) Research on Transplantation of Fetal Tissue (PHS Act 489A)</p>	As applicable	All	Research involving Human Stem Cells	NIH Guidelines and Registry of cell lines meeting the Federal requirements are found at: http://stemcells.nih.gov/index.asp Other Federal, State or Local laws may also apply
<p>c. P.L. 104-191 Health Insurance Portability and Accountability Act (HIPAA)</p> <p>45 CFR Part 160 and Subparts A and E of Part 164 Subpart C to be effective 4/20/2005 (Security)</p>	As applicable	Covered Entities	As applicable	Limits uses of protected health information (PHI) collected or maintained by researchers within a covered entity or access to PHI from a covered entity. Research uses do not require Business Associate Agreements (defined at 45 CFR part 164 504 (e)(1) between collaborating institutions. Guidance available at http://privacyruleandresearch.nih.gov/
<p>2. For animals:</p> <p>a. Rules on animal acquisition, transport, care, handling, and use in: (i) 9 CFR Parts 1-4, Department of Agriculture rules that implement the Laboratory Animal Welfare Act of 1966 (7 US+A160C. 2131-2156). Public Health Service Agencies must follow requirements in the PHS Policy on Humane Care and Use of Laboratory Animals, which implements PL 99-158, Sec. 495.</p>	All	All	Research, experimentation, or testing involving the use of animals USDA regulations exempt birds, most rats and mice bred for research, and farm animals used for agricultural research.	Requirements flow down to subrecipients
<p>b. Rules of the Departments of Interior (50 CFR Parts 10-24) and Commerce (50 CFR Parts 217-227) implementing laws and conventions on the taking, possession, transport, purchase, sale, export, or import of wildlife and plants, including the: Endangered Species Act of 1973 (16 U.S.C. 1531-1543); Marine Mammal Protection Act (16 U.S.C. 1361-1384); Lacey Act (18 U.S.C. 42); and Convention on International Trade in Endangered Species of Wild Fauna and Flora.</p>	All	All	Activities which may involve or impact wildlife and plants.	



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National Policy Requirements Applicable to all research agencies:	Type of Award	Type of Recipient	Specific Situation	
National Security Guidelines				
By signing the agreement or accepting funds under this agreement, the recipient assures it will comply with the following requirements:				
<p>1. Executive Order 13224, Blocking Property and Prohibiting Transactions with Persons who Commit, Threaten to Commit, or Support Terrorism, dated September 23, 2001. Executive Order 13224 gives the U.S. government a powerful tool to impede terrorist funding and is part of our national commitment to lead the international effort to bring a halt to the evil of terrorist activity. President Bush issued Executive Order 13224 pursuant to the authorities of the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)(IEEPA), the National Emergencies Act (50 U.S.C. 1601 et seq.), section 5 of the United Nations Participation Act of 1945, as amended (22 U.S.C. 287c)(UNPA), and section 301 of title 3, United States Code.</p>	All		<p>In general terms, the Order provides a means by which to disrupt the financial support network for terrorists and terrorist organizations by authorizing the U.S. government to designate and block the assets of foreign individuals and entities that commit, or pose a significant risk of committing, acts of terrorism. In addition, because of the pervasiveness and expansiveness of the financial foundations of foreign terrorists, the Order authorizes the U.S. government to block the assets of individuals and entities that provide support, services, or assistance to, or otherwise associate with, terrorists and terrorist organizations designated under the Order, as well as their subsidiaries, front organizations, agents, and associates.</p>	



