



ADMINISTRATION FOR  
**CHILDREN & FAMILIES**

**SUPPLEMENTAL TERMS and CONDITIONS**

The **General Terms and Conditions** apply to all non-discretionary programs. These Supplemental Terms and Conditions are additional requirements applicable to the program named above.

By acceptance of awards for this program, the recipient agrees to comply with the requirements included in both the General and Supplemental Terms and Conditions for this program.

**Office of Family Violence Prevention and Services (OFVPS)**

**FAMILY VIOLENCE PREVENTION AND SERVICES /  
DOMESTIC VIOLENCE SHELTER AND SUPPORTIVE SERVICES  
(STATES AND TRIBES)**

Assistance Listing No. 93.671

**APPLICABLE LEGISLATION, STATUTE, REGULATIONS**

1. The administration of this program is subject to sections 301 to 309 of the Family Violence Prevention and Services Act (FVPSA, [P.L. 98-457](#)).
2. The program is codified at [42 U.S.C. §10401 et seq](#) (specifically [42 U.S.C. §10411](#)).
3. The program-specific implementing regulations are located at [45 CFR Part 1370](#).
  - a. Purpose of FVPSA Grant Programs 45 CFR §1370.1
  - b. Additional requirements for State and Tribal Grants 45 CFR §1370.10
  - c. Confidentiality Requirements 45 CFR § 1370.4
  - d. Additional Non-Discrimination Requirements 45 CFR § 1370.5
  - e. Evaluation and Reporting Requirements 45 CFR § 1370.6
4. Additional program requirements include:
  - a. The Notice of Funding Opportunity (NOFO) found at <https://www.acf.hhs.gov/fysb/grant-funding/fvpsa-standing-notice-funding-opportunity-tribes-tribalorganizations>
5. As applicable to insular areas identified under 45 CFR §97.11, all of [45 CFR Part 97](#) – Consolidation of Grants applies to this program.

6. The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards is located under [45 CFR Part 75](#). In accordance with 45 CFR §75.101 Applicability and 45 CFR §1370.3, this program must comply with 45 CFR Part 75 in its entirety. No exceptions are identified.
7. Additional applicable regulations and requirements can be found in the [General Terms and Conditions for Non-discretionary: Formula, Block Grant, and Entitlement Awards](#).

## **COST SHARING OR MATCHING (NON-FEDERAL SHARE) OF PROGRAM FUNDING**

### **States**

8. According to 42 U.S.C. §10406(c)(4), no grant shall be made to any entity other than a state or tribe unless the entity agrees that, with respect to the cost to be incurred by the entity in carrying out the program or project for which the grant is awarded, the entity will make available (directly or through donations from public or private entities) non-federal contributions in an amount that is not less than \$1 for every \$5 of federal funds provided under the grant. The non-federal contributions required may be in cash or in kind.
9. *Administrative Cost:* According to 42 U.S.C. §10406(b)(1), each State may not use more than 5 percent of grant funds for State administrative costs.
10. Federal funds shall be used to supplement not supplant other Federal, State, tribal, and local public funds expended to provide services and activities that promote the objectives of this program. See 42 U.S.C. §10406(c)(6).

### **Tribes**

11. As defined in 42 U.S.C. 10402(5), Tribes are exempt from the match requirement under the FVPSA. Tribes are not required to provide match under this award (see 42 U.S.C. 10406(c)(4)).

Tribal organizations (as defined by [25 U.S.C. §5304](#)) are not exempt and must provide match.

The determination of whether the match is exempt or required for a tribal consortium depends on the entities that comprise or make up the consortium. Tribal consortium is “a partnership between one or more tribes (including qualifying Alaska Native villages and entities) that authorizes a single tribal organization or nonprofit organization to submit an application and administer the FVPSA grant funds on their behalf. A tribal consortium may also consist of a group of tribal organizations or nonprofit organizations”. A tribal consortium comprised of a group of tribes is exempt from providing a match, and a tribal consortium comprised of a group of tribal organizations or nonprofit organizations is required to provide a match.

## **FINANCIAL REPORTING**

12. The OMB approved Financial Reporting form for this program is the SF-425 Federal Financial Report.

- a. This report is submitted annually and must be submitted no later than December 30, 90 days following the end of each Federal Fiscal year. Two SF-425 reports must be submitted for each award: an interim report covering year one of the project period and a final report (cumulative) covering the entire project period. See general T&C for Electronic Submission guidance.
13. Funding (project) period and obligation period. In accordance with 42 U.S.C. §10405(e), this program has a 2-year project/obligation period starting the first day of the Federal Fiscal Year, October 1, for which funds were awarded and ending the last day of the following Federal Fiscal Year, September 30. According to 42 USC 10405(e), any Federal funds not obligated by the end of the respective obligation period “shall be made available to the Secretary for discretionary activities under section 10414”.
14. Liquidation period. In accordance with 45 CFR §75.309(b), all obligated Federal funds awarded under this program must be liquidated no later than 90 days after the end of the funding/obligation period. Any Federal funds not liquidated by December 30 of the third fiscal year succeeding the fiscal year in which the grant was awarded will be recouped by this Department.

## PROGRAM REPORTING

15. The OMB approved Program Report Form (0970-0280) for this program is: <https://www.acf.hhs.gov/ofvps/form/performance-progress-report-form-state-and-tribal-fvpsa-grantees>. According to 45 CFR §1370.6, each entity receiving a grant or contract under the program must submit a FVPSA performance report as required by the Secretary. The performance report shall describe the activities that have been carried out, contain an evaluation of the effectiveness of such activities, and provide such additional information as required by the Secretary.
16. Insular Areas. Territories that consolidate FVPSA funds with other HHS funds, per 45 CFR Part 97, are not required to submit the annual FVPSA performance progress reports and programmatic assurances. However, if FVPSA funds are not consolidated, the reports are required for these entities.

## PROPERTY REPORTING

17. The OMB approved property reporting is the following:
  - a. Real Property Reports (SF-429s). The SF-429 Real Property forms are not applicable to this program. Purchase, construction, and major renovation are not an allowable activity or expenditure under this grant.
  - b. Tangible Property Report (SF-428s). The SF-428 Tangible Personal Property forms must be submitted as described in the General Terms and Conditions.

## EFFECTIVE PERIOD

18. These program-specific Supplemental Terms and Conditions are effective on the date

shown in the footer at the bottom of the page and will remain in effect until updated. They will be updated and reissued only as needed whenever a new program-specific statute, regulation or other requirement is enacted or whenever any of the applicable existing Federal statutes, regulations, policies, procedures, or restrictions is amended, revised, altered, or repealed.

