

**U. S. ARMY MEDICAL RESEARCH ACQUISITION ACTIVITY (USAMRAA)
GENERAL TERMS AND CONDITIONS FOR ASSISTANCE AGREEMENTS
WITH FOR-PROFIT ORGANIZATIONS
Effective April 1, 2012**

The following terms and conditions apply to all assistance agreements (grants and cooperative agreements) issued on or after April 1, 2012 to for-profit organizations.

1. REQUIREMENTS INCORPORATED BY REFERENCE

The following requirements are incorporated by reference with the same force and effect as if they were included in full text:

- a. The Department of Defense Grant and Agreement Regulations (DODGARs), 3210.6-R, Part 34, "Administrative Requirements for Grants and Agreements with For-Profit Organizations."
(<http://www.dtic.mil/whs/directives/corres/pdf/321006r34p.pdf>)
- b. The National Policy Requirements of DODGARs, Appendix B to Part 22,
(<http://www.dtic.mil/whs/directives/corres/pdf/321006r34p.pdf>).
- c. The DODGARs Part 1125, "Nonprocurement Debarment and Suspension."
(<http://www.dtic.mil/whs/directives/corres/pdf/321006r1125p.pdf>)

Portions of the requirements of the DODGARs are emphasized below.

2. REVISION OF BUDGET AND PROGRAM PLANS

All prior approvals required by DODGARs Part 34.15 are waived except those required below. Recipients shall request prior written approval from the USAMRAA Grants Officer for:

- (a) Change in the scope or the objectives of the project as stated in the approved Statement of Work or approved modifications thereto, such as a change in the phenomenon(a) under study, even if there is no associated budget revision.
- (b) Change in approved protocols and consent forms involving the use of animals or human subjects.
- (c) The need for additional Federal funding.
- (d) Change in the principal investigator (PI) or change in any key personnel specified in the award document.
- (e) The absence for more than 3 months, or a 25 percent reduction in time devoted to the project, by the approved PI or any key personnel specified in the award document.
- (f) The inclusion of pre-award costs.
- (g) Change in Performance Period. Before initiating a one-time, no-cost extension in accordance with the DODGARs Part 34.15(c)(2)(v), a recipient must be in compliance with the terms and conditions of the award. The recipient shall notify the USAMRAA Grants Officer or Grants/Contract Specialist in writing with the supporting reasons and revised expiration date at least 10 days before the expiration date

specified in the award document. This one-time extension shall not be exercised merely for the purpose of using unobligated balances. An official modification to the award document must be issued by the USAMRAA Grants Officer to extend the period of performance.

(h) The subaward, transfer, or contracting out of any work not approved under the original award. This provision does not apply to the purchase of supplies, materials, equipment, or general support services, except that procurement of equipment or other capital items of property always is subject to the USAMRAA Grants Officer's prior approval under DODGARs Part 34.21(a) or DODGARs Part 34.13(a)(7).

(i) Expenditures for individual items of general-purpose equipment and specific-purpose equipment, costing \$5,000 or more, unless identified in the budget that is incorporated as part of the award.

(j) The transfer of funds among direct cost categories, functions and activities for awards in which the Federal share of the project exceeds \$100,000 and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by the USAMRAA Grants Officer. A transfer that would cause any Federal appropriation or part thereof to be used for purposes other than those consistent with the original intent of the appropriation is prohibited.

3. AUDITS

Any recipient that expends \$500,000 or more in a year under Federal awards shall have an audit made by an independent auditor in accordance with the requirements of DODGARs Part 34.16. The recipient shall make the auditor's report available upon request.

4. FEE AND PROFIT

In accordance with 32 CFR 22.205(b), fee or profit is not an allowable cost for the recipient, subrecipient, or subcontractor.

5. TITLE TO REAL PROPERTY AND EQUIPMENT

The purchase of real property or equipment acquired in whole or in part with Federal funds requires prior approval of the USAMRAA Grants Officer. Title to real property or equipment shall vest in the recipient upon acquisition, subject to the conditions of DODGARs Part 34.21. The standards for management, use, and disposition are subject to the requirements of DODGARs Part 34.21.

