

Attachment 3

New Requirements and Reminders

Disclosing Conflicts of Interest

As required by the Uniform Grants Guidance [2 CFR 200.112](#), EPA has established a policy governing disclosure of actual and potential conflicts of interest (COI Policy) by applicants for, and recipients of, federal financial assistance awards from EPA. This policy is intended to prevent personal and organizational conflicts of interest in the award and administration of EPA financial assistance.

Below is the term and condition that has been included in all new awards. Note that this condition is included in the [EPA General Terms and Conditions Effective January 27, 2016](#).

17. Disclosing Conflict of Interests (added 10/1/2015)

17.1. For awards to Non-federal entities and individuals (other than states and fellowship recipients under 40 CFR Part 46).

As required by 2 CFR 200.112, EPA has established a policy (COI Policy) for disclosure of conflicts of interest (COI) that may affect EPA financial assistance awards. EPA's COI Policy is posted at <http://www2.epa.gov/grants/epas-financial-assistance-conflict-interest-policy>. The posted version of EPA's COI Policy is applicable to new funding (initial awards, supplemental and incremental funding) awarded on or after October 1, 2015. This COI term and condition supersedes prior COI terms and conditions for this award based on either EPA's May 22, 2015 Revised Interim COI Policy or December 26, 2014 Interim COI Policy.

For competitive awards, recipients must disclose any competition related COI described in section 4.0(a) of the COI Policy that are discovered after award to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of discovery of the COI. The Grant Specialist will respond to any such disclosure within 30 calendar days.

EPA's COI Policy requires that recipients have systems in place to address, resolve and disclose to EPA COIs described in sections 4.0(b), (c) and/or (d) of the COI Policy that affect any contract or subaward regardless of amount funded under this award. The recipient's COI Point of Contact for the award must disclose any COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of the discovery of the potential COI and their approach for resolving the COI.

EPA's COI Policy requires that subrecipients have systems in place to address, resolve and disclose COI's described in section 4.0(b)(c) and (d) of the COI Policy regardless of the amount of the transaction. Recipients who are pass-through entities as defined at 2 CFR 200.74 must require that subrecipients being considered for or receiving subawards disclose COI to the pass-through entities in a manner that, at a minimum, is in accordance with sections 5.0(d) and 7.0(c) of EPA's COI Policy. Pass-through entities must disclose the subrecipient COI along with the approach for resolving the COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of receiving notification of the COI by the subrecipient.

EPA only requires that recipients and subrecipients disclose COI's that are discovered under their systems for addressing and resolving COI. If recipients or subrecipients do not discover a COI, they do not need to advise EPA or the pass-through entity of the absence of a COI.

Upon notice from the recipient of a potential COI and the approach for resolving it, the Agency will then make a determination regarding the effectiveness of these measures within 30 days of receipt of the recipient's notice unless a longer period is necessary due to the complexity of the matter. Recipients may not request payment from EPA for costs for transactions subject to the COI pending notification of EPA's determination. Failure to disclose a COI may result in cost disallowances.

Disclosure of a potential COI will not necessarily result in EPA disallowing costs, with the exception of procurement contracts that the Agency determines violate 2 CFR 200.318(c)(1) or (2), provided the recipient notifies EPA of measures the recipient or subrecipient has taken to eliminate, neutralize or mitigate the conflict of interest when making the disclosure.

17.2. For awards to states including state universities that are state agencies or instrumentalities

As required by 2 CFR 200.112, EPA has established a policy (COI Policy) for disclosure of conflicts of interest (COI) that may affect EPA financial assistance awards. EPA's COI Policy is posted at <http://www2.epa.gov/grants/epas-financial-assistance-conflict-interest-policy>. The posted version of EPA's COI Policy is applicable to new funding (initial awards, supplemental, incremental funding) awarded on or after October 1, 2015. This COI term and condition supersedes prior COI terms and conditions for this award based on either EPA's May 22, 2015 Revised Interim COI Policy or December 26, 2014 Interim COI Policy.

For competitive awards, recipients must disclose any competition related COI described in section 4.0(a) of the COI Policy that are discovered after award to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of discovery of the COI. The Grant Specialist will respond to any such disclosure within 30 calendar days.

States including state universities that are state agencies and instrumentalities receiving funding from EPA are only required to disclose subrecipient COI as a pass-through entity as defined by 2 CFR 200.74. Any other COI are subject to state laws, regulations and policies. EPA's COI Policy requires that subrecipients have systems in place to address, resolve and disclose COIs described in section 4.0(b)(c) and (d) of the COI Policy that arise after EPA made the award regardless of the amount of the transaction. States who are pass-through entities as defined at 2 CFR 200.74 must require that subrecipients being considered for or receiving subawards disclose COI to the state in a manner that, as a minimum, in accordance with sections 5.0(d) and 7.0(c) of EPA's COI Policy. States must disclose the subrecipient COI along with the approach for resolving the COI to the EPA Grants Specialist listed on the Assistance Agreement/Amendment within 30 calendar days of receiving notification of the COI by the subrecipient.

EPA only requires that subrecipients disclose COI's to state pass-through entities that are discovered under their systems for addressing, resolving, and disclosing COI. If subrecipients do not discover a COI, they do not need to advise state pass-through entities of the absence of a COI.

