

U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL RAILROAD ADMINISTRATION

ASSURANCES AND CERTIFICATIONS

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1. INCORPORATION OF ASSURANCES AND CERTIFICATIONS

a. Document Source.

These assurances and certifications are submitted by the applicant as part of the project application for federal assistance.

b. False or Fraudulent Statements or Claims.

The Grantee acknowledges that if it makes or has made a false, fictitious, or fraudulent claim, statement, submission, or certification to the Government in connection with this project, the Government reserves the right to impose on the Grantee the penalties of 18 U.S.C. § 1001, 31 U.S.C. § 3801 et seq., and 49 U.S.C. app. § 1607a(h), as the Government may deem appropriate. The terms of U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to this project.

c. Incorporations of Assurances and Certifications.

Upon acceptance of the grant offer by the Grantor (FRA), these certification and assurances are incorporated in and become part of the Grant Agreement.

2. - ASSURANCES AND CERTIFICATIONS

The Grantee hereby assures and certifies, with respect to the Grant Agreement, that it will comply with all applicable Federal laws, regulations, executive orders, policies, guidelines and requirements as they relate to the application, acceptance, and use of Federal funds for this project including, but not limited to the following:

- a. Certification Regarding Debarment, Suspension, and Other Responsibility Matters--Primary Covered Transactions

#### **Instructions for Certification**

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to which this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms covered transaction, debarred, suspended, ineligible, lower-tier covered transaction, participant, person, primary covered, transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

**Certification Regarding Debarment, Suspension, and Other  
Responsibility Matters--Primary Covered Transactions**

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal department or agency;
  - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
  - (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Grantee Organization:

\_\_\_\_\_

Signature of

\_\_\_\_\_

Authorized Official: (Date:)

\_\_\_\_\_

Print Name:

\_\_\_\_\_

- b. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transactions

#### **Instructions for Certification**

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**Certification Regarding Debarment, Suspension, Ineligibility  
and Voluntary Exclusion-Lower Tier Covered Transactions**

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Grantee Organization:

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Signature of

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Authorized Official:      (Date:)

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Print Name:

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## **c. Certification Regarding Drug-Free Workplace Requirements**

### **Instructions for Certification**

1. By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below.

2. The certification set out below is a material representation of fact upon which reliance is placed when the agency awards the grant. If it is later determined that the grantee knowingly rendered a false certification, or otherwise violates the requirements of the Drug-Free Workplace Act, the agency, in addition to any other remedies available to the Federal Government, may take action authorized under the Drug-Free Workplace Act.

3. For grantees other than individuals, Alternate I applies.

4. For grantees who are individuals, Alternate II applies.

5. Workplaces under grants, for grantees other than individuals, need not be identified on the certification. If known, they may be identified in the grant application. If the grantee does not identify the workplaces at the time of application, - or upon award, if there is no application, the grantee must keep the identity of the workplace(s) on file in its office and make the information available for Federal inspection. Failure to identify all known workplaces constitutes a violation of the grantee's drug-free workplace requirements.

6. Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant takes place. Categorical descriptions may be used (e.g., all vehicles of a mass transit authority or State highway department while in operation, State employees in each local unemployment office, performers in concert halls or radio studios).

7. If the workplace identified to the agency changes during the performance of the grant, the grantee shall inform the agency of the change(s), if it previously identified the workplaces in question (see paragraph five).

8. Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Grantees' attention is called, in particular, to the following definitions from these rules:

Controlled substance means a controlled substance in Schedules I through V of the Controlled Substances Act (21 U.S.C. 812) and as further defined by regulation (21 CFR 1308.11 through 1308.15);

Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

Criminal drug statute means a Federal or non-Federal criminal statute involving the manufacture, distribution, dispensing, use, or possession of any controlled substance;

Employee means the employee of a grantee directly engaged in the performance of work under a grant, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant and who are on the grantee's payroll. This definition does not include workers not on the payroll of the grantee (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the grantee's payroll; or employees of subrecipients or subcontractors in covered workplaces).

## Certification Regarding Drug-Free Workplace Requirements

### Alternate I. (Grantees Other Than Individuals)

A. The grantee certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an ongoing drug-free awareness program to inform employees about--

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency in writing, within ten calendar days after receiving notice under paragraph (d) (2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under paragraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

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Check  if there are workplaces on file that are not identified here.

Grantee Organization: \_\_\_\_\_

Signature of \_\_\_\_\_

Authorized Official: (Date:) \_\_\_\_\_

Print Name: \_\_\_\_\_

**Alternate II. (Grantees Who Are Individuals)**

- (a) The grantee certifies that, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant;
- (b) If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, he or she will report the conviction, in writing, within 10 calendar days of the conviction, to every grant officer or other designee, unless the Federal agency designates a central point for the receipt of such notices. When notice is made to such a central point, it shall include the identification number(s) of each affected grant.

Grantee Organization: \_\_\_\_\_

Signature of \_\_\_\_\_

Authorized Official: (Date:) \_\_\_\_\_

Print Name: \_\_\_\_\_

d. Certification Regarding Lobbying

**Certification for Contracts, Grants, Loans and Cooperative Agreements**

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the Federal loan, the entering into of any cooperative agreement, and continuation, renewal, amendment, or modification of any Federal making of any the extension, contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Grantee Organization: \_\_\_\_\_  
Signature of Authorized Official: (DATE:) \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Statement for Loan Guarantees and Loan Insurance**

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Grantee Organization: \_\_\_\_\_

Signature of Authorized Official: (DATE:) \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

e.