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National Policy Requirements Applicable to all research agencies:	Type of Award	Type of Recipient	Specific Situation	
2. Select Agents and Toxins P.L. 107-188: Public Health Security & Bioterrorism Preparedness Response Act of 2002, Title II sections 201-231 P.L. 107-56 The USA Patriot Act of 2001 Section 175b www.cdc.gov/od/sap Codified by the: HHS at 42 CFR Pt 73 USDA at 7 CFR 331 and 9 CFR 121 See also 15 CFR Chapter 7 for Export Administration Regulations (EAR) www.bxa.doc.gov and 49 CFR Pts 171 - 180 for transportation requirements	As applicable	All	Research with or storage of Select Agents and Toxins	Institution must be registered with CDC and or USDA prior to beginning work with agents. Investigator must be licensed prior to beginning work. NIH Term of Award includes notice that registration must be complete before using NIH funds and that no funds may be used for Select Agent Research if certification is denied. USDA inserts a term indicating that the grantee has primary responsibility for complying with Title II of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002, Public Law 107-188, and the regulations promulgated thereunder in 7 CFR Part 331, 9 CFR Part 121, and 42 CFR Part 72. For guidance on a biosecurity plan that includes physical security of facilities and access controls to prevent unauthorized entries see Departmental Manual 9610-1, USDA Security Policies and Procedures for Biosafety Level-3 Facilities (available via http://www.usda.gov/directives/index.html) Other State and Local regulations may apply
3. Executive Order 13526 Classified National Security Information: prescribes a uniform system for classifying, safeguarding, and declassifying national security information, including information relating to defense against transnational terrorism.	All			
Nondiscrimination				
By signing or accepting funds under the agreement, the recipient agrees that it will comply with applicable provisions of the following, national policies prohibiting discrimination:				
a. On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et seq.), as implemented by: NSF at 45 CFR Part 611	Grants, cooperative agreements, and other financial assistance	All	All	The following regulations require the recipient to flow down requirements to subrecipients. NSF at 45 CFR Part 611 NASA at 14 CFR Part 1250 DOE at 10 CFR Part 1040 EPA at 40 CFR Parts 7 and 12 USDA at 7 CFR Part 15 DOC at 15 CFR Part 8 HHS at 45 CFR Part 80 & 81
b. On the basis of race, color, religion, sex, or national origin, in Executive Order 11246 [3 CFR, 1964-1965 Comp., p. 339], as implemented by Department of Labor regulations at 41 CFR Part 60. EPA at 40 CFR Parts 7 and 12	Grants, cooperative agreements, and other prime awards defined at 40 CFR 60-1.3 as "Federally assisted construction contract."	All	Awards under which construction is to be done.	41 CFR 60-1.4(b) prescribes a clause that recipients must include in federally assisted, construction awards and subawards [60-1.4(d) allows incorporation by reference]. This requirement also is at: 32 CFR 33.36(l) (3) and at paragraphs 1. of Appendices A to 32 CFR Part 32 and 32 CFR Part 34.



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National Policy Requirements Applicable to all research agencies:				
c. On the basis of sex or blindness, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681, et seq.).	Grants, cooperative agreements, and other financial assistance included at 20 U.S.C. 1682.	Educational institution [for sex discrimination, excepts all Institution controlled by religious organization, when inconsistent with the organization's religious tenets].	All educational program or activity receiving Federal financial assistance.	
d. On the basis of age, in the Age Discrimination Act of 1975 (42 U.S.C. 6101, et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90. NSF at 45 CFR Part 617	Grants, cooperative agreements, and other awards defined at 45 CFR 90.4 as "Federal financial assistance."	All	All	45 CFR 90.4 requires the recipient to flow down requirements to subrecipients [definition of "recipient" at 45 CFR 90.4 includes entities to which assistance is extended indirectly, through another recipient].
e. On the basis of handicap, in: 1. Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR Part 41 and NSF at 45 CFR Part 605	Grants, cooperative agreements, and other awards included in "Federal financial assistance"	All	All	Requirements flow down to subawards ["recipient," includes entities receiving assistance indirectly through other recipients].
2. The Architectural Barriers Act of 1968 (42 U.S.C. 4151, et seq.).	Grant or loan	All	Construction or alteration of buildings or facilities, except those restricted to use only by able-bodied uniformed personnel.	
3. Americans with Disabilities Act 42 USC 12101 et. seq	All	All		

