

	U.S. ENVIRONMENTAL PROTECTION AGENCY Cooperative Agreement	GRANT NUMBER (FAIN): 95499612 MODIFICATION NUMBER: 0 PROGRAM CODE: JT	DATE OF AWARD 09/28/2012
		TYPE OF ACTION New	MAILING DATE 10/05/2012
		PAYMENT METHOD: ASAP	ACH# 40496
RECIPIENT TYPE: Municipal		Send Payment Request to: Las Vegas Finance Center	
RECIPIENT: City of Durham 101 City Hall Plaza Durham, NC 27701 EIN: 56-6000225		PAYEE: 101 City Hall Plaza Durham, NC 27701	
PROJECT MANAGER Nicholas McCoy 101 City Hall Plaza Durham, NC 27701 E-Mail: nicholas.mccoy@durhamnc.gov Phone: 919-560-4965		EPA PROJECT OFFICER Kathleen Curry 61 Forsyth Street Atlanta, GA 30303-8960 E-Mail: curry.kathleen@epa.gov Phone: 404-562-8660	
EPA GRANT SPECIALIST William Lundy Grants Management Office E-Mail: lundy.william@epa.gov Phone: 404-562-8417			
PROJECT TITLE AND DESCRIPTION Environmental Workforce Development and Job Training Cooperative Agreements This action approves funding in the amount of \$199,998 to the City of Durham, North Carolina which will enable them to recruit, train, and place predominantly low-income and minority, unemployed and under-employed residents from solid and hazardous waste-impacted communities in Durham, North Carolina. The recipient will deliver training that will enable the student participants to learn the skills needed to secure full-time, sustainable employment in the environmental field.			
BUDGET PERIOD 10/01/2012 - 09/30/2015	PROJECT PERIOD 10/01/2012 - 09/30/2015	TOTAL BUDGET PERIOD COST \$200,000.00	TOTAL PROJECT PERIOD COST \$200,000.00
NOTICE OF AWARD			
Based on your application dated 07/31/2012, including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA), hereby awards \$199,998. EPA agrees to cost-share <u>100.00%</u> of all approved budget period costs incurred, up to and not exceeding total federal funding of \$199,998. Such award may be terminated by EPA without further cause if the recipient fails to provide timely affirmation of the award by signing under the Affirmation of Award section and returning all pages of this agreement to the Grants Management Office listed below within 21 days after receipt, or any extension of time, as may be granted by EPA. This agreement is subject to applicable EPA statutory provisions. The applicable regulatory provisions are 40 CFR Chapter 1, Subchapter B, and all terms and conditions of this agreement and any attachments.			
ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)		AWARD APPROVAL OFFICE	
ORGANIZATION / ADDRESS 61 Forsyth Street Atlanta, GA 30303-8960		ORGANIZATION / ADDRESS U.S. EPA, Region 4 Resource Conservation and Recovery Act Division 61 Forsyth Street Atlanta, GA 30303-8960	
THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY			
Digital signature applied by EPA Award Official Shirley White Grayer - Grants Management Officer			DATE 09/28/2012
AFFIRMATION OF AWARD			
BY AND ON BEHALF OF THE DESIGNATED RECIPIENT ORGANIZATION			
SIGNATURE	TYPED NAME AND TITLE Thomas J. Bonfield, City Manager		DATE

EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$	\$ 199,998	\$ 199,998
EPA In-Kind Amount	\$	\$	\$ 0
Unexpended Prior Year Balance	\$	\$	\$ 0
Other Federal Funds	\$	\$	\$ 0
Recipient Contribution	\$	\$	\$ 0
State Contribution	\$	\$	\$ 0
Local Contribution	\$	\$	\$ 0
Other Contribution	\$	\$	\$ 0
Allowable Project Cost	\$ 0	\$ 199,998	\$ 199,998

Assistance Program (CFDA)	Statutory Authority	Regulatory Authority
66.815 - Environmental Workforce Development and Job Training Cooperative Agreements	CERCLA 311 (b)(3)(9) CERCLA: Sec. 104(k)(6) Clean Water Act: Sec. 104 Solid Waste Disposal Act: Sec. 8001 Toxic Substances Control Act: Sec. 10	

Fiscal									
Site Name	Req No	FY	Approp. Code	Budget Organization	PRC	Object Class	Site/Project	Cost Organization	Obligation / Deobligation
-	1204VT2044	12	E4	04V6BG7	301D79	4115	G4000J00		189,666
-	1204TK2013	1213	B	04T2	302D86	4188			1,333
-	1204TK2013	1213	B	04T00RR	302DA1	4157			1,333
-	1204DB2005	12	T	04D	303DD2	4185	0400TH00		3,333
-	1204TG2017	1213	B	04T00RR	402C95	4183			1,000
-	1204TC2040	1213	B	04T00RR	202BD4	4158			3,333
									199,998

Budget Summary Page

Table A - Object Class Category (Non-construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$30,000
2. Fringe Benefits	\$0
3. Travel	\$8,000
4. Equipment	\$0
5. Supplies	\$0
6. Contractual	\$162,000
7. Construction	\$0
8. Other	\$0
9. Total Direct Charges	\$200,000
10. Indirect Costs: % Base	\$0
11. Total (Share: Recipient <u>0.00</u> % Federal <u>100.00</u> %.)	\$200,000
12. Total Approved Assistance Amount	\$200,000
13. Program Income	\$0
14. Total EPA Amount Awarded This Action	\$199,998
15. Total EPA Amount Awarded To Date	\$199,998

Administrative Conditions

1. DRUG-FREE WORKPLACE CERTIFICATION

The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 2 CFR Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provisions set forth in Title 2 CFR Part 1536 Subpart C.

