

**ADDRESSES:** Copies of the ROD are available upon request from the Field Manager, Taos Field Office, Bureau of Land Management, 226 Cruz Alta Road, Taos, NM 87571, or via the internet on the following Web site: <http://www.blm.gov/nm>. Copies of the ROD and approved Final Environmental Impact Statement (FEIS) will also be available at the following locations: Forest Service, Santa Fe National Forest, 1474 Rodeo Road, Santa Fe, NM 87505, and Forest Service, Espanola Ranger District, 1710 North Riverside Dr., Espanola, NM 87533.

**FOR FURTHER INFORMATION CONTACT:** Sam Des Georges, Field Office Manager, Bureau of Land Management, Taos Field Office, 226 Cruz Alta Rd., Taos, NM 87571, telephone—(505) 751-4713; or Sanford Hurlocker, District Ranger, Forest Service, Espanola Ranger District, P.O. Box 3307, Espanola, NM 87533; telephone—(505) 753-7331. Requests for information may be submitted electronically at <http://www.blm.gov/nm>.

**SUPPLEMENTARY INFORMATION:** The Buckman Water Diversion Project (the Project) is designed to address the immediate need for accessing water supplies for the Project Applicants. The Forest Service and BLM are joint lead agencies for this project, and the Department of Interior, Bureau of Reclamation, City of Santa Fe, and Santa Fe County are cooperating agencies. The City of Santa Fe, Santa Fe County, and Las Campanas Limited Partnership are the "Project Applicants."

The BLM's and Forest Service's decision is to authorize rights-of-way and easements to the Project Applicants so that they may construct, operate, and maintain the road improvements, major facilities and associated infrastructure, and their locations as described in the Proposed Action. In addition, several options have been selected for the proposed sediment facility and sand disposal systems; and for a section of treated water pipeline. Power upgrades to service the proposed facilities are also described in the Final Environmental Impact Statement (FEIS).

This decision conforms to existing laws and regulations, provides for resource protection and mitigation, and is consistent with the Santa Fe National Forest Plan and the Taos Resource Management Plan. This decision is based on a comparison of the potential environmental effects of the Proposed Action, other alternatives considered in the FEIS, and comments received during scoping and the 60-day public comment period on the Draft Environmental Impact Statement.

The decisions made by the Forest Service and the BLM, respectively, affect only those lands managed by each agency. The decision related to National Forest System lands is subject to administrative review (appeal) in accordance with 36 CFR 215 (June 2003). A written notice of appeal—clearly stating it is a notice of appeal being filed pursuant to 36 CFR 215.14—must be filed within 45 days from the date of publication of legal notice of this decision in the *Albuquerque Journal*. The publication date in the *Albuquerque Journal*, newspaper of record, is the exclusive means for calculating the time to file an appeal. Those wishing to appeal this decision should not rely upon dates or timeframe information provided by any other source. Individuals or organizations that submitted substantive comments during the comment period specified at 36 CFR 215.6 may appeal this decision. The notice of appeal must meet the appeal content requirements at 36 CFR 215.14. An appeal must be filed (regular mail, fax, e-mail, hand delivery, or express delivery) with the Appeal Deciding Officer. Written appeals must be submitted to: Deputy Regional Forester, Southwestern Region Appeal Deciding Officer, 333 Broadway Blvd., SE., Albuquerque, NM 87102. Appeals may be faxed or e-mailed at Fax: (505) 842-3173, and E-mail: [appeals-southwestern@fs.fed.us](mailto:appeals-southwestern@fs.fed.us).

The Forest Service's office business hours for those submitting hand-delivered appeals are: 8 a.m. to 4:30 p.m. Monday through Friday, excluding holidays. Electronic comments must be submitted in a format such as an e-mail message, plain text (.txt), rich text format (.rtf), Adobe (.pdf) and Word (.doc) to [appeals-southwestern@fs.fed.us](mailto:appeals-southwestern@fs.fed.us). The appeal must have an identifiable name attached or verification of identity will be required. A scanned signature may serve as verification on electronic appeals.

The decision related to BLM managed lands may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR 2801.10(a). If an appeal is filed, the notice of appeal must be filed with the Bureau of Land Management, Taos Field Office, Field Office Manager, 226 Cruz Alta Road, Taos, NM 87571, within 30 days of the date the notice of the decision appears in the **Federal Register**. If you wish to file a petition pursuant to 43 CFR 2801.10(b) for a stay (suspension) of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany

your notice of appeal. Copies of the notice of appeal and petition for a stay must also be submitted to the Interior Board of Land Appeals and to the Regional Office of the Solicitor at the same time the original documents are filed with this office.

Dated: January 15, 2008.

**Sam Des Georges,**  
BLM—Taos Field Office Manager.

Dated: January 15, 2008.

**Steve Romero,**  
Acting Forest Supervisor, Santa Fe National Forest.

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## DEPARTMENT OF COMMERCE

[Docket No. 080204117-8119-01]

### Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements

**AGENCY:** Department of Commerce (DOC).

**ACTION:** Notice.

**SUMMARY:** This notice revises and updates the *Department of Commerce (DOC) Pre-Award Notification Requirements for Grants and Cooperative Agreements*, as published in the **Federal Register** (66 FR 49917) on October 1, 2001, as amended on October 30, 2002 (67 FR 66109) and on December 30, 2004 (69 FR 78389). This announcement constitutes a recompilation of the Department of Commerce pre-award requirements for grants and cooperative agreements, including all amendments and revisions to date.

**DATES:** These provisions are effective February 11, 2008.

**FOR FURTHER INFORMATION CONTACT:** Gary Johnson, Office of Acquisition Management, Telephone Number—202-482-1679.

**SUPPLEMENTARY INFORMATION:** The DOC is authorized to award grants and cooperative agreements under a wide range of programs that support economic development; international trade; minority businesses; standards and technology; oceanic/atmospheric services; and telecommunications and information.

It is the policy of the DOC to seek full and open competition for award of discretionary financial assistance funds whenever possible. Moreover, DOC financial assistance must be awarded through a merit-based review and selection process. Notices announcing the availability of Federal funds for new

awards for each DOC competitive financial assistance program will be published in the **Federal Register** and posted on <http://www.grants.gov> by the sponsoring operating unit in the uniform format for an announcement of Federal Funding Opportunity (FFO) mandated by the Office of Management and Budget (OMB). These announcements will reference or include the DOC Pre-Award Notification Requirements identified in sections A and B of this notice, and the program-specific information identified in section C of this notice, and will follow the uniform format for announcements of funding opportunities as identified in section D.

