PROFESSIONAL SERVICES AGREEMENT

1. **Term.** The effective date of this Professional Services Agreement (this "Agreement") is **May 24, 2019.** The termination date is **December 31st, 2020,** unless other modified, or terminated in accordance with this Agreement. All services must be provided, and all expenses must be incurred within the Term of this Agreement.

2. **Funding Source.** Funding for this Agreement is made available by the U.S. Department of Commerce – EDA’s Economic Adjustment Assistance Program, Grant ID Number 01-79-14809, hereafter referred to as the “Funding Source”.

3. **Parties.** The parties to this Agreement are **Foundation for Puerto Rico, Inc.,** a Non-for-Profit Corporation ("CLIENT"), represented by Annie Mayol, President & COO and the undersigned contractor, **StreetSense Consulting, LLC,** authorized to work in Puerto Rico and based in Bethesda, Maryland ("Contractor"), represented by Leigh Ann Schultz, Chief Financial Officer.

4. **Purpose.** This Agreement sets forth the terms and conditions under which Contractor will perform for CLIENT the services set forth on attached Exhibit A (the "Services"). Contractor will work with and under the direction of CLIENT to satisfy the requirements outlined in Exhibit A, subject to the terms and conditions of this Agreement, and any applicable federal laws pertaining to the above identified Grant or Granting Agency.

5. **Independent Contractor.** Contractor's relationship to CLIENT is strictly as an independent contractor and not as an employee. The independent contractor relationship adheres and is in conformance to the required criteria established under Act No. 4, of January 26, 2017. As an independent contractor, he/she is not eligible for, and will not participate in, any benefit, program, plan or compensation arrangement designed for CLIENT's employees. For example, but without limitation, Contractor is not eligible for any CLIENT pension, bonus, profit sharing, retirement plan, deferred compensation plan, vacation, sick pay, paid leave of absence or insurance coverage. In keeping with Contractor's status as an independent contractor, CLIENT will not (a) withhold any portion of Contractor's compensation beyond that required by law for contractors for any taxing authority; (b) carry worker's compensation insurance for Contractor's benefit; (c) withhold the social security tax (FICA) from amounts paid to Contractor; or (d) pay federal or state unemployment taxes (FUTA or SUTA) with regard to Contractor payable fee for service.

6. **Contractor's Work for CLIENT.** Contractor will give time and attention to the Services to the extent necessary to perform the Services consistent with the skill and care ordinarily provided by consultants practicing in the same or similar locality under the same or similar circumstances. Contractor has no authority to act for or on behalf of CLIENT or to bind CLIENT without CLIENT's express written consent. Contractor agrees that this is a personal services contract, and the rights and obligations hereunder may not be assigned or delegated without the prior written consent of the CLIENT. Contractor shall not, under any circumstance, subcontract any of its responsibilities
under this Agreement without the prior written approval of CLIENT; doing so may warrant termination of service for cause, as specified in Section 15, herein. CLIENT acknowledges that Contractor plans to work with subcontractors in the provision of the Services, as further set forth in the Scope of Work hereunder. The Contractor will, at no cost to CLIENT, promptly and satisfactorily correct any Services found to be not in conformity with the requirements of this Agreement and the Scope of Work.


(a) CLIENT may at any time, in a written directive or order, reduce the tasks and/or the scope or definition of the Services. Such reduction in the tasks or scope shall result in a corresponding reduction in the compensation for the Services in such amount as is reasonably agreed upon by the CLIENT and the Contractor.

(b) CLIENT also may at any time request changes to the scope or definition of the Services to increase the tasks and/or requirements.

(c) If any such change requires an increase or decrease in the cost, or in the time required for the performance, of any part of the Services, or otherwise affects any other provision of this Agreement, the Contractor shall evaluate each such request as soon as possible (and in no event later than fifteen (15) days from the date of receipt of such written directive, order or request, or other time period mutually agreed upon in writing by the parties) and provide a written estimate of any required increase or decrease in the cost of, or in the time required for, the performance of any part of the Services (an “Estimate”).

(d) No change in scope shall be implemented without the express written authorization from CLIENT, and so long as Contractor has provided the aforementioned Estimate to CLIENT in a timely manner, Contractor shall not be obligated to perform under any written directive or order unless CLIENT has agreed in writing to Contractor’s Estimate (or other terms as mutually agreed upon by the parties in writing).

(e) If Contractor has failed to timely provide an Estimate to CLIENT, CLIENT may elect to (i) terminate this Agreement for cause in accordance with the provisions of Section 15 of this Agreement; provided, however that Contractor shall be paid all undisputed fees and expenses due for work completed prior to the date of termination hereof.

8. Contractor to Provide Equipment. The parties agree that Contractor shall furnish all consents, licenses, equipment, software and supplies necessary to perform the Services, at Contractor’s sole cost, except as otherwise specifically set forth in the Scope of Work or agreed in writing by the Contractor and CLIENT.
9. **Key Personnel.** The parties hereto acknowledge and agree that the services of the individuals specifically identified as key personnel in the Scope of Work (collectively "Key Personnel") to perform Services as described therein, are unique and that CLIENT has entered into this Agreement and on the condition that such Key Personnel's services be made available to CLIENT as described herein and the Scope of Work. Contractor shall ensure that such Key Personnel are not removed or reassigned during the term of this Agreement. In the event that any Key Personnel are removed or reassigned from direct active participation in the Services or otherwise unavailable to participate in the Services, CLIENT shall have the right to interview and approve any substitute Key Personnel (which approval may be withheld by CLIENT in its sole discretion) and the right to terminate this Agreement (in whole or in part) with no further obligation to the Contractor hereunder (except for fees and expenses incurred prior to such termination) in the event that CLIENT does not approve the replacement or substitution for any Key Personnel. The Contractor shall assure that such Key Personnel shall devote such time, attention and energy to the business and affairs of CLIENT as reasonably requested by CLIENT, and in any event, not less than the amount of time specified in the Scope of Work and as otherwise required to complete the Services timely. Failure of Key Personnel to provide Services hereunder shall entitle CLIENT to terminate this Agreement, in whole or in part, upon ten (10) business days’ notice.

10. **Payments.** During the term of this Agreement, the CLIENT agrees to pay the Contractor the amount set forth in Exhibit B. Payment will be made upon receipt and acceptance of Contractor’s monthly invoices, subject to Payment & Deliverables Schedule outlined in Exhibit A. In no event shall the amount of this Agreement, inclusive of professional fees, travel expenses and incidental administrative expenses exceed **$800,219.00** without the express written consent of CLIENT. CLIENT’s obligation to pay Contractor shall not be contingent on the performance of any party other than Contractor.

11. **Expenses.** Unless otherwise specifically set forth in the Scope of Work or otherwise approved in advance in writing, the Contractor shall bear all its own expenses arising from the performance of its obligations under this Agreement. If pursuant to the Scope of Work CLIENT is to reimburse certain expenses of the Contractor, as it relates to travel expenses, third party supplier/vendor costs, and coordination of meetings and activities on behalf of CLIENT, such expenses shall be invoiced separately. The Contractor must provide sufficient documentation to substantiate such expenses (as determined by CLIENT), and such expenses shall not include any mark-up by Contractor unless specifically authorized under the Scope of Work. Authorized expenses shall be paid within thirty (30) days of invoicing.

12. **Taxes.** Contractor acknowledges and agrees that it has sole responsibility and liability for any and all taxes (including any applicable sales and use taxes), contributions, penalties, interest, levies, duties, assessments or other sums arising out of the fees and/or expenses paid pursuant to this Agreement and applicable by law in connection with the Services and hereby indemnifies and hold harmless CLIENT from any liability or obligation that may become due on account of any non-payment of all such taxes, levies, duties and assessments. Notwithstanding the foregoing, the Parties hereby
agree that CLIENT shall retain and submit to the Puerto Rico Department of the Treasury all amounts required to be retained pursuant to the Puerto Rico Internal Revenue Code of 2011, as amended. The CLIENT will also notify the Secretary of the Treasury of all payments and reimbursements to Contractor hereunder and the applicable withholdings.

13. Intellectual Property and Rights to Work Product. The following provisions govern the rights and duties of the parties with regard to intellectual property and the materials, products, trainings, documentation and/or other deliverables, as applicable, produced by Contractor pursuant to the Scope of Work (collectively, the “Work Product”):

(a) Upon payment hereunder, including any periodic payments, CLIENT may copyright any Work Product that is subject to copyright and was developed by Contractor under the terms of this Agreement. CLIENT reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for purposes consistent with this Agreement, and to authorize others to do so. CLIENT acknowledges that Contractor has the right to, and may have, relied on data and information from certain sources for which Contractor has a license to utilize and/or which have been prepared by third party sources. Notwithstanding anything set forth in this subsection 13(a), CLIENT shall not have the right to copyright such information or data which is not owned by Contractor or originally produced by Contractor as part of its Work Product hereunder.