The consequences for violating this condition are detailed under Title 2 CFR Part 1536 Subpart E. Recipients can access the Code of Federal Regulations (CFR) Title 2 Part 1536 at

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=701081165f70316effa8ebf67df73de0&rgn=div5&view=text&node=2:1.2.11.1.1.2&idno=2>

2. HOTEL-MOTEL FIRE SAFETY

Pursuant to 40 CFR 30.18, if applicable, and 15 USC 2225a, the recipient agrees to ensure that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance (FEMA ID is currently not required), or to find other information about the Act.

3. LOBBYING AND LITIGATION

The chief executive officer of this recipient agency shall ensure that no grant funds awarded under this assistance agreement are used to engage in lobbying of the Federal Government or in litigation against the United States unless authorized under existing law. The recipient shall abide by its respective OMB Circular (A-21, A-87, or A-122), which prohibits the use of federal grant funds for litigation against the United States or for lobbying or other political activities.

4. LOBBYING

The recipient agrees to comply with Title 40 CFR Part 34, *New Restrictions on Lobbying*. The recipient shall include the language of this provision in award documents for all subawards exceeding \$100,000, and require that subrecipients submit certification and disclosure forms accordingly.

In accordance with the Byrd Anti-Lobbying Amendment, any recipient who makes a prohibited expenditure under Title 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

5. MANAGEMENT FEES AND SIMILAR CHARGES

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The term "management fees or similar charges" refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under this agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

6. RECYCLING

In accordance with Section 6002 of the Resource Conservation and Recovery Act (RCRA) (42 U.S.C. 6962) any State agency or agency of a political subdivision of a State which is using appropriated Federal funds shall comply with the requirements set forth. Regulations issued under RCRA Section 6002 apply to any acquisition of an item where the purchase price exceeds \$10,000 or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. RCRA Section 6002 requires that preference be given in procurement programs to the purchase of specific products containing recycled materials identified in guidelines developed by EPA. These guidelines are listed in 40 CFR 247.

In accordance with the policies set forth in EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007), the recipient agrees to use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to EPA. This requirement does not apply to reports prepared on forms supplied by EPA, or to Standard Forms, which are printed on recycled paper and are available through the General Services Administration.

7. UNLIQUIDATED OBLIGATIONS

Pursuant to 40 CFR 31.41(b) and 31.50(b), EPA recipients shall submit an annual Federal Financial Report (SF-425) to EPA no

later than 90 calendar days following the end of the reporting quarter

The following reporting period end dates shall be used for interim reports: 3/31, 6/30, 9/30, or 12/31.

At the end of the project, the recipient must submit a final Federal Financial Report to EPA no later than 90 calendar days after the end of the project period. The form is available on the internet at <http://www.epa.gov/ocfo/finservices/forms.htm>. All FFRs must be submitted to the Las Vegas Finance Center: US EPA, Las Vegas Finance Center, 4220 S. Maryland Pkwy, Bld C, Rm 503, Las Vegas, NV 89119, or by Fax to: 702-798-2423 or LVFC-grants@epa.gov

The LVFC will make adjustments, as necessary, to obligated funds after reviewing and accepting a final Federal Financial Report. Recipients will be notified and instructed by EPA if they must complete any additional forms for the closeout of the assistance agreement.

EPA may take enforcement actions in accordance with 40 CFR 31.43 if the recipient does not comply with this term and condition.

8. EPA PARTICIPATION

This award and the resulting ratio of funding is based on estimated costs requested in the application. EPA participation in the final total allowable program/project costs (outlays) shall not exceed the statutory limitation 100% of total allowable program/project costs or the total funds awarded, whichever is lower.

9. DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONDITION FOR NON-SRF RECIPIENTS

GENERAL COMPLIANCE, 40 CFR, Part 33

The recipient agrees to comply with the requirements of EPA's Program for Utilization of Small, Minority and Women's Business Enterprises in procurement under assistance agreements, contained in 40 CFR, Part 33.

FAIR SHARE OBJECTIVES, 40 CFR, Part 33, Subpart D

A recipient must negotiate with the appropriate EPA award official, or his/her designee, fair share objectives for MBE and WBE (MBE/WBE) participation in procurement under the financial assistance agreements.

Accepting the Fair Share Objectives/Goals of Another Recipient

The dollar amount of this assistance agreement is \$250,000, or more; or the total dollar amount of all of the recipient's non-TAG assistance agreements from EPA in the current fiscal year is \$250,000, or more. The recipient accepts the applicable MBE/WBE fair share objectives/goals negotiated with EPA by the **THE STATE NORTH CAROLINA** as follows:

MBE: CONSTRUCTION 8.00%; SUPPLIES 7.00%; SERVICES 7.00% ; EQUIPMENT 7.00%
WBE: CONSTRUCTION 5.00% SUPPLIES 9.00% ; SERVICES 9.00%; EQUIPMENT 9.00%

By signing this financial assistance agreement, the recipient is accepting the fair share objectives/goals stated above and attests to the fact that it is purchasing the same or similar construction, supplies, services and equipment, in the same or similar relevant geographic buying market as **THE STATE NORTH CAROLINA**.

Negotiating Fair Share Objectives/Goals, 40 CFR, Section 33.404

The recipient has the option to negotiate its own MBE/WBE fair share objectives/goals. If the recipient wishes to negotiate its own MBE/WBE fair share objectives/goals, the recipient agrees to submit proposed MBE/WBE objectives/goals based on an availability analysis, or disparity study, of qualified MBEs and WBEs in their relevant geographic buying market for construction, services, supplies and equipment.