This announcement provides notice of the DOC Pre-Award Notification Requirements that apply to all DOC-sponsored grant and cooperative agreement programs and that may supplement those program announcements which make reference to this notice. Some of the DOC general provisions published herein contain, by reference or substance, a summary of the pertinent statutes or regulations published in the U.S. Code (U.S.C.), **Federal Register**, or Code of Federal Regulations (CFR), or requirements provided in Executive Orders, OMB Circulars (circulars), or Assurances (Forms SF-424B and SF-424D). This notice does not intend to be a derogation of, or amend, any statute, regulation, Executive Order, circular, or Standard Form.

Each individual award notice will complete and include the relevant analyses pursuant to the requirements in Executive Order 12866, Executive Order 13132, the Administrative Procedure Act, the Regulatory Flexibility Act, and the Paperwork Reduction Act, as applicable.

A. The following pre-award notice provisions will apply to all applicants for and recipients of DOC grants and cooperative agreements:

1. **Federal Policies and Procedures.** Applicants, recipients and subrecipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal financial assistance.

2. **Debarment, Suspension, Drug-Free Workplace, and Lobbying Provisions.** All applicants must comply with the requirements of subpart C of 2 CFR part 1326, "Nonprocurement Debarment and Suspension," 15 CFR part 29, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)" (November 26, 2003, 68 FR 66534), and 15 CFR part 28, "New Restrictions on Lobbying," including the submission of required forms and

obtaining certification from lower tier applicants/bidders.

3. **Pre-Award Screening of Applicant's and Recipient's Management Capabilities, Financial Condition, and Present Responsibility.** It is the policy of the DOC to make awards to applicants and recipients that are competently managed, responsible, financially capable and committed to achieving the objectives of the award(s) they receive. Therefore, pre-award screening may include, but is not limited to, the following reviews:

(a) **Past Performance.** Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

(b) **Credit Checks.** A credit check will be performed on individuals, for-profit, and non-profit organizations.

(c) **Delinquent Federal Debts.** No award of Federal funds shall be made to an applicant that has an outstanding delinquent Federal debt until:

(1) The delinquent account is paid in full;

(2) A negotiated repayment schedule is established and at least one payment is received; or

(3) Other arrangements satisfactory to the DOC are made.

Pursuant to 31 U.S.C. 3720B, unless waived, the DOC is not permitted to extend financial assistance in the form of a loan, loan guarantee, or loan insurance to any person delinquent on a nontax debt owed to a Federal agency. This prohibition does not apply to disaster loans.

Pursuant to 28 U.S.C. 3201(e), a debtor who has a judgment lien against the debtor's property for a debt to the United States shall not be eligible to receive any grant or loan which is made, insured, guaranteed, or financed directly or indirectly by the United States or to receive funds directly from the Federal Government in any program, except funds to which the debtor is entitled as beneficiary, until the judgment is paid in full or otherwise satisfied. The DOC sponsoring operating units may promulgate regulations to allow for waiver of this restriction on eligibility for such grants and cooperative agreements.

(d) **Financial Pre-Award Screening.** The DOC's Office of Inspector General (OIG) performs pre-award screening procedures to review an applicant's credit rating and related financial information, the status of previous Federal audit findings and recommendations for the applicant, and other relevant data. The following three categories of applicants are exempt from this review: (1) Applicants for awards in amounts of \$100,000 or less; (2)

applicants who have been recipients of financial assistance from the DOC for three or more consecutive years without any adverse programmatic or audit findings; and (3) applicants that are units of a State or local government or that are accredited colleges and universities.

(e) **Individual Background Screening.** Unless an exemption applies, an individual background screening will be performed by the OIG on key individuals of organizational units associated with the application at the beginning of the award and at three year intervals thereafter for the life of the award. The exemptions are: the proposed award amount is \$100,000 or less; applicants are accredited colleges and universities; applicants are units of a State or local government; applicants are economic development districts designated by EDA, including those entities whose designations are pending, and councils of governments; or the key individual(s) is/are elected officials of State and local governments who are serving in capacities other than their elected capacities when applying for assistance. In addition, if there is a change in the status of the organization and/or key individuals, or the program officer, OIG, or Grants Officer believes there is good reason to conduct a review sooner, a background screening may be requested more frequently. Individual background screenings are conducted to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges (e.g., fraud, theft, perjury), or other matters which significantly reflect on the applicant's business integrity, responsibility, or financial integrity. If any of the conditions listed below in paragraphs (1), (2), or (3) occur, then the DOC reserves the right to take one or more of the following actions: consider suspension/termination of an award immediately for cause; require the removal of any key individual from association with management of and/or implementation of the award and require Grants Officer approval of personnel replacements; require the recipient to make other changes as appropriate; and/or designate the recipient as high risk and amend the award to assign special award conditions, as appropriate, including making changes with respect to the method of payment and/or financial reporting requirements.

(1) A key individual fails to submit the required Form CD-346, *Applicant for Funding Assistance* within 30 days of receipt of the award;

(2) A key individual makes a false statement or omits a material fact on the Form CD-346; or

(3) The individual background screening reveals significant adverse findings that reflect on the business integrity, responsibility, or financial integrity of the recipient and/or key individual.

(f) List of Parties Excluded from Procurement and Nonprocurement Programs. The Excluded Parties Listing System (EPLS) maintained by the General Services Administration (GSA) (found at <http://www.epls.gov>) that lists parties excluded from Federal procurement and nonprocurement programs will be checked to assure that an applicant is not debarred or suspended on a government-wide basis from receiving financial assistance.

(g) Pre-Award Accounting System Surveys. The Grants Office, in cooperation with the OIG when appropriate, may require a pre-award survey of the applicant's financial management system in cases where the recommended applicant has had no prior Federal support, the operating unit has reason to question whether the financial management system meets Federal financial management standards, or the applicant is being considered for a high-risk designation.

4. No Obligation for Future Funding. If an application is selected for funding, the DOC has no obligation to provide any additional future funding in connection with that award. Any amendment of an award to increase funding or to extend the period of performance is at the total discretion of the DOC.

5. Pre-Award Activities. If an applicant incurs any costs prior to receiving an award, it does so solely at its own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover pre-award costs unless approved by the Grants Officer as part of the terms when the award is made, or as authorized for awards that support research by 15 CFR 14.25(e)(4).

6. Freedom of Information Act (FOIA) Disclosure. The FOIA (5 U.S.C. 552 and DOC regulations at 15 CFR part 4) sets forth the process and procedure by which the DOC follows to make requested material, information, and records publicly available. Unless prohibited by law and to the extent required under the FOIA, contents of applications, proposals, and other information submitted by applicants may be released in response to FOIA requests.