## **POINT OF CONTACT**

19. Points of contact for additional information or questions concerning either the operation of the program or related financial or grant matters may be found on the Notice of Award and online at: <https://www.acf.hhs.gov/ofvps/programs/fvpsa/fvpsa-regional-contact-list>



## ADMINISTRATION FOR CHILDREN & FAMILIES

### **GENERAL TERMS AND CONDITIONS**

Except as noted otherwise, these Terms and Conditions (T&Cs) apply to all non-discretionary programs administered by the Administration and Children and Families (ACF). T&Cs can be found at *Award Terms and Conditions*, <https://www.acf.hhs.gov/grants/manage-grant/grant-award#terms>. In addition to these T&Cs, please review the separate program-specific Supplemental T&Cs for each program.

By acceptance of the individual awards, each recipient and subrecipient agrees to comply with these T&Cs. Failure to comply may result in disallowances, restricted drawdown, withholding of future awards, and deferral of claims for Federal Financial Participation (FFP) of the award. The first draw down or request for award funds from HHS Division of Payment Management Services (PMS) constitutes acceptance of the T&Cs under the issued award.

#### **Important websites:**

- *ACF website:* <https://www.acf.hhs.gov/>.
- *ACF Non-Discretionary Award Terms and Conditions:* <https://www.acf.hhs.gov/grants/manage-grant/grant-award/non-discretionary-award-terms>.
- *Appropriations:* <https://crsreports.congress.gov/>.
- *General and Permanent Laws:* United States Code (U.S.C.), <https://uscode.house.gov/>.
- *HHS website:* <https://www.hhs.gov/grants/grants/grants-policies-regulations/index.html>.
- *Regulations:* Electronic Code of Federal Regulations (e-CFR), <https://www.ecfr.gov/> or the new beta eCFR at <https://ecfr.federalregister.gov/>.
- *U.S. Federal Legislative Information:* <https://www.congress.gov/>.

### **NON-DISCRETIONARY FORMULA, BLOCK GRANT, AND ENTITLEMENT AWARDS**

Assistance Listing No. varies, see program specific Supplemental Terms and Conditions

#### **APPLICABLE LEGISLATION, STATUTE, REGULATIONS**

1. Effective December 2014, the Department of Health and Human Services (HHS)-specific implementing regulations of Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards is codified at **45 CFR Part 75**.
  - a. The following provisions apply to all non-discretionary programs:
    - i. Subpart A – Acronyms and Definitions
    - ii. Subpart B – General Provisions
    - iii. Subpart D – Post Federal Award Requirements only portions apply to all:
      1. 45 CFR §75.303 – Internal Controls

2. 45 CFR §75.351 through §75.353 – Subrecipient Monitoring and Management.
  - b. Please see the program specific Supplemental Terms and Conditions as exceptions do apply to some ACF programs.
  - c. Unless otherwise stated, recipient and subrecipient must refer to the HHS-specific language in 45 CFR Part 75 rather than 2 CFR Part 200.
2. Additional federal regulations:
  - a. **2 CFR Part 25** – Universal Identifier and System for Award Management
  - b. **2 CFR Part 170** – Reporting Subaward and Executive Compensation Information
  - c. **2 CFR Part 175** – Award Term for Trafficking in Persons
  - d. **2 CFR Part 176** – Award Terms for Assistance Agreements that include Funds under the American Recovery and Reinvestment Act of 2009, Public Law 111-5
  - e. **2 CFR Part 180** – OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Non Procurement)
  - f. **2 CFR Part 376** – Nonprocurement Debarment and Suspension
  - g. **2 CFR Part 382** – Requirements for Drug-Free Workplace (Financial Assistance)
  - h. **31 U.S.C. §3335, §6501, and §6503** (see also **31 CFR Part 205** – Rules and Procedures for Efficient Federal-State Funds Transfers) – Cash Management Improvement Act
  - i. **45 CFR Part 16** – Procedures of the Departmental Grant Appeals Board
  - j. **45 CFR Part 30** – Claims Collection
  - k. **45 CFR Part 80** – Nondiscrimination Under Programs Receiving Federal Assistance through the Department of Health and Human Services, Effectuation of Title VI of the Civil Rights Act of 1964
  - l. **45 CFR Part 81** – Practice and Procedure for Hearings Under Part 80 of this Title
  - m. **45 CFR Part 84** – Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving Federal Financial Assistance
  - n. **45 CFR Part 86** – Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance
  - o. **45 CFR Part 87** – Equal Treatment for Faith-Based Organizations
  - p. **45 CFR Part 91** – Nondiscrimination on the Basis of Age in HHS Programs or Activities Receiving Federal Financial Assistance
  - q. **45 CFR Part 93** – New Restrictions on Lobbying

- r. **45 CFR Part 95** – General Administration – Grant Programs
  - s. **45 CFR Part 100** – Intergovernmental Review of Department of Health and Human Services Programs and Activities
3. Statutory and national policy requirements:
- a. *Human Trafficking Provisions*. These awards are subject to the requirements of Section 106(g) of the “Trafficking Victims Protection Act of 2000” (22 U.S.C. 7104). The full text of this requirement is found at <https://www.acf.hhs.gov/grants/administrative-and-national-policy-requirements>.
  - b. *Mandatory Disclosures*. These awards are subject to the requirements in 31 U.S.C. 3321, 41 U.S.C. 2313, and provisions found in Federal regulations at 45 CFR §75.113 and Appendix XII of this part, and 2 CFR Parts 180 and 376 for debarment and suspension. Non-Federal entities must disclose all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to comply may result in any noncompliance remedies, including debarment and suspension.

ACF is required to review and consider information about any current or potential recipient, subrecipient, contractor, or subcontractor contained in the Federal Awardee Performance and Integrity Information System (FAPIIS) (<https://www.fapiis.gov>) and System for Award Management (SAM). Non-Federal entities may review and comment on any information about itself that has been entered into FAPIIS. ACF will consider any comments by the non-Federal entity, in addition to other information in FAPIIS to judge the recipients’ integrity, business ethics, and record of performance under Federal awards when completing its review of risk.
  - c. *Non-Discrimination Legal Requirements for Recipients of Federal Financial Assistance*. You must administer your project in compliance with federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, disability, age and, in some circumstances, religion, conscience, and sex (including gender identity, sexual orientation, and pregnancy). This includes taking reasonable steps to provide meaningful access to persons with limited English proficiency and providing programs that are accessible to and usable by persons with disabilities. The HHS Office for Civil Rights provides guidance on complying with civil rights laws enforced by HHS. See <https://www.hhs.gov/civil-rights/for-providers/provider-obligations/index.html> and <https://www.hhs.gov/civil-rights/for-individuals/nondiscrimination/index.html>.
    - You must take reasonable steps to ensure that your project provides meaningful access to persons with limited English proficiency. For guidance on meeting your legal obligation to take reasonable steps to ensure meaningful access to your programs or activities by limited English proficient individuals, see <https://www.hhs.gov/civil-rights/for-individuals/special-topics/limited-english-proficiency/fact-sheet-guidance/index.html> and <https://www.lep.gov>.
    - For information on your specific legal obligations for serving qualified individuals with disabilities, including providing program access, reasonable



modifications, and taking appropriate steps to provide effective communication, *see*

<http://www.hhs.gov/ocr/civilrights/understanding/disability/index.html>.

