Special Federal Award Terms and Conditions

Preschool Development Grant Birth to Five (PDG B-5) Renewal Grant

Pursuant to OMB Uniform Guidance (2 C.F.R. Part 200) provisions at 2 C.F.R. §§ 200.101(b)(2) and 200.332(a)(2), these Special Federal Award Terms and Conditions for PDG B-5 Renewal Grant pass through Terms and Conditions specific to the Federal award, which are not set forth elsewhere in this TWC grant award. These grant funds awarded by TWC must be used in compliance with the following Federal Terms and Conditions in addition to the other provisions of this TWC grant award.

Effective December 2014, the US Department of Health and Human Services (HHS) specific implementing regulations of Uniform Administrative Requirements, Cost Principles, and Audit Regulations for HHS Awards is codified at 45 C.F.R. Part 75. Unless otherwise stated, grantees must refer to HHS-specific language in 45 C.F.R. Part 75 rather than 2 C.F.R. Part 200.

# Salary Limitation

None of the funds shall be used to pay the salary of an individual, through a grant or other extramural mechanism, which includes non-federal share, at a rate in excess of Federal Executive Level II. The Federal Executive Level II salary can be found in the Salaries & Wages tables on the U.S. Office of Personnel Management Web site at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/.> This amount reflects an individual’s base salary exclusive of fringe and any income that an individual may be permitted to earn outside of the duties of the non-Federal entities’ organization. This salary limitation also applies to subawards, contracts, and subcontracts under an Administration for Children and Families (ACF) grant or cooperative agreement.

# Federal Funding Disclosure Statement (Requirement to Provide Certain Information in Public Communications)

When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all recipients receiving Federal funds, including in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state:

## the percentage and dollar amount of the total costs of the program or project which will be financed with Federal money, and

## percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

# Pro-Children Act of 2001 Smoking Prohibitions

In accordance with the “Pro-Children Act of 2001,” (20 U.S.C. §§ 7181 – 7184), smoking is prohibited in any indoor facility (owned, leased, or contracted for) used for the routine or regular provision of kindergarten, elementary, or secondary education or library services to children under the age of 18. In addition, smoking is prohibited in any indoor facility or portion of a facility (owned, leased, or contracted for) used for the routine or regular provision of federally funded health care, day care, or early childhood development, including Head Start services to children under the age of 18. The statutory prohibition also applies if such facilities are constructed, operated, or maintained with federal funds. The law does not apply to children’s services provided in private residences, facilities funded solely by Medicare or Medicaid funds, portions of facilities, used for inpatient drug or alcohol treatment, or facilities where WIC coupons are redeemed.

The above language must be included in any subawards that contain provisions for children’s services and that all subawards shall certify compliance accordingly. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to $1,000 per violation and/or the imposition or an administrative compliance order on the responsible entity.

# Human Trafficking Provisions

This TWC grant award is subject to the requirements in Section 106(g) of the Trafficking Victims Protection Act of 2000, as a[mended (22 U.S.C. § 7104). The full text of this requirement is](http://www.acf.hhs.gov/grants/award-term-and-condition-for-trafficking-in-persons) [found on the HHS ACF](http://www.acf.hhs.gov/grants/award-term-and-condition-for-trafficking-in-persons) Web site at: <https://www.acf.hhs.gov/grants/award-term-and-condition-trafficking-persons>.

# Reporting of Violations of Federal Criminal Law

Consistent with 45 C.F.R. § 75.113, applicants and recipients must disclose in a timely manner, in writing to the HHS awarding agency, with a copy to the HHS Office of Inspector General (OIG), all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Subrecipients must disclose, in a timely manner, in writing to the prime recipient (pass through entity) and the HHS OIG, all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Disclosures must be sent in writing to the OGM and the HHS OIG at the following addresses:

The Administration for Children and Families

U.S. Department of Health and Human Services

Office of Grants Management

ATTN: [Insert Name of assigned Grants Management Specialist]

330 C Street, SW., Switzer Building Corridor 3200

Washington, DC 20201

AND

U.S. Department of Health and Human Services

Office of Inspector General

ATTN: Mandatory Grant Disclosures, Intake Coordinator

330 Independence Avenue, SW., Cohen Building

Room 5527

Washington, DC 20201

Fax: (202) 205-0604 (Include “Mandatory Grant Disclosures” in subject line)

OR

Email: MandatoryGranteeDisclosures@oig.hhs.gov

Failure to comply may result in any noncompliance remedies in accordance with 45 C.F.R. § 75.371 , including debarment and suspension. (See also 2 C.F.R. Parts 180 and 376 , and 31 U.S.C. § 3321 ). For more information on FAPIIS, please see the Appendix XII of Part 75 - Award Term and Condition for Recipient Integrity and Performance Matters .