7. False Statements. A false statement on an application is grounds for denial or termination of an award, and/or possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

8. Application Forms. Unless the individual programs specify differently in their **Federal Register** notice of availability of funding and/or in the Federal Funding Opportunity announcement, the following forms, family of forms, and/or certifications are required, as applicable, for DOC grants and cooperative agreements: OMB Standard Forms (SF) SF-424, *Application for Federal Assistance*; SF-424A, *Budget Information—Non-Construction Programs*; SF-424B, *Assurances—Non-Construction Programs*; SF-424C, *Budget Information—Construction Programs*; SF-424D, *Assurances—Construction Programs*; SF-424 Family of Forms for Research and Related Programs; SF-424 Short Organizational Family; SF-424 Individual Form Family; and SF-424 Mandatory Family. In addition, Commerce Department (CD) Forms CD-346, *Applicant for Funding Assistance*; CD-511, *Certification Regarding Lobbying*; CD-512, *Certification Regarding Lobbying—Lower-Tier Covered Transactions*; and SF-LLL, *Disclosure of Lobbying Activities*, will be used as appropriate.

9. Environmental Requirements. Environmental impacts must be considered by Federal decision makers in their decisions whether or not to (1) approve a proposal for Federal assistance; (2) approve the proposal with mitigation; or (3) approve a different proposal/grant having less adverse environmental impacts. Federal environmental laws require that the funding agency initiate a planning process with an early consideration of potential environmental impacts that projects funded with Federal assistance may have on the environment. Applicants, recipients and subrecipients must comply with all environmental standards, to include those prescribed under the following statutes and Executive Orders, and shall identify to the awarding agency any impact the award may have on the environment. The failure to do so shall be grounds for not selecting an application. In some cases, if additional information is required after an application is selected, funds can be withheld by the Grants Officer under a special award condition requiring the recipient 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 of 1969 (42 U.S.C. 4321 *et seq.*). Recipients of Federal assistance are required to identify to the awarding agency any impact an award will have on the quality of the human environment, and assist the agency to comply with the National Environmental Policy Act, when the award activities remain subject to Federal authority and control. Applicants for assistance may be required to prepare environmental impact information as part of a proposal.

(b) Floodplain Management, Executive Order 11988 and, Protection of Wetlands, Executive Order 11990, May 24, 1977. Recipients must identify proposed actions located in Federally defined floodplains and wetlands to enable the agency to make a determination whether there is an alternative to minimize any potential harm.

(c) Clean Air Act, Clean Water Act, and Executive Order 11738. Recipients 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 Executive Order 11738. Recipients shall not use a facility that EPA has placed on the Excluded Parties List System (EPLS) (<http://www.epls.gov>) in performing any award that is nonexempt under Subpart J of 2 CFR part 1532.

(d) The Flood Disaster Protection Act of 1973 (42 U.S.C. 4002 *et seq.*). Flood insurance, when available, is required for Federally assisted construction or acquisition in flood-prone areas.

(e) The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Recipients must identify any impact or activities that may involve a threatened or endangered species. Federal agencies have the responsibility for ensuring that a protected species or habitat does not incur adverse effects from actions under Federal assistance awards, and for conducting the required reviews under the Endangered Species Act, as applicable.

(f) The Coastal Zone Management Act, as amended (16 U.S.C. 1451 *et seq.*). Funded projects must be consistent with a coastal state's approved management program for the coastal zone.

(g) The Coastal Barriers Resources Act (16 U.S.C. 3501 *et seq.*). Restrictions are placed on Federal funding for actions within a Coastal Barrier System.

(h) The Wild and Scenic Rivers Act, as amended (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.

(i) The Safe Drinking Water Act of 1974, as amended (42 U.S.C. 300f–j). This Act precludes Federal assistance for any project that the EPA determines may contaminate a sole source aquifer so as to threaten public health.

(j) The Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901 *et seq.*). This act regulates the generation, transportation, treatment, and disposal of hazardous wastes, and also provides that recipients of Federal funds give preference in their procurement programs to the purchase of recycled products pursuant to EPA guidelines.

(k) The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, the Superfund Amendments and Reauthorization Act of 1986, and the Community Environmental Response Facilitation Act of 1992, as amended (42 U.S.C. 9601 *et seq.*). These requirements address responsibilities for actual or threatened hazardous substance releases and environmental cleanup. There are also requirements regarding reporting and community involvement to ensure disclosure of the release or disposal of regulated substances and cleanup of hazards.

(l) Environmental Justice in Minority Populations and Low Income Populations, Executive Order 12898, February 11, 1994. This Order identifies and addresses adverse human health or environmental effects of programs, policies and activities on low income and minority populations.

10. Limitation of Liability. In no event will the Department of Commerce be responsible for proposal preparation costs if a program fails to receive funding or is cancelled because of other agency priorities. The publication of an announcement of funding availability does not oblige the agency to award any specific project or to obligate any available funds.

B. The following general provisions will apply to all DOC grant and cooperative agreement awards:

1. Administrative Requirements and Cost Principles. The uniform administrative requirements for all DOC grants and cooperative agreements are codified at 15 CFR part 14, “Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations,” and at 15 CFR part 24, “Uniform Administrative Requirements for Grants and Agreements to State and Local Governments.” The following list of cost

principles, which are incorporated by reference in 15 CFR parts 14 and 24, are included in the DOC’s grants and cooperative agreements: OMB Circular A–21 (2 CFR part 220), “Cost Principles for Educational Institutions”; OMB Circular A–87 (2 CFR part 225), “Cost Principles for State, Local and Indian Tribal Governments”; OMB Circular A–122 (2 CFR part 230), “Cost Principles for Nonprofit Organizations”; and Federal Acquisition Regulation subpart 31.2, “Contracts with Commercial Organizations,” codified at 48 CFR 31.2. Applicable administrative requirements and cost principles are identified in each award and are incorporated by reference into the award. Expenditures for any financial assistance award must be necessary to carry out the authorized project and be consistent with the applicable cost principles.