Upon receiving notice of a potential COI and the approach for resolving it, the Agency will make a determination regarding the effectiveness of these measures within 30 days of receipt of the state's notice of a subrecipient COI unless a longer period is necessary due to the complexity of the matter. States may not request payment from EPA for costs for transactions subject to the COI pending notification of EPA's determination. A subrecipient's failure to disclose a COI to the state and EPA may result in cost disallowances.

Disclosure of a potential subrecipient COI will not necessarily result in EPA disallowing costs, with the exception of procurement contracts that the Agency determines violate 2 CFR 200.318(c)(1) or (2), provided the subrecipient has taken measures that EPA and the state agree eliminate, neutralize or mitigate the conflict of interest.

Reporting of Matters Related to Recipient Integrity and Performance

The Office of Management and Budget (OMB) issued the final “[Guidance for Reporting and Use of Information Concerning Recipient Integrity and Performance](#)” on July 22, 2015. The guidance addresses both recipient and Federal agency reporting responsibilities in the Federal Awardee Performance and Integrity Information System (FAPIIS). EPA has developed a new term and condition (below) that will be included in all new grant awards. Note that this condition is included in the [EPA General Terms and Conditions Effective January 27, 2016](#).

11. Recipient Integrity and Performance Matters - Reporting of Matters Related to Recipient Integrity and Performance (added 1/27/2016)

11.1. 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 Awardee Performance and Integrity Information System (FAPIIS)) about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition. This is a statutory requirement under 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.

11.2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

11.2.1. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;

11.2.2. Reached its final disposition during the most recent five year period; and

11.2.3. Is one of the following:

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

11.2.3.2. A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;

11.2.3.3. 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

11.2.3.4. Any other criminal, civil, or administrative proceeding if:

11.2.3.4.1. It could have led to an outcome described in paragraph 11.2.3.1, 11.2.3.2, or 11.2.3.3 of this award term and condition;

11.2.3.4.2. It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and

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

11.3. 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.

11.4. Reporting Frequency

During any period of time when you are subject to the requirement in paragraph 11.1 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.

11.5. Definitions

For purposes of this award term and condition:

11.5.1. 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.

11.5.2. 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*.

11.5.3. Total value of currently active grants, cooperative agreements, and procurement contracts includes—

11.5.3.1. Only the Federal share of the funding under any Federal award with a recipient cost share or match; and

11.5.3.2. The value of all expected funding increments under a Federal award and options, even if not yet exercised.

Subaward Policy

The revised Subaward Policy, expected to be effective March 29, 2016, implements the new requirements for subrecipient oversight and management contained in the Uniform Grants Guidance (see [2 CFR 200.330 - 200.331](#)). The UGG requirements are substantially more stringent than those found at 40 CFR Parts 30 and 31.

The Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (Uniform Grant Guidance or UGG) codifies standards for distinguishing between subawards and contracts at 2 CFR 200.330 and this Subaward Policy provides additional guidance consistent with that regulation.

Under 2 CFR 200.331, pass-through entities must include a number of provisions in subaward agreements and implement effective systems to monitor and guide subrecipient performance; this Subaward Policy provides guidance on how EPA will oversee compliance with those requirements.

This policy applies to all financial assistance agreements awarded to pass-through entities on or after March 29, 2016 including new agreements and incremental or supplemental amendments to existing agreements. The Subaward Policy does not apply to collaborative relationships, including those documented in a written agreement, between recipients and a third parties that do

not involve the transfer of assistance funds or property purchased with assistance funds. The Agency may apply the Subaward Policy, or selected provisions of it, to other financial assistance agreements with the consent of the pass-through entity.

Additional information and training regarding the Subaward Policy will be forthcoming from our Headquarters Office of Grants and Debarment.

Submittal of Electronic Grant Documents

Please continue to submit signed pdf copies of the following documents through EPA Region 2's dedicated email in-box, Region2_GrantApplicationBox@epa.gov:

- Revised forms and documents for financial assistance applications that have already been submitted through Grants.gov. Only scanned pdf documents with signatures will be accepted as valid applications. Documents submitted in other file formats will not be accepted.
- Applications for supplemental funding amendments;
- Requests for award amendments that do not involve additional funding, including requests to rebudget funds and to extend the budget and/or project periods of the award;
- Indirect Cost Rate agreements and proposals;
- Courtesy copies of [Federal Financial Reports](#) (FFRs; Standard Form 425s) that you submit to the EPA Las Vegas Finance Center;
- [EPA Form 5700-52A, "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements."](#)
- Updates to recipient information, including email addresses, changes in contact information or changes in authorized representatives.

Again, all initial assistance applications for grants and supplemental funding applications for CEPs must go through Grants.gov. We will continue to receive non-CEP supplemental funding amendment applications, extension requests and rebudgeting requests through our Region 2 email inbox.

Grants Management Webinars

In an effort to keep EPA grant applicants and recipients informed, EPA's Office of Grants and Debarment periodically hosts informational Webinars on various grants management topics. Whether you are applying for an EPA grant, or are currently managing an EPA grant we encourage you to attend these Webinars. To obtain information about upcoming Webinars and to view/listen to previous Webinars, please visit the following website:

[Recipient Training Requirements And Opportunities](#)

Grants Management for Tribal and Territorial Organizations

The National Partnership for Environmental Technology Education (NPETE) offers on-line training for tribal and territorial grant recipients on the basics of grants management. It can be found at NPETE's website: <http://www.petetribal.org>.