The submission of proposed fair share goals with the supporting analysis or disparity study means that the recipient is **not** accepting the fair share objectives/goals of another recipient. The recipient agrees to submit proposed fair share objectives/goals, together with the supporting availability analysis or disparity study, to the Regional MBE/WBE Coordinator within 120 days of its acceptance of the financial assistance award. EPA will respond to the proposed fair share objective/goals within 30 days of receiving the submission. If proposed fair share objective/goals are not received within the 120 day time frame, the recipient may not expend its EPA funds for procurements until the proposed fair share objective/goals are submitted.

SIX GOOD FAITH EFFORTS, 40 CFR, Part 33, Subpart C

Pursuant to 40 CFR, Section 33.301, the recipient agrees to make the following good faith efforts whenever procuring construction, equipment, services and supplies under an EPA financial assistance agreement, and to require that sub-recipients, loan recipients, and prime contractors also comply. Records documenting compliance with the six good faith efforts shall be retained:

(a) Require DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.

(b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30

calendar days before the bid or proposal closing date.

(c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.

(d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

(e) Use the services and assistance of the SBA and the Minority Business Development Agency of the Department of Commerce.

(f) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (a) through (e) of this section.

MBE/WBE REPORTING, 40 CFR, Part 33, Sections 33.502 and 33.503

The recipient agrees to complete and submit EPA Form 5700-52A, "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" beginning with the Federal fiscal year reporting period the recipient receives the award, and continuing until the project is completed. **Only procurements with certified MBE/WBEs are counted toward a recipient's MBE/WBE accomplishments.** The reports must be submitted **semiannually** for the periods ending March 31st and September 30th for:

Recipients of financial assistance agreements that capitalize revolving loan programs (CWSRF, DWSRF, Brownfields); and

All other recipients not identified as annual reporters (40 CFR Part 30 and 40 CFR Part 35, Subpart A and Subpart B recipients are annual reporters).

The reports are due within 30 days of the end of the semiannual reporting periods (April 30th and October 30th). Reports should be sent to

US Environmental Protection Agency, Region 4
Grants Management Office
61 Forsyth Street, SW,
Atlanta, GA 30303-8960

Final MBE/WBE reports must be submitted within 90 days after the project period of the grant ends. Your grant cannot be officially closed without all MBE/WBE reports.

EPA Form 5700-52A may be obtained from the EPA Office of Small Business Program's Home Page on the Internet at www.epa.gov/osbp.

CONTRACT ADMINISTRATION PROVISIONS, 40 CFR, Section 33.302

The recipient agrees to comply with the contract administration provisions of 40 CFR, Section 33.302.

BIDDERS LIST, 40 CFR, Section 33.501(b) and (c)

Recipients of a Continuing Environmental Program Grant or other annual reporting grant, agree to create and maintain a bidders list. Recipients of an EPA financial assistance agreement to capitalize a revolving loan fund also agree to require entities receiving identified loans to create and maintain a bidders list if the recipient of the loan is subject to, or chooses to follow, competitive bidding requirements. Please see 40 CFR, Section 33.501 (b) and (c) for specific requirements and exemptions.

10. SUSPENSION AND DEBARMENT

Recipients shall fully comply with Subpart C of 2 CFR Part 180 entitled, "Responsibilities of Participants Regarding Transactions Doing Business With Other Persons," as implemented and supplemented by 2 CFR Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction, as described in Subpart B of 2 CFR Part 180, entitled "Covered Transactions," includes a term or condition requiring compliance with Subpart C. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information required under 2 CFR 180.335 may result in the delay or negation of this assistance agreement, or pursuance of legal remedies, including suspension and debarment.

Recipients may access suspension and debarment information at <http://www.sam.gov>. This system allows recipients to perform searches determining whether an entity or individual is excluded from receiving Federal assistance. This term and condition supersedes EPA Form 5700-49, "Certification Regarding Debarment, Suspension, and Other Responsibility Matters."

11. SINGLE AUDIT ACT

In accordance with OMB Circular A-133, which implements the Single Audit Act, the recipient hereby agrees to obtain a single audit

from an independent auditor, if it expends \$500,000 or more in total Federal funds in any fiscal year. Within nine months after the end of a recipient's fiscal year or 30 days after receiving the report from the auditor, the recipient shall submit the SF-SAC and a Single Audit Report Package. The recipient MUST submit the SF-SAC and a Single Audit Report Package, using the Federal Audit Clearinghouse's Internet Data Entry System. For complete information on how to accomplish the single audit submissions, you will need to visit the Federal Audit Clearinghouse Web site: <http://harvester.census.gov/fac/>

12. TRAFFICKING IN PERSONS

a. Provisions applicable to a recipient that is a private entity.

1. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not—
 - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - ii. Procure a commercial sex act during the period of time that the award is in effect; or
 - iii. Use forced labor in the performance of the award or subawards under the award.
2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity —
 - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
 - A. Associated with performance under this award; or
 - B. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our Agency at 2 CFR 1532.

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

1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
 - i. Associated with performance under this award; or
 - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR 1532

c. Provisions applicable to any recipient.

1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d. Definitions. For purposes of this award term:

1. "Employee" means either:
 - i. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
 - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
2. "Forced labor" means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
3. "Private entity":
 - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
 - ii. Includes:
 - A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
 - B. A for-profit organization.
4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

13. SUBAWARD REPORTING AND COMPENSATION

I. Reporting Subawards and Executive Compensation.

a. Reporting of first-tier subawards.

1. Applicability. Unless you are exempt as provided in paragraph d. of this award term, you must report each action that obligates \$25,000 or more in Federal funds that does not include Recovery funds (as defined in section 1512(a)(2) of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5) for a subaward to an entity (see definitions in paragraph e of this award term).

2. Where and when to report.

- i. You must report each obligating action described in paragraph a.1. of this award term

to www.fsrs.gov.

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

3. What to report. You must report the information about each obligating action that the submission instructions posted at www.fsrs.gov specify.

b. Reporting Total Compensation of Recipient Executives.