2. Award Payments. Advances will be limited to the minimum amounts necessary to meet *immediate* disbursement needs, but in no case should advances exceed the amount of cash required for a 30-day period. Any advanced funds that are not disbursed in a timely manner must be returned promptly to the DOC. Certain bureaus within the DOC use the Department of Treasury’s Automated Standard Application for Payment (ASAP) system. In order to receive payments under ASAP, recipients will be required to enroll electronically in the ASAP system by providing their Federal Awarding Agency with pertinent information to begin the enrollment process, which allows them to use the on-line and Voice Response System (VRS) method of withdrawing funds from their ASAP established accounts. It is the recipient’s responsibility to ensure that its contact information is correct. The funding agency must be provided a Point of Contact name, mailing address, e-mail address, telephone number, DUNS and TIN numbers to commence the enrollment process. In order to be able to complete the enrollment process, the recipient will need to identify a Head of Organization, an Authorizing Official, and a Financial Officer. It is very important that the recipient’s banking data be linked to the funding agency’s Agency Location Code in order to ensure proper payment under an award. For additional information on this requirement, prospective applicants should contact their Federal Awarding Agency.

3. Federal and Non-Federal Cost Sharing.

(a) Awards that include Federal and non-Federal cost sharing will incorporate a budget consisting of

shared allowable costs. If actual allowable costs are less than the total approved budget, the Federal and non-Federal cost shares shall be calculated by applying the approved Federal and non-Federal cost share ratios to actual allowable costs. If actual allowable costs are greater than the total approved budget, the Federal share will not exceed the total Federal dollar amount authorized by the award.

(b) The non-Federal share, whether in cash or in-kind, will be expected to be paid out at the same general rate as the Federal share. Exceptions to this requirement may be granted by the Grants Officer based on sufficient documentation demonstrating previously determined plans for or later commitment of cash or in-kind contributions. In any case, recipients must meet the cost share commitment over the life of the award.

4. Budget Changes and Transfers Among Cost Categories. When the terms of an award allow the recipient to transfer funds among approved direct cost categories, the transfer authority does not authorize the recipient to create new budget categories within an approved budget unless the Grants Officer has provided prior approval. In addition, the recipient will not be authorized at any time to transfer amounts budgeted for direct costs to the indirect costs line item or vice versa, without written prior approval of the Grants Officer.

5. Indirect Costs.

(a) Indirect costs will not be allowable charges against an award unless specifically included as a line item in the approved budget incorporated into the award. (The term “indirect cost” has been replaced with the term “facilities and administrative costs” under OMB Circular A–21 (2 CFR part 220), “Cost Principles for Educational Institutions.”)

(b) Excess indirect costs may not be used to offset unallowable direct costs.

(c) If the recipient has not previously established an indirect cost rate with a Federal agency, the negotiation and approval of a rate will be subject to the procedures in the applicable cost principles and the following subparagraphs:

(1) a. State, local, and Indian Tribal Governments; Educational Institutions; and Non-Profit Organizations (Non-Commercial Organizations).

For those organizations for which the DOC is cognizant or has oversight, the DOC or its designee will either negotiate a fixed rate with carryforward provisions or, in some instances, limit its review to evaluating the procedures described in the recipient’s cost

allocation methodology plan. Indirect cost rates and cost allocation methodology reviews are subject to future audits to determine actual indirect costs.

**b. Commercial Organizations.**

For commercial organizations, "cognizant federal agency" is defined as the agency that provides the largest dollar amount of negotiated contracts, including options. If the only federal funds received by a commercial organization are DOC award funds, then the DOC becomes the cognizant federal agency for the purpose of indirect cost negotiations. For those organizations for which the DOC is cognizant, DOC or its designee will negotiate a fixed rate with carry forward provisions for the recipient. "Fixed rate" means an indirect cost rate which has the same characteristics as a pre-determined rate, except that the difference between the estimated costs and the actual costs of the period covered by the rate is carried forward as an adjustment to the rate computation of the subsequent period. DOC or its designee will negotiate indirect cost rates using the cost principles found in 48 CFR part 31, "Contract Cost Principles and Procedures." For guidance on how to put an indirect cost plan together go to: <http://www.dol.gov/oasm/programs/boc/costdeterminationguide/main.htm>.

(2) Within 90 days of the award start date, the recipient shall submit to the address listed below documentation (indirect cost proposal, cost allocation plan, etc.) necessary to perform the review. The recipient shall provide the Grants Officer with a copy of the transmittal letter.

Office of Acquisition Management, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Room 6054, Washington, DC 20230.

(3) The recipient can use the fixed rate proposed in the indirect cost plan until such time as the DOC provides a response to the submitted plan. Actual indirect costs must be calculated annually and adjustments made through the carryforward provision used in calculating next year's rate. This calculation of actual indirect costs and the carryforward provision is subject to audit. Indirect cost rate proposals must be submitted annually. Organizations that have previously established indirect cost rates must submit a new indirect cost proposal to the cognizant agency within six months after the close of each recipient's fiscal year.

(4) When the DOC is not the oversight or cognizant Federal agency, the recipient shall provide the Grants Officer with a copy of a negotiated rate

agreement or a copy of the transmittal letter submitted to the cognizant or oversight Federal agency requesting a negotiated rate agreement.

(5) If the recipient fails to submit the required documentation to the DOC within 90 days of the award start date, the recipient may be precluded from recovering any indirect costs under the award. If the DOC, oversight, or cognizant Federal agency determines there is a finding of good cause to excuse the recipient's delay in submitting the documentation, an extension of the 90-day due date may be approved by the Grants Officer.

(6) Regardless of any approved indirect cost rate applicable to the award, the maximum dollar amount of allocable indirect costs for which the DOC will reimburse the recipient shall be the lesser of the line item amount for the Federal share of indirect costs contained in the approved budget of the award, or the Federal share of the total allocable indirect costs of the award based on the indirect cost rate approved by an oversight or cognizant Federal agency and current at the time the cost was incurred, provided the rate is approved on or before the award end date.

6. Tax Refunds. Refunds of FICA/FUTA taxes received by a recipient during or after an award period must be refunded or credited to the DOC where the benefits were financed with Federal funds under the award. Recipients are required to contact the Grants Officer immediately upon receipt of these refunds. Recipients are required to refund portions of FICA/FUTA taxes determined to belong to the Federal Government, including refunds received after the award end date.

7. Other Federal Awards with Similar Programmatic Activities. Recipients will be required to provide written notification to the Federal Program Officer and the Grants Officer in the event that, subsequent to receipt of the DOC award, other financial assistance is received to support or fund any portion of the scope of work incorporated into the DOC award. The DOC will not pay for costs that are funded by other sources.

8. Non-Compliance With Award Provisions. Failure to comply with any or all of the provisions of an award, or the requirements of this notice, may have a negative impact on future funding by the DOC and may be considered grounds for any or all of the following enforcement actions: Establishment of an account receivable, withholding payments under any DOC awards to the recipient, changing the method of payment from advance to

*reimbursement only*, or the imposition of other special award conditions, suspension of any DOC active awards, and termination of any DOC active awards.

