

## OMB Standard Form 424b: Assurances – Non Construction Programs

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency.

As the duly Authorized Representative of the Applicant, I certify that the Applicant:

Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

Will give the awarding agency, the Comptroller General of the United States, and it appropriate, the State, through any *Authorized Representative*, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal organizational conflict of interest, or personal gain.

Will initiate and complete the work (activities in application) within the applicable time frame after receipt of approval of the awarding agency.

Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 CFR 900, Subpart F).

Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination provisions in the specific statute(s) which may apply to the application.

Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91- 646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. 276a to 276a-7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), regarding labor standards for federally assisted construction subagreements.

Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurance construction and acquisition is \$10,000 or more.

Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in flood plains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4801 et seq.) which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.

Will cause to be performed, the required financial and compliance audits in accordance with the single Audit Act Amendments of 1996 and OMB Circular No. A-133, "Audits of States, Local Governments, and Non-Profit Organizations."

Will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

### **C. Additional Certifications**

In addition to the assurances and certifications provided by the *Applicant* pursuant to OMB Standard Form 424B, the *Applicant* hereby assures and certifies that:

It is duly organized and validly existing under the laws of jurisdiction in which it was incorporated or otherwise established, and is (or within 30 days will be) authorized to do business in any jurisdiction in which it proposes to undertake activities specified in this application.

Its Board of Directors (or similar governing body) has by proper resolution or similar action authorized the filing of this application, including all understandings and assurances contained herein, and directed and authorized the person identified as the *Authorized Representative* of the *Applicant* to act in connection with this application and to provide such additional information as may be required;

It will comply with all applicable requirements of the Community Development Banking and Financing Institutions Act of 1994 (the Act) [12 U.S.C. 4701 et seq.], regulations implementing the Act and all other applicable Department of the Treasury regulations and implementing procedures (and any regulations or procedures which are later promulgated to supplement or replace them);

It will comply, as applicable and appropriate, with the requirements of OMB Circulars (e.g., A-110 and A-133) and any regulations and circulars which are later promulgated to supplement or replace them, including standards for fund control and accountability;

It has not knowingly and willfully made or used a document or writing containing any false, fictitious or fraudulent statement or entry as part of this application or any related document, correspondence or communication. (The *Applicant* and its *Authorized Representative* should be aware that, under 18 U.S.C. 1001, whoever knowingly and willfully makes or uses such document or writing shall be fined or imprisoned for not more than five years, or both); and

The information in this application, and in these assurances and certifications in support of the application, is true and correct to the best of the *Applicant's* knowledge and belief and the filing of this application has been duly authorized.

#### **D. Certification Regarding Debarment, Suspension and Other Responsibility Matters – Primary Covered Transactions**

##### **Instructions For Certification**

By signing and submitting this application, the prospective primary participant (the *Applicant*) is providing the certification set out below.

The inability of a person to provide the certification required below will not necessarily result in the denial of participation in this covered transaction. The prospective *Applicant* 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 Fund's determination whether to enter into this transaction (approval and funding of the application). However, failure of the *Applicant* to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

This certification is a material representation of fact upon which reliance is placed when the Fund determines to enter into this transaction. If it is later determined that the *Applicant* knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Fund may terminate this transaction for cause or default.

The *Applicant* shall provide immediate written notice to the Fund if at any time the *Applicant* learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

The terms "covered transactions," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause (certification), have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the Fund for assistance in obtaining a copy of those regulations (31 CFR part 19).

The *Applicant* agrees by submitting this application 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 proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Fund.

The *Applicant* further agrees by submitting this application that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," to be provided by the Fund, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions (see 31 CFR part 19, Appendix B).

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 proposed for debarment under 48 CFR part 9, subpart 9.4, 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 List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

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.

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 proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Fund may terminate this transaction for cause or default.

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

The prospective primary participant (the *Applicant*) certifies to the best of its knowledge and belief, that it and its principals:

Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

Have not within a three-year period preceding this application 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;

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

Have not within a three-year period preceding this application had one or more public transactions (Federal, State or local) terminated for cause or default.

Where the *Applicant* is unable to certify to any of the statements in this certification such *Applicant* shall attach an explanation to this proposal.

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

By signing and/or submitting this application, the Applicant is providing the certification set out below.

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

Workplaces need not be identified on the certification. If known, they may be identified in the application. If the Applicant does not identify the workplaces at the time of application, or upon award, if there is no application, the Applicant 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 Applicant's drug-free workplace requirements.

Workplace identifications must include the actual address of buildings (or parts of buildings) or other sites where work under the grant award 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).

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

Definitions of terms in the Nonprocurement Suspension and Debarment common rule and Drug-Free Workplace common rule apply to this certification. Applicants' 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 an Applicant directly engaged in the performance of work under a grant award, including: (i) All direct charge employees; (ii) All indirect charge employees unless their impact or involvement is insignificant to the performance of the grant award; and, (iii) Temporary personnel and consultants who are directly engaged in the performance of work under the grant award and who are on the Applicant's payroll. This definition does not include workers not on the payroll of the Applicant (e.g., volunteers, even if used to meet a matching requirement; consultants or independent contractors not on the Applicant's payroll; or employees of subrecipients or subcontractors in covered workplaces).

The *Applicant* certifies that it will or will continue to provide a drug-free workplace by:

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

Establishing a drug-free awareness program inform employees about:

- The dangers of drug abuse in the workplace;
- The *Applicant's* policy of maintaining a drug-free workplace;
- Any available drug counseling, rehabilitation, and employee assistance programs; and
- The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

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 subparagraph (a);

Notifying the employee in the statement required by subparagraph (a) that, as a condition of employment in such grant, the employee will:

- Abide by the terms of the statement; and
- 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 granting agency in writing, within ten calendar days after receiving notice of under subparagraph (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 office and/or other designee on whose grant activity the convicted employee was working, unless the Federal Agency has designated 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 subparagraph (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; and

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

2. The *Applicant* may insert in the space provided below the site(s) for the performance of work (activities carried out

by the *Applicant*) to be done in connection with the award:

Place of Performance (Street Address, City, County, State and Zip Code)

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#### **F. Certification Regarding Lobbying**

1. The *Applicant* certifies, to the best of its knowledge and belief, that:
  - a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the *Applicant*, 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 making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

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 application, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

- b) The *Applicant* shall require that the language of this certification be included in the award documents for all subawards of all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- 1) This certification is a material representation of fact upon which reliance is placed when this transaction is made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C.1352. 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.