1. Applicability and what to report. You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if --

- i. the total Federal funding authorized to date under this award is \$25,000 or more;
- ii. in the preceding fiscal year, you received—
 - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and

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

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

- i. As part of your registration Central Contractor Registration/System for Award Management profile available at www.sam.gov.
- ii. By the end of the month following the month in which this award is made, and annually thereafter.

c. Reporting of Total Compensation of Subrecipient Executives.

1. Applicability and what to report. Unless you are exempt as provided in paragraph d. of this award term, for each first-tier subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if --

- i. in the subrecipient's preceding fiscal year, the subrecipient received—
 - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and
 - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and

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

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

- i. To the recipient.
- ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (i.e., between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.

d. Exemptions

If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:

- i. subawards,
and
- ii. the total compensation of the five most highly compensated executives of any subrecipient.

e. Definitions. For purposes of this award term:

- 1. Entity means all of the following, as defined in 2 CFR part 25:
 - i. A Governmental organization, which is a State, local government, or Indian tribe;
 - ii. A foreign public entity;
 - iii. A domestic or foreign nonprofit organization;
 - iv. A domestic or foreign for-profit organization;

v. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

2. Executive means officers, managing partners, or any other employees in management positions.

3. Subaward:

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

ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. --.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").

iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

4. Subrecipient means an entity that:

i. Receives a subaward from you (the recipient) under this award; and

ii. Is accountable to you for the use of the Federal funds provided by the subaward.

5. Total compensation means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

i. Salary and bonus .

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

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

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

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

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

14. DUNS and CCR/SAM REQUIREMENTS

I. Central Contractor Registration/System for Award Management and Universal Identifier Requirements.

A. Requirement for Central Contractor Registration (CCR)/System for Award Management (SAM). Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain the currency of your information in the SAM until you submit the final financial report required under this award or receive the final payment, whichever is later. This requires that you review and update the information at least annually after the initial registration, and more frequently if required by changes in your information or another award term.

B. Requirement for Data Universal Numbering System (DUNS) numbers. If you are authorized to make subawards under this award, you:

1. Must notify potential subrecipients that no entity (see definition in paragraph C of this award term) may receive a subaward from you unless the entity has provided its DUNS number to you.

2. May not make a subaward to an entity unless the entity has provided its DUNS number to you.

C. Definitions. For purposes of this award term:

1. Central Contractor Registration (CCR)/System for Award Management (SAM) means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the System for Award Management (SAM) Internet site <http://www.sam.gov>.

2. Data Universal Numbering System (DUNS) number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify business entities. A DUNS number may be obtained from D&B by telephone (currently 866-705-5711) or the Internet (currently at <http://fedgov.dnb.com/webform>).

3. Entity, as it is used in this award term, means all of the following, as defined at 2 CFR part 25, subpart C:

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

b. A foreign public entity;
c. A domestic or foreign nonprofit organization;
d. A domestic or foreign for-profit organization; and
e. A Federal agency, but only as a subrecipient under an award or subaward to a non-Federal entity.

4. Subaward:

a. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
b. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see Sec. --.210 of the attachment to OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations").
c. A subaward may be provided through any legal agreement, including an agreement that you consider a contract.

5. Subrecipient means an entity that:

a. Receives a subaward from you under this award; and
b. Is accountable to you for the use of the Federal funds provided by the subaward.

15. REIMBURSEMENT LIMITATION

EPA's financial obligations to the recipient are limited by the amount of federal funding awarded to date as shown on line 15 in its EPA approved budget. If the recipient incurs costs in anticipation of receiving additional funds from EPA, it does so at its own risk.

16. UNPAID FEDERAL TAX LIABILITIES and FELONY CONVICTIONS FOR NON-PROFIT and FOR-PROFIT ORGANIZATIONS

This award is subject to the provisions contained in the Department of Interior, Environment, and Related Agencies Appropriations Act, 2012, HR 2055, Division E, Sections 433 and 434 (sections 433 and 434) regarding unpaid federal tax liabilities and federal felony convictions. Accordingly, by accepting this award the recipient acknowledges that it: (1) is not subject to 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, and (2) has not been convicted (or had an officer or agent acting on its behalf convicted) of a felony criminal conviction under any Federal law within 24 months preceding the award, unless EPA has considered suspension or debarment of the corporation, or such officer or agent, based on these tax liabilities or convictions and determined that such action is not necessary to protect the Government's interests. If the recipient fails to comply with these provisions, EPA will annul this agreement and may recover any funds the recipient has expended in violation of sections 433 and 434.

17. PROCUREMENT

The cost of professional services contracts and/or small purchases procured in compliance with the minimum standards for procurement under grants (see 40 CFR 31.36) are allowable costs for reimbursement with grant funds. No grant funds may be used to reimburse the federal share of any procurement action(s) found to be in noncompliance with the grant procurement regulations. (Note: all project expenditures are deemed to include both the federal and nonfederal shares).

Programmatic Conditions

FY 2012 EWDJT Region 4 Terms and Conditions, 8/16/12

Environmental Workforce Development and Job Training Cooperative Agreement Terms and Conditions -- FY 2012

GENERAL FEDERAL REQUIREMENTS

NOTE: For the purposes of these Terms and Conditions the term "Job Training" includes, eligible activities under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA (1980) §104(k)(6) and as amended, 42 USC 9660(b)(9)(A)) such as activities involving training to facilitate assessment, remediation, or preparation of Brownfield sites.