9. Prohibition Against Assignment by the Recipient. Notwithstanding any other provision of an award, recipients may not transfer, pledge, mortgage, or otherwise assign an award, or any interest therein, or any claim arising thereunder, to any party or parties, banks, trust companies, or other financing or financial institutions without the express written approval of the Grants Officer.

10. Non-Discrimination Requirements. There are several Federal statutes, regulations, Executive Orders, and policies relating to nondiscrimination. No person in the United States shall, on the grounds of race, color, national origin, handicap, religion, age, 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. These requirements include but are not limited to:

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

(b) Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*) and the DOC's implementing regulations at 15 CFR part 8a prohibiting discrimination on the basis of sex under Federally assisted education programs or activities;

(c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794) and the DOC's implementing regulations published at 15 CFR part 8b prohibiting discrimination on the basis of handicap under any program or activity receiving or benefiting from Federal assistance;

(d) The Age Discrimination Act of 1975, as amended (42 U.S.C. 6101 *et seq.*) and the DOC's implementing regulations published at 15 CFR part 20 prohibiting discrimination on the basis of age in programs or activities receiving Federal financial assistance;

(e) 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;

(f) Title VIII of the Civil Rights Act of 1968, as amended (42 U.S.C. 3601 *et seq.*), relating to nondiscrimination in the sale, rental or financing of housing;

(g) Parts II and III of Executive Order 11246, as amended by Executive Orders 11375 and 12086 requiring Federally assisted construction contracts to include the nondiscrimination provisions of sections 202 and 203 of that Executive Order and the Department of Labor's regulations at 41 CFR 60-1.4(b) implementing Executive Order 11246;

(h) Executive Order 13166 (August 11, 2000), "Improving Access to Services for Persons With Limited English Proficiency," and DOC policy guidance issued on March 24, 2003 (68 FR 14180) to Federal financial assistance recipients on the Title VI prohibition against national origin discrimination affecting Limited English Proficient (LEP) persons; and

(i) In recognition of the constitutionally-protected interest of religious organizations in making religiously-motivated employment decisions, Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et seq.*, which expressly exempts religious organizations from the prohibition against discrimination on the basis of religion. See 42 U.S.C. 2000e-1(a).

11. Audits of Organizations Covered by OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations" and the related Compliance Supplement. Recipients that are subject to OMB Circular A-133, and that expend \$500,000 or more in Federal awards in a fiscal year shall have an audit conducted for that year in accordance with the requirements of OMB Circular A-133, issued pursuant to the Single Audit Act of 1984 (Pub. L. No. 98-502), as amended by the Single Audit Act Amendments of 1996 (Pub. L. No. 104-156).

12. Unless otherwise specified in the terms and conditions of the award, in accordance with 15 CFR 14.26(c) and (d), for-profit hospitals, commercial entities, and other organizations not required to follow the audit provisions of OMB Circular A-133 shall have an audit performed when the federal share amount awarded is \$500,000 or more over the duration of the project period. An audit is required at least once every two years using the following schedule for audit report submission.

(a) For awards less than 24 months, an audit is required within 90 days from the project expiration date, including the close-out period for the award.

(b) For 2-, or 3-year awards, an audit is required within 90 days after the end of the first year and within 90 days from

the project expiration date including the close-out period for the award.

(c) For 4-, or 5-year awards, an audit is required within 90 days after the end of the first year and third year, and within 90 days from the project expiration date including the close-out period for the award.

Some DOC programs have specific audit guidelines that will be incorporated into the award. When DOC does not have a program-specific audit guide available for the program, the auditor will follow the requirements for a program-specific audit as described in OMB Circular A-133, §.235. The Recipient may include a line item in the budget for the cost of the audit.

13. Policies and Procedures for Resolution of Audit-Related Debts. The DOC has established policies and procedures for handling the resolution and reconsideration of financial assistance audits which have resulted in, or may result in, the establishment of a debt (account receivable) for financial assistance awards. These policies and procedures are contained in the **Federal Register** notice dated January 27, 1989. See 54 FR 4053. The policies and procedures also are provided in more detail in the *Department of Commerce Financial Assistance Standard Terms and Conditions*.

14. Debts. Any debts determined to be owed the Federal Government shall be paid promptly by the recipient. In accordance with 15 CFR 21.4, a debt will be considered delinquent if it is not paid within 15 days of the due date, or if there is no due date, within 30 days of the billing date. Failure to pay a debt by the due date, or if there is no due date, within 30 days of the billing date, shall result in the imposition of late payment charges. In addition, failure to pay the debt or establish a repayment agreement by the due date, or if there is no due date, within 30 days of the billing date, will also result in the referral of the debt for collection action and may result in the DOC taking further action as specified in the terms of the award. Funds for payment of a debt must not come from other federally sponsored programs. Verification that other Federal funds have not been used will be made, e.g., during on-site visits and audits.

15. Post-Award Discovery of Adverse Information. After an award is made, if adverse information on a recipient or any key individual associated with a recipient is discovered which reflects significantly and adversely on the recipient's responsibility, the Grants Officer may take the following actions:

(a) Require the recipient to correct the conditions.

(b) Consider the recipient to be "high risk" and unilaterally impose special award conditions to protect the Federal Government's interest.

(c) Suspend or terminate an active award. The recipient will be afforded due process while effecting such actions.

(d) Require the removal of personnel from association with the management of and/or implementation of the project and require Grants Officer approval of personnel replacements.

#### 16. Competition and Codes of Conduct.

(a) Pursuant to the certification in Form SF-424B, paragraph 3, recipients must maintain written standards of conduct to establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of a personal or organizational conflict of interest, or personal gain in the administration of this award and any subawards.

(b) Recipients must maintain written standards of conduct governing the performance of their employees engaged in the award and administration of subawards. No employee, officer, or agent shall participate in the selection, award, or administration of a subaward supported by Federal funds if such participation would cause a real or apparent conflict of interest. Such a conflict would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization in which he/she serves as an officer or which employs or is about to employ any of the parties mentioned in this section, has a financial or other interest in the organization selected or to be selected for a subaward. The officers, employees, and agents of the recipient may not solicit or accept anything of monetary value from subrecipients. However, the recipient may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of a recipient.