Further notwithstanding anything set forth herein, the parties acknowledge and agree that Contractor shall retain ownership of the copyright in and to all preexisting materials, proprietary methodologies and other creative tangible forms of expression created or owned by Contractor prior to the date of this Agreement and used in connection with the Project and/or incorporated into the Work Product (the “Preexisting Materials”). To the extent necessary, Consultant agrees to grant CLIENT a perpetual, royalty-free, non-exclusive and non-transferable right and license to use the Preexisting Materials in connection with the Work in order to complete the Project, and only for the purpose that such materials were created for with the Project.

(b) Upon payment hereunder, including any periodic payments, CLIENT will have the right to edit, revise and adapt the Work Product and to cause others to edit, revise and adapt the Materials, Products and/or Trainings as CLIENT may deem appropriate; provided, however, that CLIENT acknowledges that the Work Product prepared by Contractor hereunder is intended for use solely for this Project and may be unsuitable for use for other projects. In the event that CLIENT modifies, edits, revises and/or adapts Contractor’s Work Product and/or uses such Work Product for any other purpose or project not contemplated hereunder, CLIENT hereby releases Contractor and its subconsultants, as applicable, from all claims and causes of action arising from such unauthorized use or modification and shall, to the extent permitted
by law, indemnify, defend, and hold harmless Contractor, its subconsultants, and their respective officers, directors, shareholders, agents, employees, successors and assigns from and against any and all claims, damages, suits, judgments, costs, and expenses (including reasonable attorneys' fees, court and expert costs) arising out of or resulting from CLIENT's unauthorized use or modification of Contractor's Work Product.

(c) CLIENT may, but is not required to, identify and credit Contractor as author or presenter of the Materials, Products and/or Trainings resulting from the Work Product. CLIENT may film, videotape, photograph and record Contractor in connection with delivery and presentation of the materials and/or trainings, and use or authorize the use of Contractor's name, likeness and/or pertinent biographical material in connection with the promotion and/or delivery of any work containing all or part of the materials and/or the trainings. Contractor may use and distribute such work as part of its portfolio for promotional purposes.

(d) Contractor hereby represents to CLIENT that the Work Product is original work produced by Contractor; provided, however, that as set forth in subsection 13(a) above, CLIENT acknowledges that Contractor has the right to, and may have, relied on data and information from certain sources for which Contractor has a license to utilize and/or which have been prepared by third party sources. Notwithstanding anything set forth in this subsection 13(d) or 13(a) above, CLIENT shall not have the right to copyright such information or data which is not owned by Contractor or originally produced by Contractor as part of its Work Product hereunder.

14. Confidential Business Information. Both parties acknowledge that, in the course of performing under this Agreement, each party may learn of or receive confidential, trade secret, or other proprietary information concerning the other party or third parties to whom the other party has an obligation of confidentiality ("Confidential Business Information"). Each party agrees to protect the confidentiality of the other party's Confidential Business Information. Each party agrees to take at least such precautions to protect the other party's Confidential Business Information as it takes to protect its own Confidential Business Information. The parties agree not to utilize or to disclose to any third party any Confidential Business Information belonging to the other party other than as expressly permitted by this Agreement or otherwise expressly permitted in writing. Each party retains sole ownership of its own Confidential Business Information. For the purposes of this Agreement, Confidential Business Information does not include (i) information known to the receiving party prior to receipt from the disclosing party; (ii) information that is or lawfully becomes generally available to the public; (iii) information that is lawfully acquired from a third party who has a right to disclose such information; (iv) information released from a confidential status by written agreement of the parties; (v) information that the receiving party is required by law to release, provided if legally permissible, the disclosing party is given prior written notice of such requirement; and/or (vi) information that is independently developed by the receiving party without use of the other party's Confidential Business Information. This
Section survives any termination of this Agreement for a period of two years from the date of termination of the Agreement or completion of the Services. Notwithstanding anything in this Agreement to the contrary, Contractor will be permitted to retain one (1) copy of all materials received from CLIENT, subject to continued compliance with the foregoing confidentiality obligations, allowing Contractor to comply with its professional recordkeeping requirements.

15. **Termination of Agreement.** Unless extended by a written agreement of the parties, this Agreement terminates on December 31st, 2020 unless it is sooner terminated by Contractor or by CLIENT, with or without cause, for any reason or no reason, upon (30) thirty days’ prior written notice. Prior written notice is not required if a party terminates this Agreement based on the other party’s material breach of this Agreement or based on any other cause which the terminating party deems to be a reasonable exercise of discretion which is incompatible with a thirty-day continuation of the Agreement. Such other causes include, without limitation, subcontracting services to be rendered under this agreement, negligence, a deliberately wrongful act, theft of property, dishonesty, and/or the commission of a felony. Absent a material breach of this Agreement or failure to comply with the provisions of Exhibit D, Contractor shall be paid for all Services performed prior to the date of termination of this Agreement.

16. **Indemnification.** CLIENT is responsible to Contractor for CLIENT’s own negligent acts, or deliberately wrongful acts or omissions, and CLIENT will hold Contractor harmless from the consequences of CLIENT’s negligent acts, or deliberately wrongful acts or omissions. Similarly, Contractor is responsible to CLIENT for Contractor’s own negligent acts, or deliberately wrongful acts or omissions, and Contractor will hold CLIENT harmless from the consequences of Contractor’s negligent acts, or deliberately wrongful acts or omissions. To the fullest extent permitted by law, the total liability, in the aggregate, of Contractor and Contractor’s officers, directors, employees, and subconsultants, to the Indemnitees for any and all claims arising out of, resulting from, or in any way related to, the Project or this Agreement shall be limited to the contract value hereof except in the case of a deliberately wrongful act, theft of property, dishonesty, and/or the commission of a felony. Absent a material breach of this Agreement or failure to comply with the provisions of Exhibit D, Contractor shall be paid for all Services performed prior to the date of termination of this Agreement.

17. **Federal Provisions.** Contractor acknowledges that CLIENT shall pay for the Services in part with funds made available through a grant issued by the Economic Development Administration, which forms part of the Department of Commerce of the United States. Accordingly, Provider agrees that it shall abide at all times with the provisions set forth in Exhibit D hereto, compliance with which, to the extent applicable to the Services, is required in connection with contracts paid for in whole or in party with funding provided by the Economic Development Administration.

18. **Employee Solicitation.** Without the prior written consent of the other party, during the period beginning on the effective date of this Agreement and ending one year after the termination of this Agreement, neither party will directly or indirectly hire, attempt to hire, enter into a contract with, employ, retain, or otherwise engage the
services of any person or entity known by the hiring party to be an employee of the other party or its representatives. Notwithstanding the foregoing, this provision shall not apply if such person has been dismissed or resigned, or such person initiates contact without prior solicitation or such person responds to general solicitations of employment, such as general advertisements.

19. Third Party Disputes and Document Preservation. If a party becomes involved (whether or not as a litigant or named party) in a dispute (including audits or investigations) between the other party and a third party (including a governmental entity), or if a party is asked by the other party to preserve records relating to the Services or this Agreement (including where a party is asked to preserve documents, electronically stored information, back-up or other media beyond its standard recycling or retention protocol) beyond any requirement of this Agreement, these additional services will be documented in a statement of work. However, if no statement of work or other agreement is reached on these additional services, the requesting party agrees to pay the other party at the other party's then current standard rates for all the other party's time spent, and will reimburse the other party for all reasonable expenses incurred by the other party, in connection with such dispute or such documentation preservation request, up to an aggregate limit of $10,000. The other party will reimburse such payments in the event and to the extent such request or dispute is finally determined by a court to have resulted primarily from the other party's negligence, willfulness conduct, or fraud.

20. Disputes. The Parties hereby consent and agree that in the unlikely event that any of the parties has to file suit in connection with any part of this Agreement, such action will only be filed and pursued at the Court of First Instance of Puerto Rico or the United States District Court for the District of Puerto Rico.

21. Warranty of Performance. Contractor warrants that the Services will be performed in a workmanlike manner in conformance with generally accepted professional and industry standards, and that all materials and other products delivered and Services performed will materially comply with the requirements of this Agreement, any attached exhibits and all applicable federal, state, and local laws and regulations. Contractor represents and warrants that it has all of the necessary facilities and qualified resources to provide the Services in accordance with the terms of this Agreement. Conversely, completion of the agreed-upon Services (ref. Appendix A) and each of its discrete deliverables, milestones, reports, etc. is contingent upon the timely, effective and complete fulfillment of its obligations by CLIENT. No liability, damages, penalty or default of any sort shall be attributed to Contractor without the fulfillment of these obligations by CLIENT in a manner that is timely, effective and satisfactory to both Parties.