A. Term of the Agreement

1. The term of this agreement is three years from the date of award, unless otherwise extended by EPA at the cooperative agreement recipient's (CAR) request.
2. If after 1 year from the date of award, EPA determines that the CAR has not made sufficient progress in implementing its cooperative agreement, EPA may terminate this agreement under applicable Agency

- regulations.
3. The term “sufficient progress” means the applicant has: 1) established a program and begun marketing the program; 2) hired all key personnel; and 3) has completed the first round of training.
 4. Unless approved with the award of this cooperative agreement, the recipient must receive written EPA approval of a Final Workplan within 60 calendar days following the date of the award. Recipient must receive written EPA approval of the Workplan prior to expenditure of federal funds under this cooperative agreement. Unless the Agency Award official, or designee grants a waiver, no financial reimbursement may be made without an EPA approved Final Workplan. If the recipient fails to obtain EPA approval of the Final Workplan within 60 days of award, EPA may terminate this agreement under applicable Agency regulations.

B. Substantial Involvement

1. Cooperative agreements permit substantial involvement between the EPA Project Officer and the selected applicant in the performance of the work supported. Unless waived by the EPA Project Officer, substantial Agency involvement for this project may include:
 - a. Close monitoring of the successful applicant’s performance to verify the results proposed by the applicant;
 - b. Approval and review of project phases;
 - c. Collaboration during performance of the scope of work;
 - d. Approving substantive terms of proposed professional services and equipment purchase contracts;
 - e. Approving qualifications of key personnel (EPA will not select employees or contractors employed by the award recipient);
 - f. Review and comment on reports prepared under the cooperative agreement (the final decision on the content of reports rests with the recipient); and
 - g. Review of financial reports (costs incurred), record-keeping procedures, and other program requirements.

C. Cooperative Agreement Recipient Roles and Responsibilities

1. The CAR is responsible for ensuring that all training is protective of human health and the environment and complies with all applicable State and Federal laws. The CAR is also responsible for maintaining proper documentation of graduates’ certifications. Instructors for certificate programs must be certified by their States, or by EPA, as appropriate for the training topic. EPA does not provide information on trainer certification and does not endorse specific instructors or training organizations. However, EPA’s Lead Program does provide a database of certified instructors who can deliver the new lead renovation, repair, and painting (RRP) training at: <http://www.epa.gov/lead>.
2. The CAR must comply with proper procurement standards in acquiring a contractor, if applicable. The CAR is responsible for ensuring that contractors and subgrant recipients comply with the terms of their agreements with the CAR, and that agreements between the CAR and subgrant recipients and contractors are consistent with the terms and conditions of this agreement.
 - a. Funding may be used to acquire services or fund partnerships, provided the recipient follows procurement and subaward or subgrant procedures contained in 40 CFR Parts 30 or 31, as applicable. Successful applicants must compete contracts for services and products and conduct cost and price analyses to the extent required by these regulations. The regulations also contain limitations on consultant compensation. The fact that a successful applicant named a specific contractor or consultant in the proposal EPA approved, does not relieve it of its obligations to comply with competitive procurement requirements.
 - b. Subgrants or subawards may be used to fund partnerships with nonprofit organizations and governmental entities. CAR may only award subgrants to eligible entities as described in Section 3(A) of the original EWDJT Guidelines Request for Proposals. For-profit organizations are not eligible subgrant recipients. Successful applicants cannot use subgrants or subawards to avoid requirements in EPA grant regulations for competitive procurement by using these instruments to acquire commercial services or products to carry out its cooperative agreement. The nature of the transaction between the recipient and the subgrantee must be consistent with the standards for distinguishing between vendor

transactions and subrecipient assistance under Subpart B Section 210 of OMB Circular A-133, and the definitions of "subaward" at 40 CFR 30.2(ff) or "subgrant" at 40 CFR 31.3, as applicable. EPA will not be a party to these transactions.

- c. The recipient must make clear in any solicitation for private or public funding that the recipient's organization, and not EPA, is seeking funding. The recipient may not imply that EPA endorses and fund-raising activities in connection with its project.

D. Trainee Recruitment, Placement, and Monitoring

1. The CAR must recruit trainees from neighborhoods where solid- or hazardous-waste sites or facilities are located, and must give preference to selecting trainees from these neighborhoods. The CAR shall demonstrate their progress in meeting this term and condition in the quarterly progress report and final project report as stated below.
2. Grant funds must target unemployed or under-employed individuals.
3. The CAR may use a portion of their grant funding to provide targeted training to under-employed, dislocated workers. Grant funding must be used to target residents of solid or hazardous waste impacted communities who have been historically affected by pollution, disinvestment, and waste sites in their community. The CAR may extend recruitment outside of the target area, but priority should be given to unemployed residents living in the proposed area identified in the proposal. Additionally, while a portion of the grant funds may be used to train dislocated workers or provide refresher training, in HAZWOPER for example, the core training program should focus on those who have little or no advanced education, work experience, or who have various barriers to employment, are of low-income or minority backgrounds, and are unemployed or severely under-employed. Applicants who are providing dislocated workers refresher training or single environmental certifications must ensure these workers have adequate health and safety training since they will not receive the full training.
4. The CAR is required to monitor all trainees for a minimum of 1 year following the completion of the training program and must report the results of this monitoring in their quarterly and final progress reports. **The CAR is responsible for ensuring that funding is allotted to cover this task in their budget and that accomplishments are reported in ACRES.**
5. The CAR is required to complete all training cycles 3 months before the grant's expiration to assist with reporting results into ACRES before the close of the grant award.