(c) All subawards will be made in a manner to provide, to the maximum extent practicable, open and free competition. Recipients must be alert to organizational conflicts of interest as well as other practices among subrecipients that may restrict or eliminate competition. In order to ensure objective subrecipient performance and eliminate unfair competitive advantage, subrecipients

that develop or draft work requirements, statements of work, or requests for proposals will be excluded from competing for such subawards.

(d) For purposes of the award, a financial interest may include employment, stock ownership, a creditor or debtor relationship, or prospective employment with an applicant. An appearance of impairment of objectivity could result from an organizational conflict where, because of other activities or relationships with other persons or entities, a person is unable or potentially unable to act in an impartial manner. It also could result from non-financial gain to the individual, such as benefit to reputation or prestige in a professional field.

17. **Minority Owned Business Enterprise.** The DOC encourages recipients to utilize minority and women-owned firms and enterprises in contracts under financial assistance awards. The Minority Business Development Agency can assist recipients in matching qualified minority owned enterprises with contract opportunities.

18. **Subaward and/or Contract to a Federal Agency.** Recipients, subrecipients, contractors, and/or subcontractors may not sub-grant or sub-contract any part of an approved project to any Federal department, agency, instrumentality, or employee thereof, without the prior written approval of the Grants Officer.

19. **Foreign Travel.** Recipients must comply with the provisions of the Fly America Act, 49 U.S.C. 40118. The Fly America Act requires that Federal travelers and others performing U.S. Government-financed foreign air travel must use U.S. flag 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 carrier service will not accomplish the agency's mission. The implementing Federal Travel Regulations are found at 41 CFR 301-10.131 through 301-10.143.

20. **Purchase of American-Made Equipment and Products.** Recipients are hereby notified that they are encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under DOC financial assistance awards.

21. **Intellectual Property Rights.**

(a) **Inventions.** The rights to any invention made by a recipient under a DOC financial assistance award are determined by the Bayh-Dole Act, as amended (Pub. L. No. 96-517), and codified at 35 U.S.C. 200 *et seq.*, except

as otherwise required by law. The specific rights and responsibilities are described in more detail in 37 CFR part 401 and in particular, in the standard patent rights clause in 37 CFR 401.14, which is incorporated by reference into awards. Recipients of DOC financial assistance awards are required to submit their disclosures and elections electronically using the Interagency Edison extramural invention reporting system (iEdison) at <http://www.iEdison.gov>. Recipients may obtain a waiver of this electronic submission requirement by providing to the DOC compelling reasons for allowing the submission of paper copies of reports related to inventions.

(b) **Patent Notification Procedures.** Pursuant to Executive Order 12889, the DOC is required to notify the owner of any valid patent covering technology whenever the DOC or its financial assistance recipients, without making a patent search, knows (or has demonstrable reasonable grounds to know) that technology covered by a valid United States patent has been or will be used without a license from the owner. To ensure proper notification, if the recipient uses or has used patented technology under this award without a license or permission from the owner, the recipient will be required to notify the Grants Officer. This notice does not necessarily mean that the government authorizes and consents to any copyright or patent infringement occurring under the financial assistance.

(c) **Data, Databases, and Software.** The rights to any work produced or purchased under a DOC financial assistance award are determined by 15 CFR 14.36 or 24.34, as applicable. Such works may include data, databases or software. The recipient owns any work produced or purchased under a DOC financial assistance award subject to DOC's right to obtain, reproduce, publish or otherwise use the work or authorize others to receive, reproduce, publish or otherwise use the data for Federal Government purposes.

(d) **Copyright.** The recipient may copyright any work produced under a DOC financial assistance award subject to the DOC's royalty-free nonexclusive and irrevocable right to reproduce, publish or otherwise use the work or authorize others to do so for Federal Government purposes. Works jointly authored by the DOC and recipient employees may be copyrighted but only the part authored by the recipient is protected because, under 17 U.S.C. 105, works produced by Government employees are not copyrightable in the United States. On occasion, the DOC may ask the recipient to transfer to DOC

its copyright in a particular work when the DOC is undertaking the primary dissemination of the work. Ownership of copyright by the Federal Government through assignment is permitted by 17 U.S.C. 105.

22. **Seat Belt Use.** Pursuant to Executive Order 13043, recipients shall seek to encourage employees and contractors to enforce on-the-job seat belt policies and programs when operating recipient/company-owned, rented or personally owned vehicles.

23. **Research Involving Human Subjects.** All proposed research involving human subjects must be conducted in accordance with 15 CFR part 27, "Protection of Human Subject." No research involving human subjects is permitted under any DOC financial assistance award unless expressly authorized by the Grants Officer.

24. **Federal Employee Expenses.** Federal agencies are generally barred from accepting funds from a recipient to pay transportation, travel, or other expenses for any Federal employee unless specifically approved in the terms of the award. Use of award funds (Federal or non-Federal) or the recipient'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 prohibits the acceptance of gifts, including travel payments for Federal employees, from recipients or applicants regardless of the source.

25. **Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects.** Pursuant to Executive Order 13202, "Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects," as amended by Executive Order 13208, unless the project is exempted under section 5(c) of the Order, bid specifications, project agreements, or other controlling documents for construction contracts awarded by recipients of grants or cooperative agreements, or those of any construction manager acting on their behalf, shall not: (1) Include any requirement or prohibition on bidders, offerors, contractors, or subcontractors about entering into or adhering to agreements with one or more labor organizations on the same or related construction project(s); or (2) otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or

remain signatories or otherwise adhering to agreements with one or more labor organizations, on the same or other related construction project(s).

26. Minority Serving Institutions (MSIs) Initiative. Pursuant to Executive Orders 13256, 13230, and 13270, the DOC is strongly committed to broadening the participation of MSIs in its financial assistance award programs. The 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. The DOC encourages all applicants and recipients to include meaningful participation of MSIs. Institutions eligible to be considered MSIs are listed on the Department of Education's Web site at: <http://www.ed.gov/offices/OCR/minorityinst.html>.

27. Access to Records. The Inspector General of the DOC, or any of his or her duly authorized representatives, the Comptroller of the United States and, if appropriate, the State, shall have access to any pertinent books, documents, papers and records of the parties to a grant or cooperative agreement, whether written, printed, recorded, produced, or reproduced by any electronic, mechanical, magnetic or other process or medium, in order to make audits, inspections, excerpts, transcripts, or other examinations as authorized by law. An audit of an award may be conducted at any time.