- HHS funded health and education programs must be administered in an environment free of sexual harassment, *see* <https://www.hhs.gov/civil-rights/for-individuals/sex-discrimination/index.html>.
  - For guidance on administering your project in compliance with applicable federal religious nondiscrimination laws and applicable federal conscience protection and associated anti-discrimination laws, *see* <https://www.hhs.gov/conscience/conscience-protections/index.html> and <https://www.hhs.gov/conscience/religious-freedom/index.html>.
- d. *Posting Federally Funded Disclaimer Language on Documents*. In accordance with Section 505 of Public Law 115-31, the Consolidated Appropriations Act of 2017 is applicable to the non-discretionary programs. “When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all recipients receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, (2) the dollar amount of Federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.”
- e. *Prohibition on Expending HHS Award Funds for Covered Telecommunications Equipment or Services as Per 2 CFR §200.216*. Effective August 13, 2020, 2 CFR §200.216 applies to all programs.
- “Prohibition on certain telecommunications and video surveillance services or equipment.”
- (a) As described in 2 CFR 200.216, recipients and subrecipients are prohibited to obligate or spend grant funds (to include direct and indirect expenditures as well as cost share and program) to:
- (1) Procure or obtain,
  - (2) Extend or renew a contract to procure or obtain; or
  - (3) Enter into contract (or extend or renew contract) to procure or obtain equipment, services, or systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Pub. L. 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or



affiliate of such entities).

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

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

- f. *Salary Limitation – Federal Executive Level II.* Federal funds for these programs consistently include a provision as part of the Consolidated Appropriations Act (e.g., Public Law 115-31, May 5, 2017) from Congress that the amount that “shall be used to pay the salary of an individual, through a grant or other extramural mechanism” including non-federal share, must not exceed the amount of the Federal Executive Level II salary for that calendar year. This amount is published annually by the U.S. Office of Personnel Management and can be found on their website at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2017/executive-senior-level> under the “Rates of Pay for the Executive Schedule” link. This amount reflects an individual's base salary exclusive of fringe benefits and any income that an individual may be permitted to earn outside of the duties of the non-Federal entities organization. This salary limitation also applies to subawards, contracts, and subcontracts under an ACF grant or cooperative agreement.

*Federal Funds Accountability and Transparency Act (FFATA) Requirements.* Awards under these programs are included under the provisions of P.L. 109-282, the “Federal Funds Accountability and Transparency Act of 2006” (FFATA). Under this statute, the award recipient is required to report information regarding executive compensation and all subawards, contracts, and subcontracts in excess of \$25,000 through the Federal Subaward Reporting System (<https://www.frs.gov/>) and in accordance with the terms found in Federal regulations at 2 CFR Part 170, including Appendix A.

- g. *Smoking Prohibitions.* In accordance with Title XII of Public Law 103-227, the “PRO-KIDS Act of 1994,” smoking may not be permitted in any portion of any indoor facility owned or regularly used for the provision of health, day care, education, or library services to children under the age of 18, if the services are funded by Federal programs whether directly or through State, Territories, local and Tribal governments. Federal programs include grants, cooperative agreements, loans and loan guarantees, subawards, and contracts. The law does not apply to children’s services provided in private residences, facilities funded solely by Medicare or Medicaid funds, and portions or facilities and used for inpatient drug and alcohol treatment.

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

**COST SHARING OR MATCHING (NON-FEDERAL SHARE) OF PROGRAM FUNDING**

4. Some non-discretionary programs require the recipient to provide a portion of program funding, as specified in Federal law. Please see the program specific Supplemental Terms and Conditions for the requirements.
5. Insular Areas. For any program that (a) requires a non-Federal share of program funding and (b) is available to several identified recipients, under the provisions of 48 U.S.C. 1469a.(d), as amended, the Insular Areas, defined as American Samoa, Guam, the Northern Mariana Islands and the U.S. Virgin Islands, are not required to provide up to \$200,000 of the non-Federal share of program funding. If, in any fiscal year, the non-Federal share exceeds \$200,000, the statutory Federal /non-Federal funding rates for that program will apply to all expenditures that exceed that threshold.

**FINANCIAL REPORTING**

6. Federal funds awarded under this award must be expended for the purposes which they were issued and within the time period allotted. Recipients are required to file periodic financial or program specific expenditure reports either quarterly or annually for each program. Please see the program specific Supplemental Terms and Conditions for the requirements.
7. Electronic Submissions. Reports must be submitted electronically. Paper copies will not be accepted. ACF non-discretionary recipients must submit periodic financial reports through two separate online reporting systems. Each system is secure requires individuals to use a PIN, username, and password.
  - a. GrantSolutions On-Line Data Collection (OLDC) system is the online reporting mechanism and is located at <https://grantsolutions.gov>. The GrantSolutions Help Desk is open on Monday through Friday from 7:00 am to 8:00 pm ET (except for Federal Holidays). You may reach the Help Desk at 1-866-577-0771, 202-401-5282, or [help@grantsolutions.gov](mailto:help@grantsolutions.gov).
  - b. HHS Payment Management System (PMS) is the online payment management mechanism and is located at <https://pms.psc.gov>. The PMS Help Desk is open Monday through Friday from 7:00 am to 9:00 pm ET (except Federal Holidays). You may reach the Help Desk at 1-877-614-5533 or [PMSSupport@psc.gov](mailto:PMSSupport@psc.gov).
8. Obligation Period/Funding Period. Unless superseded by program specific statute or regulations or by other ACF program specific policies, the obligation period will start on the first day of the Federal fiscal year for which the award is being issued (regardless the issue date of that award) and the deadline for obligating Federal funds for non-discretionary programs is the last day of the following fiscal year for which the award is issued.
9. Liquidation Period. Unless superseded by program specific statute or regulations or by ACF policy, the deadline for liquidating Federal funds is 90 days after the end of the obligation period/funding period (or as specified in a program regulation).