22. Licenses, Laws, and Regulations. Contractor will maintain applicable federal, state, and local licenses, certifications, and permits, without restriction, required to render the Services. Contractor will notify CLIENT in writing within 10 days of any suspension, revocation, condition, limitation, qualification, or other restriction on Contractor's licenses, certifications, or permits that in any way affect the provision of
Services described in this Agreement. Upon CLIENT's request, Contractor will provide CLIENT copies and evidence of all applicable licenses and required documentation that enables the operation of the business.

23. **Assignment.** Neither party may assign this Agreement without the prior written consent of the other party. If a party's name and/or ownership changes as the result of sale, merger, or acquisition, such a change will not constitute an assignment for purposes of this Agreement.

24. **Severability.** If a provision, term, word, phrase, clause or sentence of this Agreement is found to be illegal or unenforceable for any reason, such provision, term, word, phrase, clause or sentence shall be modified, deleted or interpreted in such a manner as to afford the party for whose benefit it was intended the fullest benefit that is commensurate with making the modified Agreement enforceable, and the balance of this Agreement shall not be affected thereby, the balance being construed as severable and independent.

25. **Notice.** Notice from one party to another relating to this Agreement is effective if made in writing and delivered personally to the party. Notice from one party to another relating to this Agreement is also effective if made in writing (including fax and e-mail) and delivered to the recipient's address, fax number or e-mail address by any of the following means: (a) hand delivery, (b) ordinary first class mail with postage prepaid, (c) registered or certified mail, postage prepaid, with return receipt requested, (d) first class or express mail, postage prepaid, (e) Federal Express, UPS, or like overnight courier service or (e) fax, e-mail, or other transmission with request for assurance of receipt in a manner typical with respect to communications of that type. Notice made in accordance with this section is deemed delivered on receipt if delivered by hand or wire transmission, fax, e-mail, or electronic transmission, on the third business day after mailing if mailed by first class, registered or certified mail, or on the next business day after mailing or deposit with an overnight courier service if delivered by express mail or overnight courier. The following information shall be used for notices until it is changed by using the foregoing notice procedure:

**CLIENT:**
Foundation for Puerto Rico
1500 Calle Antonsanti
Suite K – Colaboratorio
San Juan, Puerto Rico 00912
Attn: Annie Mayol

**Contractor:**
Streetense Consulting, LLC
3 Bethesda, Metro, Suite 140
Bethesda, MD 20814
Attn: Larisa Ortiz; Brian Taff
26. **Miscellaneous.** This Agreement is the complete and fully integrated agreement between the parties. This Agreement (including any schedules and exhibits) supersedes, extinguishes, and replaces all prior or contemporaneous understandings, agreements, undertakings, negotiations and discussions, whether oral or written, between the parties. The parties agree that, except for the obligations under this Agreement, they have no obligations to one another and have not relied upon any promises, representations, warranties, agreements, covenants or undertakings, other than those expressly set forth in this Agreement. Except with respect to a change in address for notices, this Agreement may not be amended except by a written document executed by both parties (for purposes of this Agreement, the word "written" will include electronic format, including electronic mail, letter by mail or hand delivered in person). This Agreement is negotiated and executed in the Puerto Rico and shall be governed by and construed in accordance with the laws of the Commonwealth of Puerto Rico, subject to all applicable federal laws and regulations. This Agreement is effective on the date specified in paragraph 1 above.

27. **Waiver of Personal Liability.** No members, directors, shareholders, partners, officers, employees, representatives, or agents of either party shall be personally liable for the satisfaction of such party's obligations under this Agreement, and the parties shall look solely to the assets of the other party for satisfaction of any claims hereunder.

[Signatures are on the following page]
CLIENT
Foundation for Puerto Rico

Dated: 8/1/19

Signature
Annie Mayol, President
Printed Name and title

CONTRACTOR
Streetsense Consulting, LLC

Dated: 8/1/19

Signature
Leigh Ann Schultz
Printed Name
Exhibit A

SCOPE OF WORK
Competitive Methods
Destination Planning Services
Bottom Up Destination Recovery Initiative -
Foundation for Puerto Rico
2019

1. Introduction
This document defines the work that the Contractor must perform as part of their Destination Planning Services under this Agreement.

The Contractor will be directly responsible for ensuring the accuracy, timeliness, and completion of all tasks assigned under this contract. The scope of work presented is based upon circumstances existing at the time of solicitation. Client reserves the right to modify or eliminate the tasks listed and, if appropriate, add additional tasks prior to and during the term of the contract.

2. Staff Requirements
The Contractor shall have or will secure, at its own expense, all personnel required in performing the services under this Agreement. Client expects the Contractor to provide competent and fully qualified staff that are authorized or permitted under federal, state, and local law to perform the scope of work under the contract. Client reserves the right to request the removal of any staff not performing to its standard. No personnel may be assigned to perform services under the Agreement without the prior written consent of Client.

3. Tasks
The Contractor will be responsible for performing the following tasks:

3.1. Preliminary Assessment
1) Background document review
   i. Assessment of the Client's current model around community destination planning, which might include interviews with Client’s research and field teams.
   ii. Review materials prepared by Bottom Up field team (and Research Team) in relation to the destination plan work.
2) Interview with local stakeholders
   i. Meeting with key stakeholders engaged with Destination Planning and investments across Puerto Rico.
   ii. Interviews with local stakeholders of each region.
3) Site visit to regions
3.2 Market Analysis

1) Physical Environment Analysis
2) Destination Drivers and Business Environment Analysis
3) Cultural and Natural Assets Analysis
4) Market and Tourism Analysis
5) Administrative Capacity Analysis

3.3 Destination Plan

1) Lead the development of the Destination Plan for the six (6) regions selected (Aguadilla/Isabela, Cabo Rojo/San Germán, Camuy/Arecibo, Barceloneta/Manatí, Utuado/Adjuntas, and Ceiba/Maunabo).
2) Preparation of Plan:
   i. Conduct site visits to collect information and meet local stakeholders.
   ii. Provide Client’s Bottom Up Field team a list of additional information required to conduct destination assessment.
   iii. Provide Client with a destination assessment report, which will include analysis of destination elements, market analysis, tourism gaps and opportunities.
   iv. Provide Client with draft of destination plan, which will include potential projects for destination growth and development, for feedback and comments from the Client’s Team.
   v. Conduct additional site visits to help identify potential destination projects.
   vi. Provide Client with a Final Destination Plan, which will include potential projects.
   vii. Projects should include cost estimate and timeline; detailed cost estimates for short term projects shall be provided by an additional third party consultant and billed as an additional scope item. Cost estimates for medium and long term projects will reflect a magnitude of cost and time. Subconsultant services covering cost estimates shall be considered additional services billed to Client at cost plus 30%. Work with Bottom Up field team to gather data and engage community stakeholders.
   viii. Provide guidance to the Client’s Bottom Up field team around progress with destination planning on each Bottom Up region (review reports, conduct conference calls with team and do four site visits for every two regions. Any additional site visits will be Additional Services at Contractor’s standard hourly rates.

3) Presentation of Final Regional Plan to the Community with input, review and approval of Client’s staff.
   i. Provide recommendations of product development, potential new experiences, image and branding for the destination.
3.4 Preparation of Communication Material

Provide image and branding recommendations and prepare communication materials for each region. Contractor should review the overall branding strategy developed by Discover Puerto Rico (local DMO) and PR’s Tourism Company, to ensure alignment in promotion and strategy.

4. Deliverables

The key deliverables to be provided include, but are not limited to, the following:

- Market Assessment Report for each region, including competitive landscape, strengths, weakness and opportunities.
- Six (6) Destination Plans for the following regions: Aguadilla/Isabela, Cabo Rojo/San Germán, Camuy/Arecibo, Barceloneta/Manatí, Utuado/Adjuntas, and Ceiba/Maunabo.

The Destination Plans shall include:
1. Market Analysis for the region.
2. Recommendations for product development, including potential new experiences.
3. Regional Communications Campaign – Image, branding and material.

5. Payment & Deliverables Schedule

August 2019
- Project kick-off and working session @ FPR (Includes background document review as part of prep work for the sessions)
- Site visit #1 regions 1 and 2 (Includes site visit prep)
- Site visit #2 for additional ‘macro’ stakeholder meetings
- Submission of the Social Media Guide for regions 1 and 2
- Site visit #3 regions 1 and 2; Present and hand-in market analysis findings to FPR, including HR&A report

September 2019
- Present results to the communities at both community meetings

November 2019
- Hand-in Inversion Cultural’s report on research, findings, and results of El Nido Cultural
- Present both drafts of Destination Plans for regions 1 and 2 to FPR

December 2019 - January 2020
- Site visit #4 regions 1 and 2: Hand-in final Destination Plans ready to be uploaded to FPR’s website (and an original editable version); should include communication tools to be distributed and hand-out materials in English and Spanish.
- Site visit #1 regions 3 and 4
January 2020
- Site visit #2 for additional 'macro' stakeholder meetings

February 2020
- Submission of the Social Media Guide for regions 3 and 4

March - April 2020
- Site visit #3 regions 3 and 4: Present and hand-in market analysis findings to FPR, including HR&A report / Present results to the communities at both community meetings (#2)

May 2020
- Hand-in Inversion Cultural’s report on research, findings, and results of El Nido Cultural
- Present both drafts (Destination Plans for regions 3 and 4) to FPR

June – July 2020
- Site visit #4 regions 3 and 4: Hand-in final Destination Plans ready to be uploaded to FPR’s website (and an original editable version); should include communication tools to be distributed and hand-out materials in English and Spanish.