E. Quarterly Progress Reporting

1. The CAR is required to submit quarterly progress reports to their designated EPA Project Officer within 30 days after each quarterly period from the time the grant was awarded. These reports must document incremental progress in achieving the project goals and milestones cited in the Final Work Plan (including submission of OMB Circular 2030-0020/EPA-Form 9310-2 "Job Training Reporting Form"). Quarterly progress reports must clearly differentiate which activities were completed with EPA funds versus outside funding. Quarterly progress reports must include:
 - a. Documentation of progress in meeting the outputs/outcomes listed in the Final Workplan, deliverables completed to date as cited in the CAR's project narrative, and an explanation of any slippage in meeting these deliverables.
 - b. An update on meeting project milestones and progress in meeting project deadlines/time line.
 - c. A summary of the number of persons recruited, number of persons entering and completing training, and the number of trainees placed in full-time employment to date as referenced on the Job Training Reporting Form attached.
 - d. Information regarding the location from where trainees were recruited, drop out numbers of the training program, if applicable, and information regarding placement of graduates (i.e. job titles, starting salaries, and names of organizations where graduates were placed).
 - e. A summary of the training completed to date including courses held and certifications provided.
 - f. Information regarding leveraged funds, including the source and the amount of funds as referenced on the Job Training Reporting Form.
 - g. A detailed Budget Summary page with a budget table showing the approved budget for each task by

object class, including the funds used to date for each task, the funds remaining for each task, and explanation notes if applicable. Following budget headings may include: Current Approved Budget, Costs Incurred this Quarter, Costs Incurred to Date, and Total Remaining Funds.

- h. Send one (1) electronic copy of the quarterly report to the assigned EPA Project Officer via email at curry.kathleen@epa.gov .
- i. Send one (1) electronic copy, of the Minority Business Enterprise report (DBE/MBE/WBE: EPA Form 5700.52a) and the Federal Financial Report (SF 425, to the EPA Project Officer via email at: curry.kathleen@epa.gov .
- j. Mail one (1) hard copy of the quarterly report to the EPA Project Officer at:

*Daisy Kathleen Curry, Brownfields Project Manager
US EPA, Region 4, SNAFC
61 Forsyth Street, SW
Atlanta, GA 30303-8960*

In accordance with 40 C.F.R. § 31.40 (d) or 40 C.F.R. § 30.51(f), the CAR agrees to inform their designated Project Officer as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the Final Workplan.

F. Federal Financial Report

The CAR must submit its Federal Financial Report (Standard Form 425) annually to the EPA Grants Management Office at miles.sherry@epa.gov within 90 days after the end of each project year. A copy must also be submitted to the EPA Project Officer at curry.kathleen@epa.gov. At the end of the three year project period, the final federal financial report must be submitted to the Las Vegas Financial Center with 1 copy each forwarded to the assigned EPA's Project Officer and to the Grants Management Officer. See Section K for more information.

G. Final Project Report/Closeout

Within 90 calendar days after the end of the project period, the CAR agrees to submit the final project performance report to EPA's Project Officer. This report must clearly address the following items:

1. An abstract overview of the project in terms of its overall process and outputs/outcomes completed.
2. A summary of the results of the training program including the total number of persons recruited, the total number of persons entering and completing training, and the total number of persons placed in full-time employment. Additionally, information regarding those trainees pursuing further education, and the number of persons entering the environmental field must be provided. Note: additional reporting fields may also be reflected on the JT Reporting Form, such as number of veterans or TANF recipients entering training.
3. A description of how the trainees were recruited from environmentally-impacted communities.
4. A summary of the post-tracking and follow-up activities that the recipient conducted for each trainee.
5. A summary of the cost per trainee.
6. Problems encountered which prohibited the completion of the project goals or objectives, if applicable.
7. Future plans for continuation of the program.

After review of the final report, the EPA Project Officer may request additional information of the recipient. In addition to the final report, the recipient must submit (if requested to do so by EPA's Project Officer) a copy of all tangible and intangible products that were created for the purpose of the funded project (i.e. videos, research findings, curriculum, presentations, etc.) If an exhibit or slide show was created or an item too large and/or expensive to duplicate, photos or transcripts of the product may be substituted.

H. Eligible Use of Funds

Eligible uses of grant funds under this agreement include:

- Recruiting job training participants from communities impacted by hazardous and/or solid waste facilities or sites;

- Implementing job development outreach activities directed toward engaging prospective employers to be involved in the job training program and to hire graduates;
- Training participants for the handling and removal of hazardous substances and petroleum, including training for jobs in environmental sampling, analysis, and site remediation associated with brownfields and Superfund sites, including demolition and groundwater extraction, as well as health and safety training;
- Training in the inventory, assessment, and remediation of facilities at which hazardous substances, pollutants, contaminants, or petroleum contamination are located, transported, or disposed;
- Training in leak prevention and the removal of underground storage tanks;
- Training participants to conduct chemical inventories; inspect and recommend proper chemical storage, safely handle chemicals and oversee removal of dangerous, unlabeled, and unnecessary chemicals in K-12 schools;
- Training in confined space entry;
- Training in removal of substances from white goods;
- Training participants in the use of techniques and methods for cleanup of hazardous substances, petroleum, and pollutants, such as training in asbestos abatement, lead abatement, lead renovation, repair, and painting (RRP), mold remediation, and cleaning up sites contaminated by the manufacturing of illegal drugs (e.g., methamphetamine labs), abandoned gas stations, or mine-scarred lands;
- Training in the use of compost and soil amendments, associated sampling, testing, design considerations and management techniques, such as integrated pest management (IPM), to support the assessment and cleanup of sites for urban agriculture and horticulture;
- Training in integrated solid waste management-related jobs, including but not limited to household and industrial recycling management and collection, operators of material recovery facility and/or recycling centers, electronics and household hazardous waste collection and recycling program operators, construction and demolition debris collection and recycling, management and recycling center operators, training associated with solid and hazardous waste facility corrective action and landfill closure activities, and waste minimization efforts;
- Training in environmental chemistry, toxicology, and geology to the extent necessary to inventory, assess, remediate and clean up contaminated sites;
- Training in the requirements and implementation of the all appropriate inquiry, as required in CERCLA 101.35B and 40CFR part 312, and due diligence - defined as the process for evaluating a property for the potential presence of environmental contamination, and for assessing potential liability for any contamination present at the property;
- Training in site surveying, inventorying, mapping, and geographic information systems (GIS);
- Training participants in planning and conducting ecological restoration of contaminated land, including general botanical classes or introductory horticultural classes related to land and stream restoration or indigenous species revegetation, landscaping, and soil science;
- Training residents in the preparation of contaminated sites for water or storm water management systems, low-impact development (LID), and Leadership in Energy and Environmental Design (LEED);
- Training in waste water or stormwater management;
- Training participants in the reuse of biosolids and other industry residuals associated with remediation of contaminated lands or solid waste facilities;
- Training in innovative and alternative treatment technologies, such as “green remediation” technologies, phytoremediation, bioremediation, or soil amendments;
- Training for spill response, including industrial and environmental (e.g., oil spills, etc.);
- Training in site preparation for the installation of technologies that use alternative energy (solar, wind, or geothermal power) or alternative fuels (e.g., biofuels) (Training in the installation of renewable energies is ineligible, as is training weatherization and BPI);
- Training in building trades related to constructing beams, caps, synthetic barriers, pumping facilities and similar structures to remediate contamination;
- Training in first-aid, CPR, emergency response, blood born pathogens, first responder, disaster site worker, and National Incident Management System (NIMS);