6. FEDERALLY OWNED PROPERTY

Title to Federally owned property remains vested in the Federal Government. The standards for management, use, and disposition are subject to the requirements of DODGARs Part 34.22.

7. PROPERTY MANAGEMENT SYSTEM

The recipient's property management system is subject to the requirements of DODGARs Part 34.23.

8. SUPPLIES

Title and use of supplies are subject to the requirements of DODGARs Part 34.24.

9. INTELLECTUAL PROPERTY DEVELOPED OR PRODUCED UNDER THE AWARD

Rights in technical data, patents, inventions, and computer software are subject to the requirements of DODGARs Part 34.25.

10. MONITORING AND REPORTING PROGRAM PERFORMANCE

Publication. The recipient is encouraged to publish results of the research, unless classified, in appropriate media. One copy of each paper planned for publication shall be submitted to the technical representative simultaneously with its submission for publication. Copies of all publications resulting from the research shall be forwarded to the USAMRAA Grants Officer or Contract/Grants Specialist as they become available, even though publication may in fact occur subsequent to the termination date of the award.

Acknowledgment. The recipient agrees that in the release of information relating to this award such release shall include statements to the effect that the project or effort depicted was sponsored by the U.S. Army Medical Research and Materiel Command and shall include:

- a. The Award Number;
- b. "The U.S. Army Medical Research Acquisition Activity, 820 Chandler Street, Fort Detrick MD 21702-5014 is the awarding and administering acquisition office." and;
- c. A statement that the content of the information does not necessarily reflect the position or the policy of the Government, and no official endorsement should be inferred. For purposes of this article, information includes news releases, articles, manuscripts, brochures, advertisements, still and motion pictures, speeches, trade association proceedings, etc.

Public release. Prior to release to the public, the recipient shall notify the USAMRAA Grants Officer and the Grants Officer's Representative (GOR) of the following: planned news releases, planned publicity, advertising material concerning grant/cooperative agreement work, and planned presentations to scientific meetings. This provision is not intended to restrict dissemination of research information; the purpose is to inform the U.S. Army Medical Research and Materiel Command (USAMRMC) of planned public release of information on USAMRMC funded research, in order to adequately respond to inquiries and to be alert to the possibility of inadvertent release of information which could be taken out of context.

Laboratory animals. If the research involves the use of laboratory animals, the recipient must include the following statement in any publication resulting from the research: "Research was conducted in compliance with the Animal Welfare Act Regulations and other Federal statutes relating to animals and experiments involving animals and adheres to the principles set forth in the Guide for Care and Use of Laboratory Animals, National Research Council."

Technical report. The final technical report, in accordance with DODGARs Part 32.51, is due 90 calendar days after the expiration or termination of the award, unless the award-specific terms and conditions state that a final report is not required.

Site visits. The USAMRAA Grants Officer, or authorized representative, has the right to make site visits to review project accomplishments and to provide such technical assistance as may be required. If any site visit is made by the Government representative on the premises of the recipient or subrecipient, the recipient shall provide, and shall require its subrecipients to provide, all reasonable facilities and assistance for the safety and convenience of the Government representatives in the performance of their duties. All site visits and evaluations will be performed in such a manner as will not unduly interfere with or delay the work.

11. TERMINATION AND ENFORCEMENT

The USAMRAA Grants Officer may terminate or suspend, in whole or in part, this agreement by written notice to the recipient upon a finding that the recipient materially fails to comply with the terms and conditions of this agreement, if the recipient materially changes the objective of the agreement, or if appropriated funds are not available to support the program. However, the USAMRAA Grants Officer may immediately suspend or terminate the award without prior notice when such action is necessary to protect the interests of the Government.

No costs incurred during a suspension period or after the effective date of a termination will be allowable, except those costs which, in the opinion of the USAMRAA Grants Officer, the recipient could not reasonably avoid or eliminate, or which were otherwise authorized by the suspension or termination notice, provided such costs would otherwise be allowable under the terms of the award and the applicable Federal cost principles. In no event will the total of payments under a terminated award exceed the amount obligated in the award.