July 2020
- Site visit #1 regions 5 and 6

August 2020
- Site visit #2 regions 5 and 6 for additional 'macro' stakeholder meetings
- Submission of the Social Media Guide for regions 5 and 6

September 2020
- Site visit #3 regions 5 and 6: Present and hand-in market analysis findings to FPR, including HR&A report / Present results to the communities at both community meetings (#2)

November 2020
- Hand-in Inversion Cultural’s report on research, findings, and results of El Nido Cultural
- Present both drafts (Destination Plans for regions 5 and 6) to FPR

December 2020
- Site visit #4 regions 5 and 6: Hand-in final Destination Plans, ready to be uploaded to FPR’s website; should include communication tools to be distributed.
- Final report regarding entire project (including methodology, processes, learnings, challenges, opportunities, recommendations, next steps, etc.) as closing.

The Contractor shall be responsible for completing all of the activities outlined in this Scope of Work.
Exhibit B – Budget

Payment terms shall be defined between Contractor and CLIENT upon definition of deliverables. Reimbursable budget may be increased by CLIENT through a budget amendment as needed.

**ESTIMATED COST**

The proposed scope is reflected in the following budget. Any additional tasks beyond the scope of work will be charged at staff hourly rates.

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<th>LOA Associate</th>
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**SUMMARY OF FEES**

| REGION 1 & 2: Querétaro & Guanajuato               | 266,740 | MONTHS 1-4  | $123,370 per region x 2 regions, including estimated reimbursables |
| REGION 3 & 4: Aucuba & Camuy & Marati Barcelona     | 266,740 | MONTHS 7-12 | $123,370 per region x 2 regions, including estimated reimbursables |
| REGION 5 & 6: Huatulco & Tuxpan                   | 266,740 | MONTHS 13-19 | $123,370 per region x 2 regions, including estimated reimbursables |

**TOTAL FEE** $600,219
Exhibit C: Insurance Requirements

I. INSURANCE

1. Required Coverage

The CONTRACTOR shall keep in force and effect for the period beginning from the execution of the Agreement and ending at the completion of all services to be provided hereunder, insurance policies in compliance with the Client's requirements set forth below.

   a. State Insurance Fund Workmen's Compensation Insurance Policy
   b. Public Responsibility coverage with a limit no less that $1,000,000.
   c. Employer's Liability Stop-Gap with a limit no less than $1,000,000.
   d. Vehicle Public Responsibility Policy with a limit no less than $1,000,000
      that includes Hired and Non-Auto Liability
   e. Hold Harmless Agreement
   f. Waiver of Subrogation
   g. Professional Responsibility coverage with a limit no less than $1,000,000
   h. Crime Insurance
      A. Employee Dishonesty - with a limit no less than $150,000.
      B. Forgery and Alteration - with a limit no less than $150,000.
      C. Computer Fraud - with a limit no less than $150,000.

Upon the execution of this Agreement, the CONTRACTOR shall furnish the CLIENT with a certified copies of the above-described insurance policies and any other evidence CLIENT may request as to the policies' full force and effect.

Any deductible amount, under any of the policies, will be assumed in whole by the CONTRACTOR for any and all losses, claims, expenses, suits, damages, costs, demands or liabilities, joint and several of whatever kind and nature arising from this Agreement.

The CLIENT shall not be held responsible under any circumstances for payments of any nature regarding deductibles under the policies for the aforementioned contract.

2. Endorsements

Each insurance policy maintained by the CONTRACTOR must be endorsed as follows:

   a. CLIENT and its officers, agents and employees are named as additional insured (except Worker's Compensation) but only with respect to liability arising out of tasks performed for such insured by or on behalf of the named insured.
b. To provide waiver of subrogation coverage for all insurance policies provided or herein in favor of CLIENT and its respective officers, agents and employees.

c. The insurer shall be required to give CLIENT written notice at least ninety (90) days in advance of any cancellation or material change in any such policies.

The CONTRACTOR shall furnish to CLIENT, prior to commencement of the work, certificates of insurance from insurers with a rating by the A.M. Best Co. of B or over on all policies, reflecting policies in force, and shall also provide certificates evidencing all renewals of such policies. Insurers shall retain an A.M. Best Co. rating of B or over on all policies throughout the term of this Agreement and all policy periods required herein. The insurance company must be authorized to do business in Puerto Rico and be in good standing.

NATIONAL POLICY REQUIREMENTS

.01 United States Laws and Regulations

This award is subject to the laws and regulations of the United States. The recipient must comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

.02 Non-Discrimination Requirements

No person in the United States must, on the ground of race, color, national origin, handicap, age, religion, or sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity receiving Federal financial assistance. The recipient agrees to comply with the non-discrimination requirements below:


1. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and DOC implementing regulations published at 15 C.F.R. Part 8 prohibiting discrimination on the grounds of race, color, or national origin under programs or activities receiving Federal financial assistance;

2. Title IX of the Education Amendments of 1972 (20 U.S.C. §§ 1681 et seq.) prohibiting discrimination on the basis of sex under Federally assisted education programs or activities;

3. The Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 et seq.) prohibiting discrimination on the basis of disability under programs, activities, and services provided or made available by State and local governments or instrumentalities or agencies thereto, as well as public or private entities that provide public transportation;

4. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), and DOC implementing regulations published at 15 C.F.R. Part 8b prohibiting discrimination on the basis of handicap under any program or activity receiving or benefitting from Federal assistance.

For purposes of complying with the accessibility standards set forth in 15 C.F.R. § 8b.18(c), non-federal entities must adhere to the regulations, published by the U.S. Department of Justice, implementing Title II of the Americans with Disabilities Act (ADA) (28 C.F.R. part 35; 75 FR 56164, as amended by 76 FR 13285) and Title III of the ADA (28 C.F.R. part 36; 75 FR 56164, as amended by 76 FR 13286). The
revised regulations adopted new enforceable accessibility standards called the
"2010 ADA Standards for Accessible Design" (2010 Standards), which replace
and supersede the former Uniform Federal Accessibility Standards for new
construction and alteration projects;

5. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.),
and DOC implementing regulations published at 15 C.F.R. Part 20 prohibiting
discrimination on the basis of age in programs or activities receiving Federal
financial assistance; and
6. Any other applicable non-discrimination law(s).

b. Other Provisions

1. Parts II and III of E.O. 11246 (Equal Employment Opportunity, 30 FR 12319),
which requires Federally assisted construction contracts to include the
nondiscrimination provisions of §§ 202 and 203 of E.O. 11246 and Department of
Labor regulations implementing E.O. 11246 (41 C.F.R. § 60-1.4(b)).

2. E.O. 13166 (65 FR 50121, Improving Access to Services for Persons with Limited
English Proficiency), requiring Federal agencies to examine the services provided,
identify any need for services to those with limited English proficiency (LEP), and
develop and implement a system to provide those services so LEP persons can
have meaningful access to them. The DOC issued policy guidance on March 24,
2003 (68 FR 14180) to articulate the Title VI prohibition against national origin
discrimination affecting LEP persons and to help ensure that non-Federal entities
provide meaningful access to their LEP applicants and beneficiaries.

c. Title VII Exemption for Religious Organizations

Generally, Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e et seq.,
provides that it is an unlawful employment practice for an employer to discharge
any individual or otherwise to discriminate against an individual with respect to
compensation, terms, conditions, or privileges of employment because of such
individual's race, color, religion, sex, or national origin. However, Title VII, 42 U.S.C. §
2000e-1(a), expressly exempts from the prohibition against discrimination on the
basis of religion, "a religious corporation, association, educational institution, or
society with respect to the employment of individuals of a particular religion to
perform work connected with the carrying on by such corporation, association,
educational institution, or society of its activities."

.03 LOBBYING RESTRICTIONS


Non-Federal entities must comply with 2 C.F.R. § 200.450 (Lobbying), which
incorporates the provisions of 31 U.S.C. § 1352; and OMB guidance and notices on
lobbying restrictions. In addition, non-Federal entities must comply with the DOC
regulations published at 15 C.F.R. Part 28, which implement the New Restrictions on Lobbying. These provisions prohibit the use of Federal funds for lobbying the executive or legislative branches of the Federal Government in connection with the award, and require the disclosure of the use of non-Federal funds for lobbying. Lobbying includes attempting to improperly influence, meaning any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a Federal award or regulatory matter on any basis other than the merits of the matter, either directly or indirectly. Costs incurred on to improperly influence are unallowable. See 2 C.F.R. § 200.450(b) and (c).