28. Scientific or Research Misconduct. Scientific or research misconduct refers to the fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results. It does not include honest errors or differences of opinion. The recipient organization has the primary responsibility to investigate allegations and provide reports to the Federal Government. Funds expended on an activity that is determined to be invalid or unreliable because of scientific misconduct may result in a disallowance of costs for which the institution may be liable for repayment to the awarding agency. The Office of Science and Technology Policy at the White House published in the **Federal Register** on December 6, 2000, a final policy that addressed research misconduct. The policy was developed by the National Science and Technology Council (65 FR 76260). The DOC requires that any allegation be submitted to the Grants Officer, who will also notify the OIG of such

allegation. Generally, the recipient organization shall investigate the allegation and submit its findings to the Grants Officer. The DOC may accept the recipient's findings or proceed with its own investigation. The Grants Officer shall inform the recipient of the DOC's final determination.

29. Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728–4763). Recipients must comply with this Act relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of the Office of Personnel Management Standards for a Merit System of Personnel Administration (5 CFR part 900, Subpart F).

30. Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. 4601 *et seq.*) and the DOC's implementing regulations issued at 15 CFR part 11. These provide for fair and equitable treatment of persons displaced or 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.

31. Historic Preservation. Recipients must assist the DOC in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended, and the Advisory Council on Historic Preservation Guidelines (16 U.S.C. 470 *et seq.*); the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a–1 *et seq.*); Protection and Enhancement of the Cultural Environment, Executive Order 11593; Locating Federal Facilities on Historic Properties in our Nation's Central Cities, Executive Order 13006; and Indian Sacred Sites, Executive Order 13007.

32. Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 *et seq.*). This Act prohibits the use of lead-based paint in construction or rehabilitation of residential structures.

33. Hatch Act (5 U.S.C. 1501–1508 and 7324–7328). This Act 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.

34. Labor standards for Federally-assisted construction subagreements (wage guarantees). Recipients must comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a–7); the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874); and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333).

35. Care and Use of Live Vertebrate Animals. Recipients must comply with the Laboratory Animal Welfare Act of 1966 (Pub. L. No. 89–544), as amended (7 U.S.C. 2131 *et seq.*) (animal acquisition, transport, care, handling, and use in projects) and implementing regulations, 9 CFR 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.

36. Publications, Videos, and Acknowledgment of Sponsorship. Publication of the results of a research project in appropriate professional journals and production of videos or other media is encouraged as an important method of recording and reporting scientific information. It is also a constructive means to expand access to federally funded research. The recipient is required to submit a copy to the funding agency and when releasing information related to a funded project include a statement that the project or effort undertaken was or is sponsored by DOC. The recipient is also responsible for assuring that every publication of material (including Internet sites and videos) based on or developed under an award, except scientific articles or papers appearing in scientific, technical or professional journals, contains the following disclaimer: "This [report/video] was prepared by [recipient name] 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."

37. Homeland Security Presidential Directive—12. If the performance of a grant award requires recipient organization personnel to have unsupervised physical access to a Federally controlled facility for more than 180 days or access to a Federal information system, such personnel must undergo the personal identity

verification credential 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 they are eligible for employment within the U.S. Any items or services delivered under a financial assistance award shall comply with the Department of Commerce personal identity verification procedures that implement Homeland Security Presidential Directive—12, FIPS PUB 201, and OMB Memorandum M-05-24. The recipient shall insert this clause in all subawards or contracts when the subaward recipient or contractor is required to have physical access to a Federally controlled facility or access to a Federal information system.

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

(a) This clause applies to the extent that a financial assistance award involves access to export-controlled information or technology.

(b) In performing a financial assistance award, the recipient may gain access to export-controlled information or technology. The recipient is responsible for compliance with all applicable laws and regulations regarding export-controlled information and technology, including deemed exports. The recipient shall establish and maintain effective export compliance procedures at non-DOC facilities throughout performance of the financial assistance award. At a minimum, these export compliance procedures must include adequate controls relating to physical, verbal, visual and electronic access to export-controlled information and technology.

#### (c) Definitions

(1) *Deemed Export*. The Export Administration Regulations (EAR) define a deemed export as any release of technology or source code subject to the EAR to a foreign national, both in the United States and abroad. Such release is "deemed" to be an export to the home country of the foreign national. 15 CFR 734.2(b)(2)(ii).

(2) *Export-controlled information and technology*. Export-controlled information and technology subject to the EAR (15 CFR 730-774), implemented by the DOC's Bureau of Industry and Security, or the International Traffic In Arms Regulations (ITAR) (22 CFR 120-130), implemented by the Department of State, respectively. This includes, but is

not limited to, dual-use items, defense articles and any related assistance, services, software or technical data as defined in the EAR and ITAR.

(d) The recipient shall control access to all export-controlled information and technology that it possesses or that comes into its possession in performance of a financial assistance award, to ensure that access is restricted, or licensed, as required by applicable Federal laws, Executive Orders, and/or regulations.

(e) Nothing in the terms of this financial assistance award is intended to change, supersede, or waive the requirements of applicable Federal laws, Executive Orders or regulations.

(f) The recipient shall include this clause, including this paragraph (f), in all lower tier transactions (subawards, contracts, and subcontracts) under this financial assistance award that may involve access to export-controlled information technology.

39. The Trafficking Victims Protection Act of 2000 (22 U.S.C. 7104(g)), as amended, and the implementing regulations at 2 CFR part 175. This Act authorizes termination of financial assistance provided to a private entity, without penalty to the Federal Government, if the recipient or subrecipient engages in certain activities related to trafficking in persons.

40. The Federal Funding Accountability and Transparency Act of 2006 (Pub. L. No. 109-282). This Act requires that the Federal government establish a single searchable awards Web site by January 1, 2008 to enable the public to see where Federal funds for grant and contract awards are being spent. Subaward and subcontract data will be required on the Web site by January 1, 2009. Funding data retroactive to October 1, 2006 must be reported by all Federal agencies and their recipient and subrecipient organizations. Data elements will include:

- Name of entity receiving award;
- Award amount;
- Transaction type, funding agency, Catalog of Federal Domestic Assistance Number, and descriptive award title;
- Location of: Entity, primary location of performance (City/State/Congressional District/Country); and
- Unique identifier of entity.

The data will be required within 30 days of an award. The DOC will be implementing this Act, which will require recipients and subrecipients to report the required data.

C. The **Federal Register** notice announcing the availability of Federal funds for each DOC competitive financial assistance program will

contain only the following program-specific information: Summary description of program; deadline date for receipt of applications; addresses for submission of applications; information contacts (including electronic access); the amount of funding available; statutory authority; the applicable *Catalog of Federal Domestic Assistance* (CFDA) number(s); eligibility requirements; cost-sharing or matching requirements; Intergovernmental Review requirements; evaluation criteria used by the merit reviewers; selection procedures, including funding priorities/selection factors/policy factors to be applied by the selecting official; and administrative and national policy requirements.