**PROGRAM REPORTING**

10. Please see the program specific Supplemental T&C for the program reporting requirements

## PROPERTY REPORTING

11. Real property (see limitation under item 12 within this T&C), tangible personal property, and intangible property, that are acquired or improved with a Federal award must be held in trust by the recipient as trustee for the beneficiaries of the project or program under which the property was acquired or improved. ACF requires the recipient to record liens or other appropriate notice of record to indicate the personal or real property has been acquired or improved with a Federal award and that use and disposition conditions apply to the property. Unless program regulations, program-specific supplemental T&Cs, or other program guidance say otherwise, recipients are required to follow the property standards outlined under 45 CFR §§75.316 – 75.323. States must follow their own state property standards. The following are the real property and tangible personal property guidance and reporting requirements. For additional information, please see the ACF *Property Guidance* pages at <https://www.acf.hhs.gov/grants/manage-grant/property>.
12. *Real Property Reports (SF-429s)*, OMB Control No. 4040-0016. ACF *Real Property Guidance* is located at <https://www.acf.hhs.gov/grants/manage-grant/property/real-property>. There are only a few ACF programs that have explicit statutory authority to allow recipients, with written approval, to use federal funds to purchase, construct, and/or renovate real property. Please see program-specific supplemental T&Cs and the *Applicable ACF Grant Programs with Real Property Authority* (<https://www.acf.hhs.gov/grants/manage-grant/property/real-property#authority>) list for this authority. When real property is used for these purposes, a Federal interest is established. This interest does not expire. So long as a Federal interest remains, the title holding recipient (and on behalf of subrecipients) must submit a report on the property annually in GrantSolutions OLDC. **Only reports submitted in GrantSolutions OLDC are considered official submissions.** ACF requires the recipient to submit real property reports and requests about real property that is proposed or was purchased/acquired, constructed, and/or made major renovations with federal funds. Recipients are responsible for submitting these reports on behalf of their subrecipients.

In accordance with program specific requirements, recipients (and on behalf of subrecipients) are required to submit the OMB approved Real Property Status Report SF-429 and Attachments, in which there is a Federal interest. The collection of SF-429 forms must be used for awards that establish a Federal interest on real property. Overview of forms are as follows:

- a. **SF-429.** The Cover Page must be submitted along with the other SF-429 Attachments (A, B, and C). GrantSolutions OLDC automatically adds the cover page to the Attachment.
- b. **SF-429 Attachment A.** The Annual General Report is due annually and follows the same reporting cycle as the annual Federal Financial Report or program specific Expenditure Report.
- c. **SF-429 Attachment B.** The Acquire or Improve Request may be submitted at any time to request prior approval to use federal funds to acquire or improve property. The submission of this form, with supporting documentation, in GrantSolutions OLDC is the official starting point for any prior approval request to purchase, construct, and/or major renovation project for real property.
- d. **SF-429 Attachment C.** The Disposition or Encumbrance Request may be submitted at any time to request disposition instructions. The submission of this form, with supporting documentation, in GrantSolutions OLDC is the official

starting point for any prior approval disposition or encumbrance requests. When the property is no longer needed, the recipient (and on behalf of subrecipients) must submit in GrantSolutions OLDC a request for disposition instructions. OGM must be consulted and confirm the percentage of participation (federal interest) before any payment is remitted on a property. ACF will review and make a decision on one of the three standard OMB disposition options described under 45 CFR §75.318(c) to eliminate the Federal interest. The recipient (and on behalf of subrecipient) are required to compensate ACF for its share by remitting payment when real property is sold or retained. Payment must be received and confirmed before ACF can release the federal interest on the property. For more information, see *Remit Payment* guidance at <https://www.acf.hhs.gov/grants/manage-grant/property/guidance#remit-payment>.

Please note that for the SF-429 Attachment B and C, the appraised value is the current fair market value based on the appraisal (no more than three years old) conducted by an independent certified appraiser.

13. *Tangible Property Report (SF-428s)*, OMB Control No. 4040-0018. ACF *Tangible Personal Property Guidance* is located at <https://www.acf.hhs.gov/tangible-personal-property>. Recipients and subrecipients that purchase any tangible personal property (e.g., equipment with a unit cost of \$5,000 or more and residual supplies with an aggregate fair market value exceeding \$5,000) under the award are required to submit the OMB approved Tangible Personal Property form SF-428. The SF-428 is a standard form used to collect information related to tangible personal property. Unless otherwise directed in the program-specific supplemental T&Cs, programs are required to submit the SF-428s. Recipients are required to submit the forms on behalf of subrecipients. A state, as defined by 45 CFR §75.2, must use, manage and dispose of equipment acquired under a Federal award by the state in accordance with state laws and procedures. Overview of the forms are as follows:
- a. **SF-428.** The Cover Page must be submitted along with the other SF-428 Attachments (B, C, and S).
  - b. **SF-428 Attachment A.** The Federally Owned Property Annual Report is **not applicable to ACF programs**.
  - c. **SF-428 Attachment B.** The Final/Award Closeout form on Acquired Equipment purchased with Federal Funds is due at the end of a Federal Assistance Award. This form may not apply to some non-discretionary programs. Please see program-specific supplemental T&Cs for applicability and exceptions.
  - d. **SF-428 Attachment C.** The Disposition Request form on Acquired Equipment is due at any time other than award closeout. The submission of this form, with the SF-429 cover page and supporting documentation, to OGM is the official starting point for any prior approval disposition request. OGM must be consulted and confirm the percentage of participation (federal interest) before any payment is remitted on the property. Recipients (and on behalf of subrecipients) are required to compensate ACF for its share by remitting payment when equipment is sold or retained. Payment must be received and confirmed before ACF can release the federal interest on the property. For more information, see *Remit Payment* guidance at <https://www.acf.hhs.gov/grants/manage-grant/property/guidance#remit-payment>.
  - e. **SF-428 Attachment S.** The Supplemental Sheet may be submitted with the SF-

428 Attachment B or C to provide additional information.

## AWARD PAYMENTS

14. Payment. All award program payments will be made available through the HHS PMS. Questions pertaining to payments should be directed to: HHS Division of Payment Management, P.O. Box 6021, Rockville, MD, 20852, or PMS Help Desk at 877-614-5533, or [PMSSupport@psc.gov](mailto:PMSSupport@psc.gov). Other questions should be directed to the ACF contact listed on the NOA or program-specific supplemental T&Cs.
15. Returning Funds/Interest. Unless otherwise directed in the financial or program specific expenditure report, the HHS Program Support Center (PSC) serves as a centralized point for returning award interest and funds according to established federal law, policies, procedures, and regulations. PMS prefers that repayment be completed as an electronic transfer or by check. Please refer to the PSC Returning Funds/Interest instructions at: <https://pms.psc.gov/grant-recipient/returningfunds.html>.