3 As amended by E.O. 11375 (32 FR 14303), E.O. 12086 (43 FR 46501), and E.O. 13672 (79 FR 42971).

b. Disclosure of Lobbying Activities

Any recipient that receives more than $100,000 in Federal funding and conducts lobbying with non-federal funds in connection with a covered Federal action must submit a completed Form SF-LLL (Disclosure of Lobbying Activities). The Form SF-LLL must be submitted within 30 calendar days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed. The recipient must submit any required Forms SF-LLL, including those received from subrecipients, contractors, and subcontractors, to the Grants Officer.

.04 Environmental Requirements

Environmental impacts must be considered by Federal decision makers in their decisions whether or not to approve: (1) a proposal for Federal assistance; (2) the proposal with mitigation; or (3) a different proposal having less adverse environmental impacts. Federal environmental laws require that the funding agency initiate an early planning process that considers potential impacts that projects funded with Federal assistance may have on the environment. Each non-Federal entity must comply with all environmental standards, to include those prescribed under the following statutes and E.O.s, and must identify to the awarding agency any impact the award may have on the environment. In some cases, award funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to submit additional environmental compliance information sufficient to enable the DOC to make an assessment on any impacts that a project may have on the environment.

a. The National Environmental Policy Act (42 U.S.C. §§ 4321 et seq.)

The National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) implementing regulations (40 C.F.R. Parts 1500 through 1508) require that an environmental analysis be completed for all major Federal actions to determine whether they have significant impacts on the environment. NEPA applies to the actions of Federal agencies and may include a Federal agency’s decision to fund non-Federal projects under grants and cooperative agreements when the
award activities remain subject to Federal authority and control. Non-Federal entities are required to identify to the awarding agency any direct, indirect or cumulative impact an award will have on the quality of the human environment, and assist the agency in complying with NEPA. Non-Federal entities may also be requested to assist DOC in drafting an environmental assessment or environmental impact statement if DOC determines such documentation is required, but DOC remains responsible for the sufficiency and approval of the final documentation. Until such time as the appropriate NEPA documentation is complete and in the event that any additional information is required during the period of performance to assess project environmental impacts, funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to submit the appropriate environmental information and NEPA documentation sufficient to enable DOC to make an assessment on any impacts that a project may have on the environment.


Section 106 of the National Historic Preservation Act (NHPA) (16 U.S.C. § 470I) and the Advisory Council on Historic Preservation (ACHP) implementing regulations (36 C.F.R. Part 800) require that Federal agencies take into account the effects of their undertakings on historic properties and, when appropriate, provide the ACHP with a reasonable opportunity to comment. Historic properties include but are not necessarily limited to districts, buildings, structures, sites and objects. In this connection, archeological resources and sites that may be of traditional religious and cultural importance to Federally-recognized Indian Tribes, Alaskan Native Villages and Native Hawaiian Organizations may be considered historic properties. Non-Federal entities are required to identify to the awarding agency any effects the award may have on properties included on or eligible for inclusion on the National Register of Historic Places. Non-Federal entities may also be requested to assist DOC in consulting with State or Tribal Historic Preservation Officers, ACHPs or other applicable interested parties necessary to identify, assess, and resolve adverse effects to historic properties. Until such time as the appropriate NHPA consultations and documentation are complete and in the event that any additional information is required during the period of performance in order to assess project impacts on historic properties, funds can be withheld by the Grants Officer under a specific award condition requiring the non-Federal entity to submit any information sufficient to enable DOC to make the requisite assessment under the NHPA.

c. Executive Order 11988 (Floodplain Management) and Executive Order 11990 (Protection of Wetlands)

Non-Federal entities must identify proposed actions in Federally defined floodplains and wetlands to enable DOC to make a determination whether there is an alternative to minimize any potential harm.

d. Clean Air Act (42 U.S.C. §§ 7401 et seq.), Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.) (Clean Water Act), and Executive Order 11738 ("Providing for administration of the Clean Air Act and the Federal Water Pollution Control Act with respect to Federal contracts, grants or loans")

Non-Federal entities must comply with the provisions of the Clean Air Act (42 U.S.C. §§ 7401 et seq.), Clean Water Act (33 U.S.C. §§ 1251 et seq.), and E.O. 11738 (38 FR 25161), and must not use a facility on the Environmental Protection Agency's (EPA) List of Violating Facilities (this list is incorporated into the Excluded Parties List System found at the System for Award Management (SAM) website located SAM.gov) in performing any award that is nonexempt under 2 C.F.R. § 1532, and must notify the Program Officer in writing if it intends to use a facility that is on the EPA List of Violating Facilities or knows that the facility has been recommended to be placed on the List.

e. The Flood Disaster Protection Act (42 U.S.C. §§ 4002 et seq.)

Flood insurance, when available, is required for Federally assisted construction or acquisition in flood-prone areas. Per 2 C.F.R. § 200.447(a), the cost of required flood insurance is an allowable expense, provided that it is reflected in the approved project budget.

f. The Endangered Species Act (16 U.S.C. §§ 1531 et seq.)

Non-Federal entities must identify any impact or activities that may involve a threatened or endangered species. Federal agencies have the responsibility to ensure that no adverse effects to a protected species or habitat occur from actions under Federal assistance awards and conduct the reviews required under the Endangered Species Act, as applicable.

g. The Coastal Zone Management Act (16 U.S.C. §§ 1451 et seq.)

Funded projects must be consistent with a coastal State's approved management program for the coastal zone.

h. The Coastal Barriers Resources Act (16 U.S.C. §§ 3501 et seq.)

Only in certain circumstances can Federal funding be provided for actions within a Coastal Barrier System.
i. The Wild and Scenic Rivers Act (16 U.S.C. §§ 1271 et seq.)

This Act applies to awards that may affect existing or proposed components of the National Wild and Scenic Rivers system.


This Act precludes Federal assistance for any project that the EPA determines may contaminate a sole source aquifer so as to threaten public health.

k. The Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.)

This Act regulates the generation, transportation, treatment, and disposal of hazardous wastes, and also provides that non-Federal entities give preference in their procurement programs to the purchase of recycled products pursuant to EPA guidelines.


These requirements address responsibilities related to hazardous substance releases, threatened releases and environmental cleanup. There are also reporting and community involvement requirements designed to ensure disclosure of the release or disposal of regulated substances and cleanup of hazards to state and local emergency responders.

m. Executive Order 12898 (“Environmental Justice in Minority Populations and Low Income Populations”)

Federal agencies are required to identify and address the disproportionately high and adverse human health or environmental effects of Federal programs, policies, and activities on low income and minority populations.

n. The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. § 1801 et seq.)

Non-Federal entities must identify to DOC any effects the award may have on essential fish habitat (EFH). Federal agencies which fund, permit, or carry out activities that may adversely impact EFH are required to consult with the National Marine Fisheries Service (NMFS) regarding the potential effects of their actions, and respond in writing to NMFS recommendations. These recommendations may include measures to avoid, minimize, mitigate, or otherwise offset adverse effects on EFH. In addition, NMFS is required to comment on any state agency activities that would impact EFH. Provided the specifications outlined in the regulations are met, EFH consultations will be incorporated into interagency procedures previously
established under NEPA, the ESA, Clean Water Act, Fish and Wildlife Coordination Act, or other applicable statutes.

q. Clean Water Act (CWA) Section 404 (33 U.S.C. § 1344)

CWA Section 404 regulates the discharge of dredged or fill material into waters of the United States, including wetlands. Activities in waters of the United States regulated under this program include fill for development, water resource projects (such as levees and some coastal restoration activities), and infrastructure development (such as highways and airports). CWA Section 404 requires a permit from the U.S. Army Corps of Engineers before dredged or fill material may be discharged into waters of the United States, unless the activity is exempt from Section 404 regulation (e.g., certain farming and forestry activities).


A permit may be required from the U.S. Army Corps of Engineers if the proposed activity involves any work in, over or under navigable waters of the United States. Recipients must identify any work (including structures) that will occur in, over or under navigable waters of the United States and obtain the appropriate permit, if applicable.


A number of prohibitions and limitations apply to projects that adversely impact migratory birds and bald and golden eagles. Executive Order 13186 directs Federal agencies to enter a Memorandum of Understanding with the U.S. Fish and Wildlife Service to promote conservation of migratory bird populations when a Federal action will have a measurable negative impact on migratory birds.

r. Executive Order 13112 (Invasive Species, February 3, 1999)

Federal agencies must identify actions that may affect the status of invasive species and use relevant programs and authorities to: (i) prevent the introduction of invasive species; (ii) detect and respond rapidly to and control populations of such species in a cost-effective and environmentally sound manner; (iii) monitor invasive species populations accurately and reliably; (iv) provide for restoration of native species and habitat conditions in ecosystems that have been invaded; (v) conduct research on invasive species and develop technologies to prevent introduction and provide for environmentally sound control of invasive species; and (vi) promote public education on invasive species and the means to address them. In addition, an agency may not authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species in the United States or elsewhere.

s. Fish and Wildlife Coordination Act (16 U.S.C. § 661 et seq.)
During the planning of water resource development projects, agencies are required to give fish and wildlife resources equal consideration with other values. Additionally, the U.S. Fish and Wildlife Service and fish and wildlife agencies of states must be consulted whenever waters of any stream or other body of water are "proposed or authorized, permitted or licensed to be impounded, diverted... or otherwise controlled or modified" by any agency under a Federal permit or license.