# Standards for Financial and Program Management

## This award is subject to the requirements as set forth in 45 C.F.R. Part 75. Costs must comply with 45 C.F.R. §§ 75.400 – 75.477.

## Procurement procedures must comply with 45 C.F.R. §§ 75.326 and 75.335 procurement standards.

## States must follow the same procedures used for non-federal funds and must include contract provisions noted in 45 C.F.R. Part 75 Appendix II.

## Subrecipient and contractor determinations, requirements for pass-through entities, and fixed amount subawards must comply with 45 C.F.R. §§ 75.351 – 75.353.

## Indirect costs must comply with 45 C.F.R. § 75.414. Indirect cost rates must be based on a current Indirect Cost Rate Agreement approved by the non-federal entity’s cognizant federal agency. A de minimis rate of 10% of Modified Total Direct Costs (MTDC) may only be used by a non-federal entity that has never received a federally negotiated indirect cost rate agreement. Note: A governmental department/agency that receives more than $35M in direct federal funding must submit an indirect cost rate proposal to its cognizant agency for indirect costs.

## Prior approval requirements in 45 C.F.R. § 75.308(d) are not waived. Grant recipients must request prior approval for pre-award costs, one-time extension of the period of performance, and carryover of unobligated balances.

## Participant Support Costs require prior approval per 45 C.F.R. § 75.456.

# Non-Discrimination Legal Requirements for Recipients of Federal Financial Assistance

Funds must be administered in compliance with federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, disability, age, and, in some circumstances, religion, conscience, and sex. This includes taking reasonable steps to provide meaningful access to individuals with limited English proficiency and providing programs that are accessible to and usable by individuals with disabilities.

# Prohibition on Expending HHS Award Funds for Covered Telecommunications Equipment or Services as per 2 C.F.R. § 200.216

Funds shall be used in compliance with 2 C.F.R. § 200.216:

Prohibition on certain telecommunications and video surveillance services or equipment.

## As described in 2 C.F.R. § 200.216, recipients and subrecipients are prohibited to obligate or spend grant funds (to include direct and indirect expenditures as well as cost share and program) to:

### Procure or obtain,

### Extend or renew a contract to procure or obtain; OR

### Enter into contract (or extend or renew contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Pub. L. 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

### For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

### Telecommunications or video surveillance services provided by such entities or using such equipment.

### Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise, connected to the government of a covered foreign country.

# Publications or Audiovisual Media Disclaimer

Publications or audiovisual media must include the following disclaimer: “This [publication or project] was made possible by grant number 90TP0088. Its contents are solely the responsibility of the authors and do not necessarily represent the official view of the United States Department of Health and Human Services, Administration for Children and Families.”

# Contract provisions required by 45 C.F.R. Part 75 Appendix II

## Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

## All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be affected and the basis for settlement.

## Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 C.F.R. part 401 and any implementing regulations issued by the awarding agency.

## Clean Air Act (42 U.S.C. §§ 7401 – 7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 – 1387), as amended - Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401 – 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 – 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Subrecipient agrees to comply with all applicable standards, orders, or regulations issued pursuant to the mandates of the Clean Air Act (42 U.S.C. § 7401 et seq.) and the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 et seq.).

## Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. part 180 that implement Executive Orders 12549 (3 C.F.R. part 1986 Comp., p. 189) and 12689 (3 C.F.R. part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

## Requirements for a Drug-Free Workplace - The Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101 – 8106) requires that all organizations receiving grants from any federal agency agree to maintain a drug-free workplace and will comply with the requirements to notify ACF if an employee is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment. Government-wide requirements for Drug-Free Workplace for Financial Assistance are found in 2 C.F.R. Part 182; HHS implementing regulations are set forth in 2 C.F.R. Part 382.400. All recipients of ACF grant funds must comply with the requirements in Subpart B - Requirements for Recipients Other Than Individuals 2 C.F.R. § 382.225.

## Prohibition Against Profit - Unless exempted by 45 C.F.R. § 75.101, program regulations, and/or the terms and conditions of the award:

### Recipients are subject to the limitations set forth in 45 C.F.R. § 75.216, Special provisions for awards to commercial organizations as recipients (45 C.F.R. § 75.216(b) Prohibition against profit), which states that, “…no HHS funds may be paid as profit to any recipient even if the recipient is a commercial organization.