## SUB-RECIPIENTS AND SUBCONTRACTING MONITORING AND MANAGEMENT

16. According to the Applicability table in 45 CFR §75.101(b)(1), and the exceptions described in §§75.101(d) and (e), all programs must comply with the Subrecipient Monitoring and Management requirements described in subpart D, §§75.351 - .353.
17. The prime recipient is the entity that receives a Federal award directly from ACF. Prime recipients are responsible for flowing down the General T&Cs in this document as applicable, see *Subrecipient Monitoring* as follows for more information.
18. Debarred or Suspended. No entity may participate in these programs in any capacity or be a recipient of Federal funds designated for these programs if the organization has been debarred or suspended or otherwise found to be ineligible for participation in Federal assistance programs or activities. Please see Executive Orders 12549 and 12689, as well as 2 CFR Parts 180 and 376 for debarment and suspension provisions. Recipients must include a similar T&C for all subawards or contracts awarded under these programs. Prior to issuing subawards or contracts under this award, the recipient (pass-through) must review information available through the System for Award Management, <https://www.sam.gov>, to determine whether an entity is ineligible.
19. Subrecipient and Contractor Determinations. Recipients are required to make case-by-case determinations whether the substance of an agreement creates a Federal assistance relationship (subaward) or a procurement relationship (contract) in accordance with 45 CFR §75.351. The presence of one or more characteristics may not be present in all cases; as such, the recipient must use judgment as the substance of the relationship is more important than the form of the agreement. ACF may also supply and require recipients to comply with additional guidance to support these determinations.
  - a. **Subrecipients.** “A subaward is for the purpose of carrying out a portion of a Federal program and creates a Federal assistance relationship with the subrecipient.” According to 45 CFR §75.101(b)(1), the T&Cs of Federal awards flow down to subawards of subrecipients unless a particular section of 45 CFR Part 75 or the program-specific supplemental T&Cs of the Federal award specifically indicates otherwise.

“Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

- i. Determines who is eligible to receive Federal assistance;
- ii. Has its performance measured in relation to whether objectives of a Federal program were met;
- iii. Has responsibility for programmatic decision making;
- iv. Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and
- v. In accordance with its agreement, **uses the Federal funds to carry out a program for a public purpose specified in authorizing statute**, as opposed to providing goods and services for the benefit of the pass-through entity.”

*Please note that as a long standing ACF OGM policy any State, local, Tribal, or Territorial governments providing a service to a pass-through entity must be considered a subrecipient.*

- b. **Contractors.** “A contract is for the purpose of obtaining goods and services for the non-Federal entity’s own use and creates a procurement relationship with a contractor.” The phrase “goods and services” are considered routine items and activities that are intended for the direct benefit or use by the recipient. Examples of routine "goods" are tangible items such as supplies (e.g., pens, paper, and folders) and equipment (e.g., computers and copiers) for the sole use by the recipient. Examples of routine "services" are activities provided, such as janitorial and building maintenance services for the recipient. "Good and services" are not intended to carry out (in whole or part) a public purpose, unless specifically authorized by law.

“Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the contractor:

- i. Provides the goods and services within normal business operations;
- ii. Provides similar goods or services to many different purchasers;
- iii. Operates in a competitive environment;
- iv. Provides goods or services that are ancillary to the operation of the Federal program; and
- v. Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.”

For more information, see item 20. *Contract Monitoring* in this General T&C.

*Contract Monitoring.* Recipients are responsible for ensuring that contracts contain the applicable provisions described in Appendix II of 45 CFR Part 75. The recipient is responsible for oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of the contract or purchase order. Records must be maintained by the recipient and be sufficiently detailed for compliance.

- 20. *Fixed amount subawards.* A fixed amount award cannot be used in programs which



require mandatory cost sharing or matching in accordance with 45 CFR §75.201(b)(2). Most programs require the recipient to provide a portion of program funding, as specified in Federal law. Please see the program-specific supplemental T&Cs for the cost sharing or matching (non-Federal share) requirement.

21. *Indirect Cost*. In accordance with 45 CFR §75.352(a)(4), pass-throughs must recognize the approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government, or if no such rate exists, either a rate negotiated between the recipients and subrecipient, or provide a 10 percent de minimis indirect cost rate as defined in 45 § 75.414(f). Recipients are instructed to contact PSC/CAS at [PMSSupport@psc.hhs.gov](mailto:PMSSupport@psc.hhs.gov) or 877-614-5533 with any cost allocation and indirect cost rate questions. As a courtesy, recipients are encouraged to copy their respective assigned OGM Specialist.
22. *Subrecipient Monitoring*. Pass-through entities are required to advise subrecipients of requirements imposed on them by Federal laws, regulations, and the provisions of award agreements as well as any supplemental requirements imposed by the pass-through entity. These include award administrative and audit requirements (where applicable) under 45 CFR Part 75. The recipient must conduct a risk assessment of subrecipient(s) in accordance with [45 CFR §75.352\(b\)](#). Additionally, all subrecipient(s) must obtain a Unique Entity Identifier assigned by the SAM, if they do not already have one. Recipients are required to check the SAM to verify that the subrecipient(s) is/are not debarred, suspended, or ineligible. The pass-through entities are responsible for monitoring the activities of the subrecipient to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the T&Cs of the subaward, and that subaward performance goals are achieved. “Monitoring by the non-Federal entity must cover each program, function and activity.” See 45 CFR §§[75.342](#) and [75.352](#). Records must be maintained by the pass-through entity and be sufficiently detailed for compliance. For more information, see item 3. *Salary Limitation – Federal Executive Level II: Federal Funds Accountability and Transparency Act (FFATA) Requirements* in this General T&C.

Should a subrecipient perform unsatisfactorily, the recipient is responsible for remedying subrecipient issues. Recipients of an award will be legally accountable to ACF for performance of the project or program. Recipients will be held solely responsible in the event of non-compliance by a subrecipient. The recipient will be held accountable for cost disallowances regarding subawarded funds. If requirements of the program cannot be met due to subrecipient issues, ACF may need to take one or more of the actions listed under 45 CFR § 75.371-.375.