.05 OTHER NATIONAL POLICY REQUIREMENTS

a. Criminal and Prohibited Activities

1. The Program Fraud Civil Remedies Act (31 U.S.C. § 3801 et seq.), provides for the imposition of civil penalties against persons who make false, fictitious, or fraudulent claims to the Federal Government for money (including money representing grants, loans, or other benefits).

2. The False Claims Amendments Act of 1986 and the False Statements Accountability Act of 1996 (18 U.S.C. §§ 287 and 1001, respectively), provide that whoever makes or presents any false, fictitious, or fraudulent statement, representation, or claim against the United States must be subject to imprisonment of not more than five years and must be subject to a fine in the amount provided by 18 U.S.C. § 287.

3. The Civil False Claims Act (31 U.S.C. §§ 3729 - 3733), provides that suits can be brought by the government, or a person on behalf of the government, for false claims made under Federal assistance programs.

4. The Copeland Anti-Kickback Act (18 U.S.C. § 874), prohibits a person or organization engaged in a Federally supported project from enticing an employee working on the project from giving up a part of his compensation under an employment contract. The Copeland Anti-Kickback Act also applies to contractors and subcontractors pursuant to 40 U.S.C. § 3145.

5. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. § 4601 et seq.) and implementing regulations issued at 15 C.F.R. Part 11, which provides for fair and equitable treatment of displaced persons or of persons whose property is acquired as a result of Federal or Federally-assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

6. The Hatch Act (5 U.S.C. §§ 1501-1508 and 7321-7326), which limits the political activities of employees or officers of state or local governments whose principal employment activities are funded in whole or in part with Federal funds.

7. In order to ensure compliance with Federal law pertaining to financial assistance awards, an authorized representative of a non-Federal entity may be required to periodically provide certain certifications to the DOC regarding Federal
felony and Federal criminal tax convictions, unpaid federal tax assessments, delinquent Federal tax returns and such other certifications that may be required by Federal law.

b. Drug-Free Workplace

The non-Federal entity must comply with the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. § 8102) and DOC implementing regulations published at 2 C.F.R. Part 1329 (Government wide Requirements for Drug-Free Workplace – Financial Assistance), which require that the non-Federal entity take certain actions to provide a drug-free workplace.

c. Foreign Travel

1. Each non-Federal entity must comply with the provisions of the Fly America Act (49 U.S.C. § 40118). The implementing regulations of the Fly America Act are found at 41 C.F.R. §§ 301-10.131 through 301-10.143.

2. The Fly America Act requires that Federal travelers and others performing U.S. Government-financed air travel must use U.S. flag air carriers, to the extent that service by such carriers is available. Foreign air carriers may be used only in specific instances, such as when a U.S. flag air carrier is unavailable, or use of U.S. flag air carrier service will not accomplish the agency’s mission.

3. One exception to the requirement to fly U.S. flag carriers is transportation provided under a bilateral or multilateral air transport agreement, to which the United States Government and the government of a foreign country are parties, and which the Department of Transportation has determined meets the requirements of the Fly America Act pursuant to 49 U.S.C. § 40118(b). The United States Government has entered into bilateral/multilateral “Open Skies Agreements” (U.S. Government Procured Transportation) that allow federal funded transportation services for travel and cargo movements to use foreign air carriers under certain circumstances. There are multiple “Open Skies Agreements” currently in effect. For more information about the current bilateral and multilateral agreements, visit the GSA website http://www.gsa.gov/portal/content/103191, Information on the Open Skies agreements (U.S. Government Procured Transportation) and other specific country agreements may be accessed via the Department of State’s website http://www.state.gov/e/eeb/trg/.

If a foreign air carrier is anticipated to be used for any portion of travel under a DOC financial assistance award the non-Federal entity must receive prior approval from the Grants Officer. When requesting such approval, the non-Federal entity must provide a justification in accordance with guidance provided by 41 C.F.R. § 301-10.142, which requires the non-Federal entity to provide the Grants Officer with the following: name; dates of travel; origin and destination of travel; detailed itinerary of travel; name of the
air carrier and flight number for each leg of the trip; and a statement explaining why the non-Federal entity meets one of the exceptions to the regulations. If the use of a foreign air carrier is pursuant to a bilateral agreement, the non-Federal entity must provide the Grants Officer with a copy of the agreement or a citation to the official agreement available on the GSA website. The Grants Officer must make the final determination and notify the non-Federal entity in writing (which may be done through the recipient in the case of subrecipient travel). Failure to adhere to the provisions of the Fly America Act will result in the non-Federal entity not being reimbursed for any transportation costs for which any non-Federal entity improperly used a foreign air carrier.

d. Increasing Seat Belt Use in the United States

Pursuant to E.O. 13043 (62 FR 19217), non-Federal entities should encourage employees and contractors to enforce on-the-job seat belt policies and programs when operating company-owned, rented, or personally owned vehicles.

e. Federal Employee Expenses and Subawards or Contracts Issued to Federal Employees or Agencies

1. Use of award funds (Federal or non-Federal) or the non-Federal entity’s provision of in-kind goods or services for the purposes of transportation, travel, or any other expenses for any Federal employee may raise appropriation augmentation issues. In addition, DOC policy may prohibit the acceptance of gifts, including travel payments for federal employees, from non-Federal entities regardless of the source. Therefore, before award funds may be used by Federal employees, non-Federal entities must submit requests for approval of such action to the Federal Program Officer who must review and make a recommendation to the Grants Officer. The Grants Officer will notify the non-Federal entity in writing (generally through the recipient) of the final determination.

2. A non-Federal entity or its contractor may not issue a subaward, contract or subcontract of any part of a DOC award to any agency or employee of DOC or to other Federal employee, department, agency, or instrumentality, without the advance prior written approval of the DOC Grants Officer.

f. Minority Serving Institutions Initiative

Pursuant to E.O.s 13555 (White House Initiative on Educational Excellence for Hispanics) (75 FR 65417), 13592 (Improving American Indian and Alaska Native Educational Opportunities and Strengthening Tribal Colleges and Universities) (76 FR 76603), and 13779 (White House Initiative to Promote Excellence and Innovation at Historically Black Colleges and Universities) (82 FR 12499), DOC is strongly committed to broadening the participation of minority serving institutions (MSIs) in its financial assistance programs. DOC’s goals include achieving full participation of MSIs in order to advance the development of human potential, strengthen the Nation’s
capacity to provide high-quality education, and increase opportunities for MSIs to participate in and benefit from Federal financial assistance programs. DOC encourages all applicants and non-Federal entities to include meaningful participation of MSIs. Institutions eligible to be considered MSIs are listed on the Department of Education website.

g. Research Misconduct

The DOC adopts, and applies to financial assistance awards for research, the Federal Policy on Research Misconduct (Federal Policy) issued by the Executive Office of the President’s Office of Science and Technology Policy on December 6, 2000 (65 FR 76260). As provided for in the Federal Policy, research misconduct refers to the fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. Research misconduct does not include honest errors or differences of opinion. Non-Federal entities that conduct extramural research funded by DOC must foster an atmosphere conducive to the responsible conduct of sponsored research by safeguarding against and resolving allegations of research misconduct. Non-Federal entities also have the primary responsibility to prevent, detect, and investigate allegations of research misconduct and, for this purpose, may rely on their internal policies and procedures, as appropriate, to so. Non-Federal entities must notify the Grants Officer of any allegation that meets the definition of research misconduct and detail the entity’s inquiry to determine whether there is sufficient evidence to proceed with an investigation, as well as the results of any investigation. The DOC may take appropriate administrative or enforcement action at any time under the award, up to and including award termination and possible suspension or debarment, and referral to the Commerce OIG, the U.S. Department of Justice, or other appropriate investigative body.

h. Research Involving Human Subjects

1. All proposed research involving human subjects must be conducted in accordance with 15 C.F.R. Part 27 (Protection of Human Subjects). No research involving human subjects is permitted under this award unless expressly authorized by specific award condition, or otherwise in writing by the Grants Officer.

2. Federal policy defines a human subject as a living individual about whom an investigator conducting research obtains (1) data through intervention or interaction with the individual, or (2) identifiable private information. Research means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.