**CERTIFICATE OF INDIRECT COSTS**

I have reviewed the indirect cost proposal date. This is to certify that:

1. All costs included in the proposal(s) submitted on to establish provisional, final or fixed indirect costs rates, or cost allocation plans, for the period , through are allowable in accordance with the requirements of grants/contracts to which they apply and with the Federal cost principles; i.e. (Please check the applicable cost principles)

- OMB Circular A-87, Cost Principles for State, Local and Federally-recognized Indian Tribal Governments
- OMB Circular A-122, Cost Principles for Nonprofit Organizations
- Federal Acquisition Regulation (FAR), Subpart 31.2, Cost Principles for Commercial Organizations
- OMB Circular A-21, Cost Principles for Educational Institutions

2. This proposal does not include any costs, which are unallowable under the applicable Federal cost principles. For example, advertising, contributions and donations, bad debts, entertainment costs, fines and penalties, general government expenses, and defense of fraud proceedings;

3. The requirements and standards on Lobbying Costs for nonprofit (A-122) and commercial (FAR) organizations have been complied with for the fiscal year ended , and

4. All costs included in this proposal are properly allocable to Department of Labor grants /contracts on the basis of a beneficial or causal relationship between the expenses incurred and the grants/contracts to which they are allocated in accordance with the applicable Federal cost principles.

Subject to the provisions of the Program Fraud Civil Remedies Act of 1986, (31 USC 3801 et seq.), and the Department of Labor's implementing regulations, (29 CFR Part 22), the False Claims Act (18 USC 287 and 31 USC 3729); and the False Statement Act (18 USC 1001), I declare to the best of my knowledge that the foregoing is true and correct.

Grantee / Contractor: \_\_\_\_\_

Signature \_\_\_\_\_

Name of Authorized Official: (DATE:) \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## GRANTEE FILL-IN INFORMATION

### Section 109.

### Payment Method.

Payment of FRA funding through FRA's Office of Financial Services, shall be made in accordance with the provisions in Attachment 2, if attached and applicable, "Receipt Organization Procedures for Requesting Advance Payment": and the following (as checked):

- FRA has determined that in accordance with 49 C.F.R. Part 18 or 49 C.F.R. Part 19, as applicable, the Grantee is willing and able to minimize the elapsing time between the transfer of Federal funds and Grantee disbursement, and has an adequate financial management system to implement those procedures to accomplish this, and is therefore to be paid in advance.

The Grantee hereby selects the following method for transfer of advance funds (select one):

- Automated Clearing House (ACH) Vendor Payment.  
Grantee submits SF 1194, SF 3881, and SF 5805 (formerly TFS 5805) in accordance with Attachment 2, if attached.
- Treasury Check.  
Grantee submits SF 1194, SF 5808 (formerly TFS 5805) and SF 3881 (excluding financial institution information) in accordance with Article II. Treasury checks are to be sent to the following address:

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- Either the Grantee has elected to be paid by method of reimbursement, or FRA has determined that in accordance with 49 C.F.R. Part 18 or 49 C.F.R. Part 19 as applicable, the Grantee is not eligible to be paid in advance, and is therefore to be reimbursed, after the submission of proper invoices, for actual expenses incurred.

The Grantee hereby selects the following method for transfer of reimbursed funds (select one):

- Automated Clearing House (ACH) Vendor Payment.  
Grantee submits SF 1194, SF 3881, and SF 270 in accordance with Article II.
- Treasury Check:  
Grantee submits SF 1194, SF 270 and SF 3881 (excluding financial institution information) in accordance with Article II. Treasury checks are to be sent to the following address:

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**Section 118. Governing Regulations.**

The Grantee acknowledges that its performance shall be governed by and in compliance with the following Administrative and Cost Principles: (check one):

Typical applicant is an Institution of Higher Education and/or Hospital

- 49 C.F.R., Part 19, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations" and OMB Circular A-21, "Principles for Determining Costs Applicable to Grants, Contracts and Other Agreements with Education Institutions," as amended. These identified circulars are hereby incorporated into this Agreement by reference as if fully set out herein.

Typical applicant is a Nonprofit Organization

- 49 C.F.R., Part 19, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations" and OMB Circular A-122, "Costs Principles for Nonprofit Organization," as amended. These identified circulars are hereby incorporated into this Agreement by reference as if fully set out herein.

Typical applicant is a For-Profit Organization

- 49 C.F.R., Part 19, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations" and 48 C.F.R., Chapter I, Subpart 31.2, "Contracts with Commercial Organizations," as amended. These identified circulars and regulations are hereby incorporated into this Agreement by reference as if fully set out herein. .

Typical applicant is a State or Local Government

- 49 C.F.R., Part 18, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments" and OMB Circular A-87, "Cost Principles for State and Local Governments," as amended. These identified circulars and regulations are hereby incorporated into this Agreement by reference as if fully set out herein.