## AUDITS

23. The recipient must arrange for the conduct of audits as required by 45 CFR 75 Part F. Recipient must verify that any subrecipients that, per [45 CFR §75.501](#), expend Federal funds totaling \$750,000 or more during the course of its fiscal year must arrange for a financial audit in compliance with the requirements of 45 CFR Part 75 Subpart F. See [45 CFR §75.352\(f\)](#).
  - a. **For-profit subrecipients.** Unless stated otherwise in regulation, guidance, or program-specific supplemental T&Cs, the Subpart F does not apply to for-profit subrecipients. At a minimum, the pass-through entity is responsible for establishing



requirements, as necessary, to ensure compliance by for-profit subrecipients. The agreement with the for-profit subrecipient must describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance requirements for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the agreement, and post-award audits. Please see 45 CFR §§75.352 and 75.501(h).

## EFFECTIVE PERIOD

The General T&C and each of the program-specific supplemental T&Cs are effective on the date shown in the footer at the bottom of the respective pages. Each T&C supersedes all previous similar T&Cs and will remain in effect until updated. All T&Cs will be updated and reissued as needed, or when a new statute, regulation or other requirement is enacted, or any of the applicable existing Federal statutes, regulations, policies, procedures or restrictions is amended, revised, altered, or repealed.

## POINTS OF CONTACT

Points of contact for additional information or questions concerning either the operation of the program or related financial or award matters may be found on the NOA. The Program Office contact handles the programmatic specific needs such as program intent, goals and objectives. Whereas, the OGM contact typically handles any business, financial, and administrative activities such as budget revisions, prior approval requests, and closeouts.

## IMPORTANT ADDRESSES

Administration for Children and Families  
Office of Grants Management  
330 C Street, SW. Mailstop 3127  
Washington, DC 20201

## OIG HOTLINE

The Office of the Inspector General of the U.S. Department of Health and Human Services maintains the OIG Hotline, a system for reporting allegations of fraud, waste, abuse and mismanagement in Department of Health and Human Services' programs. Your information will be reviewed by a professional staff member and will remain confidential; you need not provide your name. Information provided through the website is secure and all information is safeguarded against unauthorized disclosure. Report the possible misuse of federal funds by phone or online. Please provide as much detailed information as possible in your report.


Online: <https://oig.hhs.gov/report-fraud>  
Phone: 800-HHS-TIPS (800-447-8477)  
TTY: 800-377-4950  
Fax: 800-223-8164

If you are a provider, HHS contractor, HHS recipient or subrecipient and want to self-disclose potential fraud in HHS programs, please visit the [self-disclosure](https://oig.hhs.gov/compliance/self-disclosure-info/index.asp) webpage at: <https://oig.hhs.gov/compliance/self-disclosure-info/index.asp>.

# Administrative and National Policy Requirements

Listen



**Current as of:** July 28, 2023



Awards issued through Notices of Funding Opportunities are subject to [45 CFR Part 75 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for HHS Awards](#) .

An application funded with the release of federal funds through a grant award does not constitute, or imply, compliance with federal regulations. Funded organizations are responsible for ensuring that their activities comply with all applicable federal regulations.

Expand All

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

Recipients of federal financial assistance (FFA) from HHS are required to complete an HHS Assurance of Compliance form in which you agree, as a condition of receiving the award, to administer your programs in compliance with federal civil rights laws that prohibit discrimination on the basis of race, color, national origin, age, sex, and disability, and agree to comply with federal conscience laws, where applicable. FFA recipients must comply with applicable laws that prohibit discrimination on the basis of sex, which includes discrimination on the basis of gender identity, sexual orientation, and pregnancy. Compliance with these laws require taking reasonable steps to provide meaningful access to persons with limited English proficiency and providing programs that are accessible to and usable by persons with disabilities. The HHS Office for Civil Rights provides guidance on complying with civil rights laws enforced by HHS. See [For Providers of Health Care and Social Services](#)  and [HHS Nondiscrimination Notice](#)  for more information.

The HHS Assurance of Compliance can be found at [HHS 690](#)  (PDF) (hard copy) or on the [OCR online portal](#)  (electronic version).

- For guidance on meeting your legal obligation to take reasonable steps to ensure meaningful access to your programs or activities by limited English proficient individuals, see [Fact Sheet on Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition](#)

## Against National Origin Discrimination Affecting Limited English Proficient (LEP) Persons

and the **Limited English Proficiency (LEP)**.

- For information on your specific legal obligations for serving qualified individuals with disabilities, including providing program access, reasonable modifications, and to provide effective communication, see **Discrimination on the Basis of Disability**.
- HHS funded health and education programs must be administered in an environment free of sexual harassment, see **Discrimination on the Basis of Sex**.
- For information on administering your project in compliance with applicable federal religious nondiscrimination laws and applicable federal conscience protection and associated anti-discrimination laws, see **Conscience Protections for Health Care Providers** and **Religious Freedom**.

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## Prohibition Against Profit

Unless exempted by **45 CFR §75.101**, program regulations, and/or the terms and conditions of the award:

- Recipients are subject to the limitations set forth in **45 CFR §75.216**, Special provisions for awards to commercial organizations as recipients (45 CFR §75.216(b) Prohibition against profit), which states that, "...no HHS funds may be paid as profit to any recipient even if the recipient is a commercial organization. Profit is any amount in excess of allowable direct and indirect costs."
- Recipients are subject to the limitations under **45 CFR §75.400**, Policy Guide (45 CFR §75.400(g)), which states "The non-Federal entity may not earn or keep profit resulting from Federal financial assistance, unless explicitly authorized by the terms and conditions of the Federal award. See also **§75.307**."

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## Award Term and Condition under the Trafficking Victims Protection Act of 2000

Awards issued under this announcement are subject to the requirements of Section 106 (g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. § 7104). View the **full text of the award term**.

# Equal Treatment for Faith-Based Organizations

Recipients are subject to the requirements of [45 CFR §87, Equal Treatment for Faith-Based Organizations](#). 


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## Pro-Children Act

The Pro-Children Act of 2001, 20 U.S.C. §§ 7181 through 7184, imposes restrictions on smoking in facilities where federally funded children's services are provided. HHS grants are subject to these requirements only if they meet the Act's specified coverage. The Act specifies that smoking is prohibited in any indoor facility (owned, leased, or contracted for) used for the routine or regular provision of kindergarten, elementary, or secondary education or library services to children under the age of 18. In addition, smoking is prohibited in any indoor facility or portion of a facility (owned, leased, or contracted for) used for the routine or regular provision of federally funded health care, day care, or early childhood development, including Head Start services to children under the age of 18. The statutory prohibition also applies if such facilities are constructed, operated, or maintained with federal funds. The statute does not apply to children's services provided in private residences, facilities funded solely by Medicare or Medicaid funds, portions of facilities used for inpatient drug or alcohol treatment, or facilities where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in a civil monetary penalty of up to \$1,000 per violation and/or the imposition of an administrative compliance order on the responsible entity.