- Training in HAZMAT and commercial driver's license (CDL), forklift, and machine operations associated with the transportation of hazardous waste;
- Personnel costs for instructors to conduct training, fringe benefits, and/or personnel costs for tasks associated with programmatic reporting requirements;
- Training in national historic preservation and tribal historic preservation regulations associated with clean-up projects;
- Costs for screening and placing individuals of the training program;
- Costs for training materials and work gear associated with the training curriculum, if reasonable;
- Costs associated with health exams (e.g., pulmonary function tests), drug testing, or licensing fees directly related to the training and/or the placement of graduates in environmental work, if reasonable. (Any funding used to pay for such fees must be applied before training is completed and expended before the close of the grant);
- Costs used to cover rental fees associated with training facilities or minor alteration of existing facilities, if reasonable; (Construction costs are not allowable)
- Costs, including stipends, associated with transportation for trainees for site visits during training or for trainees getting to and from class, if reasonable;
- Development and refinement of existing curricula for training; and
- Insurance a trainee needs to participate in on-the-job training.

Note: This list is not exhaustive and the CAR must inquire with their Project Officer regarding other eligible uses of funds or types of training.

I. Prohibited Use of Funds

Funds awarded under Section 104(k)(6) of CERCLA are intended for job training activities and may not be used for:

1. Conducting site assessments or actual cleanups outside the context of on-the-job training;
2. Conducting response activities often associated with cleanups except within the context of on-the-job training assignments (e.g., landscaping, demolition, and groundwater extraction). Assessment, cleanup, and associated activity costs must be funded through other means;
3. General or life skills education activities, such as remedial classes in math and reading, job readiness training, such as developing resumes and acquiring interview skills, job placement costs, GED costs, web site development, vehicle or medical insurance, or child care costs.
4. Stipends for students, other than for transportation, or scholarship funds to support students' enrollment in college courses;
5. Membership fees, such as fees required to join placement service organizations or environmental organizations;
6. Providing food or light refreshments to employees, instructors, and trainees - except at graduation ceremonies;
7. Costs that are unallowable (e.g. lobbying, fund-raising) under OMB Circulars A-21 (universities), A-87 (state, tribal, and local governments), or A-122 (nonprofit organizations), as applicable.
8. Matching any other federal funds unless there is specific statutory authority for the match. CERCLA does not provide this authority. Grant funds may be used to match state or local funds, if authorized by the relevant state statute or local ordinance.
9. Construction or substantial rehabilitation of buildings or other facilities to house training;
10. Environmental Workforce Development and Job Training grant proposal preparation costs; and
11. Administrative costs, management fees, penalties, or fines.

- a. Prohibited administrative costs are also all indirect costs under OMB Circular A-21 (Educational

Institutions), A-87 (Governments), and A-122 (Nonprofit Organizations), and Subpart 31.2 (Commercial Organizations) of the Federal Acquisition Regulation even if the recipient has an approved or interim indirect cost rate with a cognizant Federal auditing agency.

- b. Prohibited Administrative costs include direct costs including those in the form of salaries, benefits, contractual costs, supplies, and data processing charges incurred to comply with most provisions of the "Uniform Administrative Requirements for Grants" contained in 40 C.F.R. Part 30 or 40 C.F.R. Part 31. Direct costs for grant administration are ineligible even if the grantee or subgrantee is required to carry out the activity under the grant agreement.

Ineligible grant administration costs include expenses for:

- 1) Preparation of applications for Brownfields grants and sub-grants;
 - 2) Record retention required under 40 C.F.R. 30.53 and 40 C.F.R. 31.42
 - 3) Record-keeping associated with supplied and equipment purchases required under 40 C.F.R. 30.33, 30.34, 30.35 and 40 C.F.R. 31.32 and 31.33;
 - 4) Preparing revisions and changes in the budgets, scopes of work, program plans and other activities required under 40 C.F.R. 30.25 and 40 C.F.R. 31.30;
 - 5) Maintaining and operating financial management systems required under 40 C.F.R. 30.20 and 40 C.F.R. 31.20;
 - 6) Preparing payment requests and handling payments under 40 C.F.R. 30.22 AND 40 C.F.R. 31.21;
 - 7) Non-federal audits required under 40 C.F.R. 30.26, 40 C.F.R. 31.26, and OMB Circular A-133;
 - 8) Close out under 40 C.F.R. 30.71 and 40 C.F.R. 31.50.
- c. EPA has determined that the administrative cost prohibition does not apply to "programmatic" costs (i.e., costs for activities that are integral to achieving the purpose of the grant), even if the Agency considered the costs to be "administrative" under the prior Brownfields Program.
 - (1) The prohibition does not apply to direct costs of training. For example, costs for instructors salaries, program management salaries (to the extent that such costs are included in the scope of work for the brownfields job training grant), materials (e.g. textbooks, equipment, and classroom supplies), necessary travel and transportation expenses, and medical tests required to qualify for hazardous substances related work are programmatic, not administrative.
 - (2) Costs for performance and financial reporting required under 40 C.F.R. 30.51 and 30.52, and 40 C.F.R. 31.40 and 31.41 are eligible programmatic costs.
 - (3) Clerical costs may be eligible as programmatic costs if supported by time records demonstrating that clerical personnel performed programmatic functions (e.g. student registration, copying course materials for use by trainees) under the cooperative agreement and these costs are not included in the recipient's indirect cost pool.