D. The DOC follows the uniform format for an announcement of Federal Funding Opportunity (FFO) for discretionary grants and cooperative agreements established by OMB in a policy letter published in the **Federal Register** (68 FR 37370, June 23, 2003). These FFOs are available at <http://www.grants.gov> or from the information contact listed in the **Federal Register** notice. Applicants are strongly encouraged to apply through <http://www.grants.gov>. It can take seven (7) to ten (10) business days to register with <http://www.grants.gov>, and registration is required only once. Applicants should consider the time needed to register with <http://www.grants.gov>, and should begin the registration process well in advance of the application due date if they have never registered. Applicants should allow themselves adequate time to submit the proposal through <http://www.grants.gov>, as the deadline for submission cannot be extended and there is the potential for human or computer error during the electronic submission process.

E. Universal Identifier: Applicants should be aware that they will be required to provide a Dun and Bradstreet Data Universal Numbering System number during the application process. See the June 27, 2003 **Federal Register** notice (68 FR 38402) for additional information. Organizations can receive a DUNS number at no cost by calling the dedicated toll-free Duns number request line at 1-866-705-5711 or by accessing the Grants.gov Web site at: <http://www.grants.gov>.

#### **Executive Order 12866**

This notice has been determined to be "not significant" for purposes of Executive Order 12866, "Regulatory Planning and Review."

### Administrative Procedure Act and Regulatory Flexibility Act

Because notice and comment are not required under 5 U.S.C. 553, or any other law, for this notice relating to public property, loans, grants benefits or contracts (5 U.S.C. 553(a)), a Regulatory Flexibility Analysis is not required and has not been prepared for this notice.

### Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

### Paperwork Reduction Act

These regulatory actions do not impose any new reporting or recordkeeping requirements under the Paperwork Reduction Act. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection-of-information, subject to the requirements of the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, unless that collection of information displays a currently valid OMB control number. The use of the following family of forms has been approved by OMB under the following control numbers: (1) SF-424 Family: 0348-0041, 0348-0044, 4040-0003, and 4040-0004; (2) SF-424 Research and Related Family: 4040-0001; SF-424 Individual Family: 4040-0005; (3) SF-424 Mandatory Family: 4040-0002; and (4) SF-424 Short Organizational Family: 4040-0003. The use of Forms SF-LLL and CD-346 are approved by OMB under the control numbers 0348-0046 and 0605-0001, respectively.

### Catalog of Federal Domestic Assistance

This notice affects all of the grant and cooperative agreement programs funded by the DOC. The *Catalog of Federal Domestic Assistance* can be accessed on the Internet under the DOC Grants Management Web site at <http://www.cfda.gov>.

### List of Subjects

Accounting, Administrative practice and procedures, Grants administration, Grant programs—economic development, Grant programs—oceans, atmosphere and fisheries management, Grant programs—minority businesses, Grant programs—technology, Grant programs—telecommunications, Grant

programs—international, Reporting and recordkeeping requirements.

Al Sligh, Jr.,

Director for Acquisition Management and Procurement Executive.

[FR Doc. E8-2482 Filed 2-8-08; 8:45 am]

BILLING CODE 3510-FA-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-821-802]

### Amendment to the Agreement Suspending the Antidumping Investigation on Uranium From the Russian Federation

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** February 1, 2008.

**SUMMARY:** The Department of Commerce (“the Department”) and the Russian Federation’s Federal Atomic Energy Agency (“Rosatom”) have signed an amendment to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation (“Suspension Agreement”). The amendment will allow the Russian Federation (“Russia”) to export Russian uranium products to the U.S. market in accordance with the export limits and other terms detailed in the amendment.

**FOR FURTHER INFORMATION CONTACT:**

Sally C. Gannon at (202) 482-0162, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230.

### Background

On October 30, 1992, the Department suspended the antidumping duty investigation involving uranium from Russia on the basis of an agreement by its government to restrict the volume of direct or indirect exports to the United States in order to prevent the suppression or undercutting of price levels of U.S. domestic uranium. *See Antidumping; Uranium from Kazakhstan, Kyrgyzstan, Russia, Tajikistan, Ukraine, and Uzbekistan; Suspension of Investigations and Amendment of Preliminary Determinations*, 57 FR 49220 (October 30, 1992).

The Suspension Agreement was subsequently amended, by agreement of both governments, on March 11, 1994, October 3, 1996, and May 7, 1997. *See, respectively, Amendment to Agreement Suspending the Antidumping Investigation on Uranium from the*

*Russian Federation*, 59 FR 15373 (April 1, 1994); *Amendments to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation*, 61 FR 56665 (November 4, 1996); and *Amendment to Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation*, 62 FR 37879 (July 15, 1997). On July 31, 1998, the Department notified interested parties of an administrative change with respect to the Suspension Agreement. *See Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation*, 63 FR 40879 (July 31, 1998).

On November 27, 2007, the United States and Russia initialed a draft amendment to the Suspension Agreement. On December 4, 2007, the Department published the draft amendment in the **Federal Register** and invited comments from interested parties, to be submitted by January 3, 2008. *See Initialed Draft Amendment to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation; Request for Comment*, 72 FR 68124 (December 4, 2007). On December 17, 2007, the Department received initial comments on the draft amendment from Power Resources, Inc. and Crow Butte Resources, Inc. On December 31, 2007, pursuant to a request by interested parties, the Department extended the comment period deadline until January 10, 2008. *See Extension of Time to Submit Comments Concerning the Initialed Draft Amendment to the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation*, 72 FR 74272 (December 31, 2007). The Department received comments from the following parties: Ad Hoc Utilities Group; AREVA S.A. and its affiliated entities; Fuelco LLC; General Electric; Louisiana Energy Services, L.P.; Nuclear Energy Institute; Nukem, Inc.; Power Resources, Inc., Crow Butte Resources, Inc., and Uranium Resources, Inc.; Progress Energy; United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied-Industrial and Service Workers International Union; USEC Inc. and United States Enrichment Corporation; and Westinghouse Electric Company LLC.

On February 1, 2008, after consideration of the interested party comments received, U.S. Secretary of Commerce Carlos M. Gutierrez and the Director of Russia’s Federal Atomic Energy Agency (Rosatom), S.V. Kiriienko, signed a finalized amendment to the Suspension Agreement. The amendment allows for