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## Requirements for Drug-Free Workplace

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

## Debarment and Suspension



HHS regulations published in 2 CFR Part 376 implement the government-wide debarment and suspension system guidance (2 CFR Part 180) for HHS' non-procurement programs and activities. "Non-procurement transactions" include, among other things, grants, cooperative agreements, scholarships, fellowships, and loans. ACF implements the HHS Debarment and Suspension regulations as a term and condition of award. Recipients may decide the method and frequency by which this determination is made and may check the Excluded Parties List System (EPLS) located at <https://www.sam.gov> , although checking the EPLS is not required.

## Stevens Amendment



Beginning in 1989, the United States Department of Health and Human Services' (HHS) annual appropriations included a provision known as the "Stevens Amendment" to ensure transparency and accountability in federal spending. The Stevens Amendment requires all HHS grant and cooperative agreement recipients to acknowledge federal funding when publicly communicating projects or programs funded through the HHS annual appropriation.

When issuing statements, press releases, publications, requests for proposal, bid solicitations and other documents --such as tool-kits, resource guides, websites, and presentations (hereafter "statements") -- describing the projects or programs funded in whole or in part with HHS federal funds, the recipient must clearly state:

1. the percentage and dollar amount of the total costs of the program or project funded with federal money; and,
2. the percentage and dollar amount of the total costs of the project or program funded by non-governmental sources.

When issuing statements resulting from activities supported by HHS financial assistance, the recipient entity must include an acknowledgement of federal assistance using one of the following or a similar statement.

If the HHS Grant or Cooperative Agreement is **NOT** funded with other non-governmental sources:

"This [project/publication/program/website, etc.] [is/was] supported by the Administration for Children and Families (ACF) of the United States (U.S.) Department of Health and Human Services (HHS) as part of a financial assistance award totaling \$XX with 100 percent funded by ACF/HHS. The

contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by ACF/HHS, or the U.S. Government. For more information, please visit the ACF website, [Administrative and National Policy Requirements](#)."

The HHS Grant or Cooperative Agreement **IS** partially funded with other nongovernmental sources:

"This [project/publication/program/website, etc.] [is/was] supported by the Administration for Children and Families (ACF) of the United States (U.S.) Department of Health and Human Services (HHS) as part of a financial assistance award totaling \$XX with XX percentage funded by ACF/HHS and \$XX amount and XX percentage funded by non-government source(s). The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by ACF/HHS, or the U.S. Government. For more information, please visit the ACF website, [Administrative and National Policy Requirements](#)."

The federal award total must reflect total costs (direct and indirect) for all authorized funds (including supplements and carryover) for the total competitive segment up to the time of the public statement. Any amendments by the recipient to the acknowledgement statement must be coordinated with the HHS Awarding Agency. If the recipient plans to issue a press release concerning the outcome of activities supported by HHS financial assistance, it should notify the HHS Awarding Agency in advance to allow for coordination. For examples of applicability for the Stevens Amendment, please review [Examples of Stevens Amendment Documents or Other Publications](#). (PDF)

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## Freedom of Information Act (FOIA)

Applications funded by federal grant programs are subject to disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Each released application will receive appropriate redaction of specific information to protect personal privacy and competitively sensitive commercial information. Learn more about [filing a FOIA request](#).

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## Award Term and Condition for Unpaid Federal Tax Liability

Recipients are subject to the requirement contained in Section 744 of the "Consolidated Appropriations Act, 2022," (Division E-Financial Services and General Government Appropriations Act, 2022, Title VII, General Provisions — Government-Wide), which says "None of the funds made available by this or any other Act may be used to enter into a contract, memorandum of understanding, or

cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government."

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## Requirements for Recipient Electronic and Information Technology

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

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## Award Term for System Award Management and Unique Entity Identifier

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

Appendix A to Part 25

### 1. SAM and UEI Requirements

#### a. Requirement for SAM

Unless you are exempted from this requirement under 2 CFR 25.110, you as the recipient must maintain current information in the SAM. This includes information on your immediate and highest level owner and subsidiaries, as well as on all of your predecessors that have been awarded a Federal



contract or Federal financial assistance within the last three years, if applicable, until you submit the final financial report required under your Federal 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 Federal award term.

b. Requirement for UEI

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 UEI to you.
2. May not make a subaward to an entity unless the entity has provided its UEI to you. Subrecipients are not required to obtain an active SAM registration, but must obtain a UEI.

c. Definitions

For purposes of this award term:

1. SAM means the Federal repository into which a recipient must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the [SAM](#) website.
2. UEI means the identifier assigned by SAM to uniquely identify business entities.
3. Entity includes non-Federal entities as defined at [2 CFR 200.1](#) and also includes all of the following, for purposes of this part:
  - A foreign organization;
  - A foreign public entity;
  - A domestic for-profit organization; and
  - A Federal agency.
4. Subaward has the meaning given in [2 CFR 200.1](#).
5. Subrecipient has the meaning given in [2 CFR 200.1](#).

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## Federal Financial Accountability and Transparency Act (FFATA) Subaward and Executive Compensation Reporting Requirement (2 CFR Part 170)

For more information, please review the [Award Term for FFATA](#).

# Award Term and Condition for Recipient Integrity and Performance Matters (Commonly referred to as FAPIIS)

For more information on FAPIIS, please review [Award Term and Condition for Recipient Integrity and Performance Matters](#).

## Award Term and Condition on Subawards

This term and condition applies to all Administration for Children and Families (ACF) discretionary grant recipients except as noted otherwise within this term and condition. The following types of ACF programs are exempt from this term and condition: programs where subawards are prohibited by statute or regulation and mandatory grant programs. However, please note that all mandatory programs at ACF are subject to [45 CFR §§ 75.351-.353](#). Should any of the requirements in this term and condition conflict with a statute or regulation, the requirements in the statute or regulation must be followed.


According to [45 CFR § 75.2](#), “Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.” A subaward is determined by the substance of the agreement and characteristics specified in [45 CFR § 75.351](#). Subawards also do not include consultant agreements (see [45 CFR § 75.459](#)) or unfunded collaborators. Unfunded collaborators are individuals involved in collaborations on the grant project, but not funded through the grant; typically, this may occur on research grants.