### Profit is any amount in excess of allowable direct and indirect costs.” Recipients are subject to the limitations under 45 C.F.R. § 75.400, Policy Guide (45 C.F.R. § 75.400(g)) which states “the non-Federal entity may not earn or keep profit resulting from Federal financial assistance, unless explicitly authorized by the terms and conditions of the Federal award. See also § 75.307.

## Equal Treatment for Faith-Based Organizations - Recipients are subject to the requirements of 45 C.F.R. § 87, Equal Treatment for Faith-Based Organizations.

## Award Term and Condition for Unpaid Tax Liability - Recipients are subject to the requirement contained in Section 744 of the “Consolidated Appropriations Act, 2022,” (Division E-Financial Services and General Government Appropriations Act, 2022, Title VII, General Provisions — Government-Wide), which says “None of the funds made available by this or any other Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government."

## Requirements for Recipient Electronic and Information Technology - Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794(a)), states that no otherwise qualified individual with a disability in the United States shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department. To assist recipients in these compliance obligations, HHS suggests implementing the Section 508 standards when the recipient anticipates public use of its electronic and information technology. Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. § 794d(a)(1)(A)) requires that when Federal agencies develop, procure, maintain, or use electronic and information technology, individuals with disabilities have access to and use of information and data that is comparable to that provided to the public who are not individuals with disabilities.

# Federal Funding Accountability and Transparency Act (FFATA) (2 C.F.R. Part 170)

This award is subject to the Federal Financial Accountability and Transparency Act (FFATA or Transparency) of 2006 subaward and executive compensation reporting requirements. This award is also subject to the requirements as set forth in 2 C.F.R. § 25.110 Central Contractor Registration (CCR) and DATA Universal Number System (DUNS). If applicable, Subrecipient must comply with these requirements and have a federally issued Unique Entity Identifier at the time of the Grant Award. Additionally, if required, Subrecipient will have a registered SAM.gov account within thirty (30) days of and throughout the Grant Award.

# Award Term for System Award Management and Unique Entity Identifier

This award is subject to requirements as set forth in System Award Management (SAM) and Unique Entity Identifier (UEI) Requirements. (2 C.F.R. § 25.110).

## Requirement for SAM

Unless exempted from this requirement under 2 C.F.R. § 25.110, the recipient must maintain current information in the SAM. This includes information on recipient’s immediate and highest level owner and subsidiaries, as well as on all predecessors that have been awarded a Federal contract or federal financial assistance within the last three years, if applicable, until recipient submits the final financial report required under your award or receive the final payment, whichever is later. Recipient must review and update the information at least annually after the initial registration, and more frequently if required by changes in information.

## Requirements for UEI

If recipient is authorized to make subawards, recipient must:

### notify potential subrecipients that no entity may receive a subaward from unless the entity has provided its UEI.

### Not make a subaward to an entity unless the entity has provided its UEI.

## Definitions

For purposes of this award term:

### SAM means the Federal repository into which a recipient must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM website.

### UEI means the identifier assigned by SAM to uniquely identify business entities.

### Entity includes non-Federal entities as defined at 2 § C.F.R. 200.1 and also includes all of the following, for purposes of this part:

* A foreign organization;
* A foreign public entity;
* A domestic for-profit organization; and
* A Federal agency.

### Subaward has the meaning given in 2 C.F.R. § 200.1.

### Subrecipient has the meaning given in 2 C.F.R. § 200.1.

# Whistleblower Protections

Recipients must comply with the National Defense Authorization Act (NDAA) for Fiscal Year 2013 (Pub.L. 112-239, 41 U.S.C. § 4712) “Enhancement of contractor protection from reprisal for disclosure of certain information,” and 48 C.F.R. Part 3, Subpart 3.9, “Whistleblower Protections for Contractor Employees.” For more information see: <https://oig.hhs.gov/fraud/whistleblower/> and [Whistleblower Notice to HHS Contractors, Subcontractors, Grantees, Subgrantees or Personal Services Contractors](https://oig.hhs.gov/documents/fraud/367/NDAA-Notice-HHS-Contractors.pdf).

# Executive Orders

This award is subject to Executive Orders in the Federal Register available at: <https://www.federalregister.gov/presidential-documents/executive-orders>