J. Conflict of Interest

The CAR shall establish and enforce conflict of interest provisions that prevent the award of subgrants that create real or apparent personal conflicts of interest or the appearance of the CAR's lack of impartiality. Such situations include, but are not limited to, situations in which an employee, official, consultant, contractor, or other individual associated with the CAR (affected party) approves or administers a subgrant to a subgrant recipient in which the affected party has a financial or other interest. Such a conflict of interest or appearance of impartiality may arise when:

- 1) The affected party,
- 2) Any member of his immediate family,
- 3) His or her partner, or
- 4) An organization which employs, or is about to employ, any of the above,

Has a financial interest or other interest in the subgrant recipient.

Affected employees will neither solicit nor accept gratuities, favors, or anything of monetary value from subgrant recipients. Recipients may set minimum rules where the financial interest is not substantial or the gift is an unsolicited

item of nominal intrinsic value. To the extent permitted by State or local law or regulations, such standards of conduct will provide for penalties, sanctions, or other disciplinary actions for violations of such standards by affected parties.

K. PAYMENT AND CLOSEOUT

1. Payment Schedule

The CAR may request payment from EPA pursuant to 40 CFR §31.21(c).

2. Closeout Schedule

- a. Closeout will be conducted in accordance with 40 CFR §31.50 following expiration of the term of the agreement or expenditure of the funds awarded and completion of the activities described in the EPA-approved work plan.
- b. The CAR, within 90 days after the expiration or termination of the agreement, must submit all financial, performance, and other reports required as a condition of the agreement.

3. Closeout Documentation

- a. The CAR must submit the following documentation:

- 1) The Final Report as described in Section G.
- 2) A Final Federal Financial Report (FFR--SF425) to:

U.S. EPA Las Vegas Finance Center
4220 S. Maryland Pkwy, Bldg. C., Room 503
Las Vegas, NV 89119
Fax: (702) 798-2423

<http://www.epa.gov/ocfo/finservices/payinfo.htm>

Link to form: <http://www.epa.gov/ogd/forms/adobe/SF425.pdf>

See Section F for more information.

- 3) A Final MBE/WBE Report (EPA Form 5700-52A) to the regional office. You may access the form at:

http://www.epa.gov/ogd/forms/adobe/5700_52a_sec.pdf

- 4) Updated ACRES data. The CAR must ensure that all appropriate data has been entered into ACRES.
- 5) The grantee must immediately refund to the Federal agency any balance of unobligated (unencumbered) cash advanced that is not authorized to be retained for use on other agreements.

L. Federal Policy and Guidance

1. *The Recipient agrees to comply with Executive Order 13202 (Feb. 22, 2001, 66 Fed. Reg. 11225) of February 17, 2001, entitled "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 (April 11, 2001, 66 Fed. Reg. 18717) of April 6, 2001, entitled "Amendment to Executive Order 13202, Preservation of Open Competition and Government Neutrality Towards Government Contractors' Labor Relations on Federal and Federally Funded Construction Projects."*
2. *The Recipient must comply with Federal cross-cutting requirements. These requirements include but are not limited to, MBE/WBE requirements found at 40 CFR 31.36(e) or 40 CFR 30.44(b); OSHA Worker Health & Safety Standard 29 CFR 1910.120; the Uniform Relocation Act; National Historic Preservation Act; Endangered Species Act; and Permits required by Section 404 of the Clean Water Act; Executive Order 11246, Equal Employment Opportunity, and implementing regulations at 41 CFR 60-4; Contract Work Hours and Safety Standards Act, as amended (40 USC 327-333) the Anti Kickback Act (40 USC 276c) and Section 504 of the Rehabilitation Act of 1973 as implemented by Executive Orders 11914 and 11250.*

M . RECIPIENT PERFORMANCE REPORTING

Recipients subject to 40 C.F.R. Part 31 (other than recipients of State or Tribal Program grants under 40 C.F.R. Parts 35 Subparts A or B)

Performance Reports:

In accordance with 40 C.F.R. §31.40, the recipient agrees to submit performance reports that include brief information on each of the following areas: 1) a comparison of actual accomplishments to the outputs/outcomes established in the assistance agreement workplan for the period; 2) the reasons for slippage if established outputs/outcomes were not met; and 3) additional pertinent information, including, when appropriate, analysis and information of cost overruns or high unit costs.

In accordance with 40 C.F.R. § 31.40 (d), the recipient agrees to inform EPA as soon as problems, delays or adverse conditions become known which will materially impair the ability to meet the outputs/outcomes specified in the assistance agreement work plan.

N . SUFFICIENT PROGRESS - ULO

EPA may terminate the assistance agreement for failure of the recipient to make sufficient progress so as to reasonably ensure completion of the project within the project period, including any extensions. EPA will measure sufficient progress by examining the performance required under the workplan in conjunction with the milestone schedule, the time remaining for performance within the project period, and/or the availability of funds necessary to complete the project.