3. DOC regulations at 15 C.F.R. Part 27 require that non-Federal entities maintain appropriate policies and procedures for the protection of human subjects. In the event it becomes evident that human subjects may be involved in this project, the non-Federal entity (generally through the recipient) must submit appropriate
documentation to the Federal Program Officer for approval by the appropriate DOC officials. As applicable, this documentation must include:

i. Documentation establishing approval of an activity in the project by an Institutional Review Board (IRB) approved for Federal-wide use under Department of Health and Human Services guidelines (see also 15 C.F.R. § 27.103);

ii. Documentation to support an exemption for an activity in the project under 15 C.F.R. § 27.101(b);

iii. Documentation of IRB approval of any modification to a prior approved protocol or to an informed consent form;

iv. Documentation of an IRB approval of continuing review approved prior to the expiration date of the previous IRB determination; and

iv. Documentation of any reportable events, such as serious adverse events, unanticipated problems resulting in risk to subjects or others, and instances of noncompliance.

4. No work involving human subjects may be undertaken, conducted, or costs incurred and/or charged for human subjects research, until the appropriate documentation is approved in writing by the Grants Officer. In accordance with 15 C.F.R. § 27.118, if research involving human subjects is proposed after an award is made, the non-Federal entity must contact the Federal Program Officer and provide required documentation. Notwithstanding this prohibition, work may be initiated or costs incurred and/or charged to the project for protocol or instrument development related to human subjects research.

i. Care and Use of Live Vertebrate Animals

Non-Federal entities must comply with the Laboratory Animal Welfare Act of 1966, as amended, (Pub. L. No. 89-544, 7 U.S.C. §§ 2131 et seq.) (animal acquisition, transport, care, handling, and use in projects), and implementing regulations (9 C.F.R. Parts 1, 2, and 3); the Endangered Species Act (16 U.S.C. §§ 1531 et seq.); Marine Mammal Protection Act (16 U.S.C. §§ 1361 et seq.) (taking possession, transport, purchase, sale, export or import of wildlife and plants); the Nonindigenous Aquatic Nuisance Prevention and Control Act (16 U.S.C. §§ 4701 et seq.) (ensure preventive measures are taken or that probable harm of using species is minimal if there is an escape or release); and all other applicable statutes pertaining to the care, handling, and treatment of warm-blooded animals held for research, teaching, or other activities supported by Federal financial assistance. No research involving vertebrate animals is permitted under any DOC financial assistance award unless authorized by the Grants Officer.
j. Management and Access to Data and Publications

1. In General. The recipient acknowledges and understands that information and data contained in applications for financial assistance, as well as information and data contained in financial, performance, and other reports submitted by recipients, may be used by the DOC in conducting reviews and evaluations of its financial assistance programs. For this purpose, recipient information and data may be accessed, reviewed, and evaluated by DOC employees, other Federal employees, Federal agents and contractors, and/or by non-Federal personnel, all of who enter into appropriate or are otherwise subject to confidentiality and nondisclosure agreements covering the use of such information. Recipients are expected to support program reviews and evaluations by submitting required financial and performance information and data in an accurate and timely manner, and by cooperating with DOC and external program evaluators. In accordance with 2 C.F.R. § 200.303(e), recipients are reminded that they must take reasonable measures to safeguard protected personally identifiable information and other confidential or sensitive personal or business information created or obtained in connection with a DOC financial assistance award.

2. Scientific Data. Non-Federal entities must comply with the data management and access to data requirements established by the DOC funding agency as set forth in the applicable Notice of Funding Opportunity and/or in Special Award Conditions.


i. Publication of results or findings in appropriate professional journals and production of video or other media is encouraged as an important method of recording, reporting and otherwise disseminating information and expanding public access to federally-funded projects (e.g., scientific research). Non-Federal entities must comply with the data management and access to data requirements established by the DOC funding agency as set forth in the applicable Notice of Funding Opportunity and/or in Special Award Conditions.

ii. Non-Federal entities may be required to submit a copy of any publication materials, including but not limited to print, recorded, or Internet materials, to the funding agency.

iii. When releasing information related to a funded project, non-Federal entities must include a statement that the project or effort undertaken was or is sponsored by DOC and must also include the applicable financial assistance award number.

iv. Non-Federal entities are responsible for assuring that every publication of material based on, developed under, or otherwise produced pursuant to a
DOC financial assistance award contains the following disclaimer or other disclaimer approved by the Grants Officer:

This [report/video/etc.] was prepared by [recipient name] using Federal funds under award [number] from [name of operating unit], U.S. Department of Commerce. The statements, findings, conclusions, and recommendations are those of the author(s) and do not necessarily reflect the views of the [name of operating unit] or the U.S. Department of Commerce.


If the performance of this DOC financial assistance award requires non-Federal entity personnel to have routine access to Federally-controlled facilities and/or Federally-controlled information systems (for purpose of this term "routine access" is defined as more than 180 calendar days), such personnel must undergo the personal identity verification credentialing process. In the case of foreign nationals, the DOC will conduct a check with U.S. Citizenship and Immigration Services' (USCIS) Verification Division, a component of the Department of Homeland Security (DHS), to ensure the individual is in a lawful immigration status and that he or she is eligible for employment within the United States. Any items or services delivered under a financial assistance award must comply with DOC personal identity verification procedures that implement Homeland Security Presidential Directive 12 (Policy for a Common Identification Standard for Federal Employees and Contractors), Federal Information Processing Standard (FIPS) PUB 201, and OMB Memorandum M-05-24. The recipient must ensure that its subrecipients and contractors (at all tiers) performing work under this award comply with the requirements contained in this term. The Grants Officer may delay final payment under an award if the subrecipient or contractor fails to comply with the requirements listed in the term below. The recipient must insert the following term in all subawards and contracts when the subaward recipient or contractor is required to have routine physical access to a Federally-controlled facility or routine access to a Federally-controlled information system:

The subrecipient or contractor must comply with DOC personal identity verification procedures identified in the subaward or contract that implement Homeland Security Presidential Directive 12 (HSPD-12), Office of Management and Budget (OMB) Guidance M-05-24, as amended, and Federal Information Processing Standards Publication (FIPS PUB) Number 201, as amended, for all employees under this subaward or contract who require routine physical access to a Federally-controlled facility or routine access to a Federally-controlled information system.

The subrecipient or contractor must account for all forms of Government-provided identification issued to the subrecipient or contractor employees in connection with performance under this subaward or contract. The subrecipient or contractor must return such identification to the issuing agency at the earliest
of any of the following, unless otherwise determined by DOC: (1) When no longer needed for subaward or contract performance; (2) Upon completion of the subrecipient or contractor employee’s employment; (3) Upon subaward or contract completion or termination.

I. Compliance with Department of Commerce Bureau of Industry and Security Export Administration Regulations

1. This clause applies to the extent that this financial assistance award involves access to export-controlled items.

2. In performing this financial assistance award, a non-Federal entity may gain access to items subject to export control (export-controlled items) under the Export Administration Regulations (EAR). The non-Federal entity is responsible for compliance with all applicable laws and regulations regarding export-controlled items, including the EAR’s deemed exports and re-exports provisions. The non-Federal entity must establish and maintain effective export compliance procedures at DOC and non-DOC facilities throughout performance of the financial assistance award. At a minimum, these export compliance procedures must include adequate controls of physical, verbal, visual, and electronic access to export-controlled items, including by foreign nationals.

3. Definitions

   i. Export-controlled items. Items (commodities, software, or technology), that are subject to the EAR (15 C.F.R. §§ 730-774), implemented by the DOC’s Bureau of Industry and Security. These are generally known as "dual-use" items, items with a military and commercial application.

   ii. Deemed Export/Re-export. The EAR defines a deemed export as a release of export-controlled items (specifically, technology or source code) to a foreign national in the U.S. Such release is “deemed” to be an export to the home country of the foreign national (see 15 C.F.R. § 734.2(b)(2)(ii)). A release may take the form of visual inspection, oral exchange of information, or the application abroad of knowledge or technical experience acquired in the U.S. If such a release occurs abroad, it is considered a deemed re-export to the foreign national’s home country. Licenses from DOC may be required for deemed exports or re-exports.

4. The non-Federal entity must control access to all export-controlled items that it possesses or that comes into its possession in performance of this financial assistance award, to ensure that access to, or release of, such items are restricted, or licensed, as required by applicable Federal laws, E.O.s, and/or regulations, including the EAR.

5. As applicable, non-Federal entity personnel and associates at DOC sites will be informed of any procedures to identify and protect export-controlled items.
6. To the extent the non-Federal entity wishes to provide foreign nationals with access to export-controlled items, the non-Federal entity must be responsible for obtaining any necessary licenses, including licenses required under the EAR for deemed exports or deemed re-exports.

7. Nothing in the terms of this financial assistance award is intended to change, supersede, or waive the requirements of applicable Federal laws, E.O.s or regulations.