The prime recipient is the entity that receives a Federal award directly from ACF. The prime recipient is responsible for oversight of all programmatic, financial, and administrative matters, including reporting, related to the grant. This responsibility includes oversight of these matters as they relate to the subrecipient(s). Prime recipients opting to use subawards are required to adhere to the requirements noted in [45 CFR § 75.352](#) and be in compliance with [45 CFR § 75.351](#) and [§ 75.353](#).


In addition, the prime recipient must maintain a substantive role in the project. ACF defines a substantive role as conducting activities and/or providing services funded under the award that are necessary and integral to the completion of the project. Subrecipient monitoring activities alone as specified in [45 CFR § 75.352](#) do not constitute a substantive role.

ACF does not fund awards where the role of the applicant is primarily to serve as a conduit for passing funds to other organizations unless that arrangement is authorized by statute. In the absence of such statutory authority, each prime recipient's primary role must be to ensure the delivery of the statutorily authorized services, whether provided directly or through collaborative involvement with their subrecipient(s). Per 42 USC 9832(3), Head Start or Early Head Start agencies with delegate agencies are exempt from the requirements in this paragraph.

Subrecipient(s) must meet the eligibility requirements identified in the Notice of Funding Opportunity (NOFO), *Section III.1. Eligible Applicants*, or as otherwise specified in the NOFO. Additionally, all subrecipient(s) must obtain a Unique Entity Identifier (UEI) number assigned by the System for Award Management (SAM), if they do not already have one. Prime recipients are required to check the SAM to verify that the subrecipient(s) is/are not debarred, suspended, or ineligible.

If the grant program requires cost sharing or matching, subrecipients may provide cost sharing or matching towards the prime recipient's requirement, if their contribution meets requirements at **45 CFR § 75.306** .

The prime recipient must conduct a risk assessment of subrecipient(s) in accordance with **45 CFR § 75.352(b)**.  Prime recipients may be required to report under the Federal Financial Accountability and Transparency Act (FFATA). Please refer to **FFATA** for more information.

Should a subrecipient perform unsatisfactorily, the prime recipient is responsible for remedying subrecipient issues. Prime recipients of an award will be legally accountable to ACF for performance of the project or program. Prime recipients will be held solely responsible in the event of non-compliance by a subrecipient. The prime recipient will be held accountable for cost disallowances regarding subawarded funds. Subrecipient performance will also be considered during review of applications for non-competing continuations. If requirements of the program cannot be met due to subrecipient issues, ACF may need to take one or more of the actions listed under **45 CFR § 75.371-.375** .

Prime recipients who propose to issue subaward(s), but had not yet identified the subrecipient organization(s) by the time of application submission must submit a prior approval request with the name of the subrecipient organization(s), updated description(s) of the work to be performed, and updated subaward budget(s) and budget justification(s). This information must be submitted within 90 days from the start date of the grant or as otherwise specified in the award-specific terms and conditions. If a subaward was not originally proposed in the application, but later becomes necessary, ACF prior approval is required before any activities in the subaward request begin.

# Prohibition on Expending HHS Award Funds for Covered Telecommunications Equipment or Services as Per 2 CFR 200.216



Effective August 13, 2020

"Prohibition on certain telecommunications and video surveillance services or equipment."

(a) As described in CFR 200.216, recipients and subrecipients are prohibited to obligate or spend grant funds (to include direct and indirect expenditures as well as cost share and program) to:

(1) Procure or obtain,

(2) Extend or renew a contract to procure or obtain; or

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

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

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

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

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## Mandatory Disclosures



Recipients are subject to the requirements in **41 U.S.C. §2313** [§](#), and provisions found in Federal regulations at **45 CFR §75.113** [§](#) and **Appendix XII of Part 75 - Award Term and Condition for Recipient Integrity and Performance Matters** [§](#). Applicants and recipients must disclose, in a timely manner, in writing to Office of Grants Management (OGM), with a copy to HHS Office of Inspector General (OIG), all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Subrecipients must disclose, in a timely manner, in writing to the prime recipient and the HHS OIG, all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Disclosures must be sent in writing to the OGM and the HHS OIG at the following addresses:

The Administration for Children and Families  
U.S. Department of Health and Human Services  
Office of Grants Management  
ATTN: [Insert Name of assigned Grants Management Specialist]  
330 C Street, SW., Switzer Building Corridor 3200  
Washington, DC 20201

AND

U.S. Department of Health and Human Services  
Office of Inspector General  
ATTN: Mandatory Grant Disclosures, Intake Coordinator  
330 Independence Avenue, SW., Cohen Building  
Room 5527  
Washington, DC 20201  
Fax: (202) 205-0604 (Include “Mandatory Grant Disclosures” in subject line) or  
Email: **[MandatoryGranteeDisclosures@oig.hhs.gov](mailto:MandatoryGranteeDisclosures@oig.hhs.gov)**

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

## Salary Limitation – Federal Executive Level II



Annual appropriations law provides that no part of any funds awarded “shall be used to pay the salary of an individual, through a grant or other extramural mechanism,” which includes non-federal share, “at a rate in excess of” Federal Executive Level II salary for that calendar year. This amount is published annually by the U.S. Office of Personnel Management (OPM) and can be found on their Pay & Leave website at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>, specifically under the subheading “Executive & Senior Level Employee Pay Tables: Rates of Pay for the Executive Schedule.” This amount reflects an individual's base salary exclusive of fringe benefits and any income that an individual may be permitted to earn outside of the duties of the non-Federal entities’ organization. This salary limitation also applies to subawards, contracts, and subcontracts under an ACF grant or cooperative agreement. Please see the [Federal Funds Accountability and Transparency Act \(FFATA\) Requirement Subaward and Executive Compensation Reporting Requirement](#).

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## Whistleblower Protections



As a recipient of this award you must comply with the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112-239, 41 U.S.C. § 4712) “Enhancement of contractor protection from reprisal for disclosure of certain information,” and 48 CFR part 3 subpart 3.9, “Whistleblower Protections for Contractor Employees.” For more information see:

<https://oig.hhs.gov/fraud/whistleblower/> and [Whistleblower Notice to HHS Contractors, Subcontractors, Grantees, Subgrantees or Personal Services Contractors](#) (PDF)

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## Termination Provisions



If you receive an award, HHS may terminate it if any of the conditions in [45 CFR 75.372\(a\)\(1\)-\(4\)](#) are met. Should HHS not award continuation funding, or terminate an award for convenience, that action will be treated as a termination, and appeal rights are afforded per [45 CFR 75.374](#).

Programs that are exempt from Subpart D as described under [45 CFR 75.101](#) should reference the program-specific statute and regulations, if applicable. Additional termination provisions may be included in the terms and conditions of the award.