12. DISPUTES AND APPEALS

The procedures of 32 CFR 22.815 govern for processing recipient claims and disputes and for deciding appeals of USAMRAA Grants Officers' decisions.

Disagreements regarding issues concerning assistance agreements between the recipient and the USAMRAA Grants Officer shall, to the maximum extent possible, be resolved by negotiation and mutual agreement at the USAMRAA Grants Officer level. If agreement cannot be reached, it is our policy to use Alternative Dispute Resolution (ADR) procedures that may either be agreed upon by the Government and the recipient in advance of the award or may be agreed upon at the time the parties determine to use ADR procedures. If the parties cannot agree on the use of ADR procedures, the recipient can submit, in writing, a disputed claim or issue to the USAMRAA Grants Officer. The USAMRAA Grants Officer will consider the claim or disputed issue and prepare a written decision within 60 calendar days of receipt. The USAMRAA Grants Officer's decision will be final. The recipient may appeal the decision within 90 calendar days after receipt of such notification.

Appeals of a USAMRAA Grants Officer's decision will be resolved by the Head of the Contracting Activity. The decision by the Head of the Contracting Activity will be final and not subject to further administrative appeal. However, the recipient does not waive any legal remedy, such as formal claims, under Title 28 United State Code 1491, by agreeing to such provision.

The enforcement remedies identified in this section, including suspension and termination, do not preclude a recipient from being subject to debarment and suspension under 2 CFR Part 1125.

13. TRAFFICKING VICTIMS PROTECTION ACT

Trafficking in persons.

a. Provisions applicable to a recipient that is a private entity.

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—

i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;

ii. Procure a commercial sex act during the period of time that award is in effect; or

iii. Use forced labor in the performance of the award or subawards under the award.

2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity—

i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or

ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—

A. Associated with performance under this award; or

B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR part 1125.

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;

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 at 2 CFR part 1125.

c. Provision applicable to any recipient.

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.

2. Our right to terminate unilaterally that is described in paragraph a.2. or b. of this section:

i. Implements section 106(g) of the Trafficking Victims

Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and

ii. Is in addition to all other remedies for noncompliance that are available to us under this award.

3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. Definitions. For the purpose of this award term:

1. "Employee" means either:

i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or

ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

3. "Private entity" means:

i. Any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.

ii. Includes:

A. A 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 CFR 175.25(b).

B. A for-profit organization.

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

14. REQUIREMENTS FOR FEDERAL FUNDING ACCOUNTABILITY AND TRANSPARENCY ACT IMPLEMENTATION

Reference 2 CFR part 170, Appendix A to Part 170.

I. Reporting Subawards and Executive Compensation

A. Reporting of first-tier subawards.

1. Applicability. Unless you are exempt as provided in paragraph D. of this award term, you must report each action that 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. You must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrc.gov>.

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

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

B. Reporting Total Compensation of Recipient Executives.

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

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

ii. in the preceding fiscal year, you received—

(A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and 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/excomp.htm>.)

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

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

C. Reporting of Total Compensation of Subrecipient Executives.

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

- i. in the subrecipient's preceding fiscal year, the subrecipient received--
 - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

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

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

- i. To the recipient.
- ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

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

- 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 you received this award and that you as the recipient award to an eligible subrecipient.

ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 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 you or a subrecipient considers a contract.

4. Subrecipient means an entity that:

i. Receives a subaward from you (the recipient) under this award; and

ii. Is accountable to you for the use of the Federal funds provided by the subaward.

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.

15. FINANCIAL ASSISTANCE USE OF UNIVERSAL IDENTIFIER AND CENTRAL CONTRACTOR REGISTRATION

Reference 2 CFR part 25, Appendix A to Part 25.

I. Central Contractor Registration and Universal Identifier Requirements

A. Requirement for Central Contractor Registration (CCR). Unless you are exempted from this

requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the CCR until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

B. Requirement for Data Universal Numbering System (DUNS) Numbers. If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.
2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

C. Definitions. For purposes of this award term:

1. Central Contractor Registration (CCR) 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 CCR Internet site (currently at <http://www.ccr.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:

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

4. Subaward:

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

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

c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

5. Subrecipient means an entity that:

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