8. Compliance with this term will not satisfy any legal obligations the non-Federal entity may have regarding items that may be subject to export controls administered by other agencies such as the Department of State, which has jurisdiction over exports of munitions items subject to the International Traffic in Arms Regulations (ITAR) (22 C.F.R. §§ 120130), including releases of such items to foreign nationals.

9. The non-Federal entity must include the provisions contained in this term in all lower tier transactions (subawards, contracts, and subcontracts) under this financial assistance award that may involve access to export-controlled items.

m. The Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7104(g)), as amended, and the implementing regulations at 2 C.F.R. Part 175

The Trafficking Victims Protection Act of 2000 authorizes termination of financial assistance provided to a private entity, without penalty to the Federal Government, if any non-Federal entity engages in certain activities related to trafficking in persons. The DOC hereby incorporates the following award term required by 2 C.F.R. § 175.15(b):

**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 the award is in effect; or

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

2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —
i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or

ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either— (A) Associated with performance under this award; or (B) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180 (OMB Guidelines to Agencies on Governmentwide Debarment and Suspension – Nonprocurement), as implemented by DOC at 2 C.F.R. Part 1326 (Nonprocurement Debarment and Suspension).

b. **Provision applicable to a recipient other than a private entity.** We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

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

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

   i. Associated with performance under this award; or

   ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. Part 180 (OMB Guidelines to Agencies on Governmentwide Debarment and Suspension – Nonprocurement), as implemented by DOC at 2 C.F.R. Part 1326, (Nonprocurement Debarment and Suspension).

c. **Provisions applicable to any recipient.**

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

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

   i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
ii. Is in addition to all other remedies for noncompliance that are available to
us under this award.

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

d. Definitions. For purposes of this award term:

1. “Employee” means either:

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

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

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

3. “Private entity”:

   i. Means any entity other than a State, local government, Indian tribe, or
      foreign public entity, as those terms are defined in 2 C.F.R. § 175.25:

   ii. Includes: (A) A nonprofit organization, including any nonprofit institution of
       higher education, hospital, or tribal organization other than one included in the
       definition of Indian tribe at 2 C.F.R. § 175.25(b); and (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).

n. The Federal Funding Accountability and Transparency Act (FFATA) (31 U.S.C. §
6101 note)

1. Reporting Subawards and Executive Compensation. Under FFATA, recipients of
financial assistance awards of $25,000 or more are required to report periodically on
executive compensation and subawards, as described in the following term from 2
C.F.R. Part 170, Appendix A, which is incorporated into this award:
Reporting Subawards and Executive Compensation

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. No. 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.fsrs.gov.

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

3. What to report. You must report the information about each obligating action that the submission instructions posted at http://www.fsrs.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 C.F.R. § 170.320 (and subawards); and

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

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

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

   i. As part of your registration profile found at the System for Award Management (SAM) website located at [SAM.gov](http://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 you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you must 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 C.F.R. § 170.320 (and subawards); and

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

   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](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 $300,000.00, 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 C.F.R. Part 25:

i. A Governmental organization, which is a State, local government, or Indian tribe;

ii. A foreign public entity;

iii. A domestic or foreign nonprofit organization;

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.

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 C.F.R. § 229.402(c)(2)):

i. Salary and bonus.

ii. Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2004) (FAS 123R), Shared Based Payments.

iii. Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

iv. Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

v. Above-market earnings on deferred compensation which is not tax-qualified.

vi. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds $10,000.

2. Central Contractor Registration (CCR) and Universal Identifier Requirements.
Under FFATA, recipients must obtain a Data Universal Numbering System (DUNS) number, maintain an active registration in the Central Contractor Registration (CCR) database, and notify potential first-tier subrecipients that no entity may receive a first-
tier subaward unless the entity has provided its DUNS number to the recipient, as described in the following term from 2 C.F.R. Part 25, Appendix A, which is incorporated into this award:

Central Contractor Registration and Universal Identifier Requirements

a. Requirement for Central Contractor Registration (CCR). Unless you are exempted from this requirement under 2 C.F.R. § 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 System for Award Management Internet site (currently at 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 C.F.R. 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 recipient.

4. Subaward:

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

ii. The term does not include your procurement of property and services needed to carry out the project or program. For further explanation, see 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 consider a contract.

5. Subrecipient means an entity that:

i. Receives a subaward from you under this award; and

ii. Is accountable to you for the use of the Federal funds provided by the subaward. See also 2 C.F.R. § 200.300(b).
Recipient Integrity and Performance Matters (Appendix XII to 2 C.F.R. Part 200)

Reporting of Matters Related to Recipient Integrity and Performance

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

2. Proceedings About Which You Must Report Submit the information required about each proceeding that:
   
i. Is in connection with the award or performance of a grant, 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:

   (A) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;

   (B) 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;

   (C) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of $5,000 or more or reimbursement, restitution, or damages in excess of $100,000; or

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

      I. It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition:
II. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and

III. The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

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

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

5. Definitions. For purposes of this award term and condition:

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 grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.

ii. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.

iii. Total value of currently active grants, cooperative agreements, and procurement contracts includes:

(A) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
(B) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

p. Federal Financial Assistance Planning During a Funding Hiatus or Government Shutdown

This term sets forth initial guidance that will be implemented for Federal assistance awards in the event of a lapse in appropriations, or a government shutdown. The Grants Officer may issue further guidance prior to an anticipated shutdown.

1. Unless there is an actual rescission of funds for specific grant or cooperative agreement obligations, non-Federal entities under Federal financial assistance awards for which funds have been obligated generally will be able to continue to perform and incur allowable expenses under the award during a funding hiatus. Non-Federal entities are advised that ongoing activities by Federal employees involved in grant or cooperative agreement administration (including payment processing) or similar operational and administrative work cannot continue when there is a funding lapse. Therefore, there may be delays, including payment processing delays, in the event of a shutdown.

2. All award actions will be delayed during a government shutdown; if it appears that a non-Federal entity's performance under a grant or cooperative agreement will require agency involvement, direction, or clearance during the period of a possible government shutdown, the Program Officer or Grants Officer, as appropriate, may attempt to provide such involvement, direction, or clearance prior to the shutdown or advise non-Federal entities that such involvement, direction, or clearance will not be forthcoming during the shutdown. Accordingly, non-Federal entities whose ability to withdraw funds is subject to prior agency approval, which in general are non-Federal entities that have been designated high risk, non-Federal entities under construction awards, or are otherwise limited to reimbursements or subject to agency review, will be able to draw funds down from the relevant Automatic Standard Application for Payment (ASAP) account only if agency approval is given and coded into ASAP prior to any government shutdown or closure. This limitation may not be lifted during a government shutdown. Non-Federal entities should plan to work with the Grants Officer to request prior approvals in advance of a shutdown wherever possible. Non-Federal entities whose authority to draw down award funds is restricted may decide to suspend work until the government reopens.

3. The ASAP system should remain operational during a government shutdown. Non-Federal entities that do not require any Grants Officer or agency approval to draw down advance funds from their ASAP accounts should be able to do so during a shutdown. The 30-day limitation on the drawdown of advance funds will still apply notwithstanding a government shutdown and advanced funds held for
more than 30 calendar days will have to be returned with interest.

Q. The Recipient shall include the following notice in each request for applications or bids:
Applicants/bidders for a lower tier covered transaction (except procurement contracts for goods and services under $25,000 not requiring the consent of a DOC official) are subject to 2 C.F.R. part 1326, subpart C, "Governmentwide Debarment and Suspension (Nonprocurement)." In addition, applicants/bidders for a lower tier covered transaction for a subaward, contract, or subcontract greater than $100,000 of federal funds at any tier are subject to 15 C.F.R. part 28, "New Restrictions on Lobbying." Applicants/bidders should familiarize themselves with these provisions, including the certification requirement. Therefore, applications for a lower tier covered transaction must include a Form CD-512, "Certification Regarding Lobbying–Lower Tier Covered Transactions," completed without modification.

b. The Recipient shall include a term or condition in all lower tier covered transactions (subawards, contracts, and subcontracts), that the Award is subject to subpart C of 2 C.F.R. part 1326, "Governmentwide Debarment and Suspension (Nonprocurement)."

c. The Recipient shall include a statement in all lower tier covered transactions (subawards, contracts, and subcontracts) exceeding $100,000 in federal funds, that the subaward, contract, or subcontract is subject to 31 U.S.C § 1352, as implemented at 15 C.F.R. part 28, regarding new restrictions on lobbying. The Recipient shall further require the subrecipient, contractor, or subcontractor to submit a completed Form SF-LLL, "Disclosure of Lobbying Activities," regarding the use of non-federal funds for lobbying. The Form SF-LLL shall be submitted within 15 days following the end of the calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed. The Form SF-LLL shall be submitted from tier to tier until received by the Recipient. The Recipient must submit all disclosure forms received, including those that report lobbying activity on its own behalf, to the Grants Officer within 30 days following the end of the calendar quarter.