



## ADMINISTRATION FOR **CHILDREN & FAMILIES**

### **GENERAL TERMS AND CONDITIONS**

Except as noted otherwise, these Terms and Conditions (T&Cs) apply to all mandatory grant programs administered by the Administration and Children and Families (ACF). T&Cs can be found at [Post-Award Requirements](#). 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 grant 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 grant. 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 grant award.

#### **Important websites:**

- *ACF website:* <https://www.acf.hhs.gov/>.
- *ACF Post-Award Requirements:* <https://www.acf.hhs.gov/grants/post-award-requirements>.
- *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/>.

### **ADMINISTRATION FOR CHILDREN AND FAMILIES**

#### **MANDATORY FORMULA, BLOCK AND ENTITLEMENT GRANT PROGRAMS**

Catalog of Federal Domestic Assistance (CFDA) Program 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 mandatory grant 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 grant programs.
  - c. Unless otherwise stated, grant 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://acf.gov/grants/award-term-and-condition-trafficking-persons>
  - 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://sam.gov/fapiis>) 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 grant recipients integrity, business ethics, and record of performance under Federal awards when completing its review of risk.
  - c. *Micro-purchase and Simplified Acquisition Threshold for Financial Assistance*. “Due to statutory changes set forth in the National Defense Authorization Act for Fiscal Year 2018, which became law on December 12, 2017, the threshold for micro-purchases is now set at \$10,000, and the threshold for simplified acquisition is now \$250,000. In accordance with 41 U.S.C. § 1902(f), changes to the thresholds are not effective until implemented in the Federal Acquisition Regulations (FAR). However, pursuant to [2 CFR §200.102](#), OMB has issued an exception to allow grantees [recipients] to use these higher thresholds in advance of revisions to the FAR at 48 CFR Subpart 2.1 and the Uniform Guidance. Further, the National Defense Authorization Act for Fiscal Year 2017, which became law on December 23, 2016, establishes a uniform process by which institutions of higher education, or related or affiliated nonprofit entities, nonprofit research organizations or independent research institutes can request a micro-purchase threshold above \$10,000. Prior to requesting a higher threshold, please contact the Grants Management Specialist (GMS) identified on your Notice of Award (NoA) or award letter for instructions to submit the request.”
  - d. *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.justice.gov/crt/limited-english-proficiency>.
  - 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/section-1557/fs-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/your-protections-against-discrimination-based-on-conscience-and-religion/index.html>.
- e. *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 mandatory grant 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.”
- f. *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 grant 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."

g. *Salary Limitation – Federal Executive Level II.* Federal funds for these grant 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.

i. *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 grant 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://sam.gov/fsrs>) and in accordance with the terms found in Federal regulations at 2 CFR Part 170, including Appendix A.

- h. *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 mandatory grant programs require the grant 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 grant 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 grant must be expended for the purposes which they were awarded and within the time period allotted. Grant 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 mandatory grant 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 mandatory grant 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.
12. *Real Property Reports (SF-429s), OMB Control No. 4040-0016*. ACF Real Property guidance is located at <https://www.acf.hhs.gov/real-property>. There are only a few ACF grant programs that have explicit statutory authority to allow, 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](#) 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.

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 Real 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 grant 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, grant 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 grant 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 mandatory grant 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.
  - i. SF-428 Attachment C Guidance: For item “1. Request Disposition Instructions for:” when the disposition request is for equipment with a current fair market value (FMV) of:
    - \$5,000 or more:
      - Select one of the two options listed.
      - Add a comment in line 4 (if necessary), and
      - Provide the SF-428 S or other supporting documentation regarding the request.
    - \$5,000 or less:
      - Add a comment in line 4 that:
        - The current FMV is less than \$5,000, and
        - The disposition option requested: 45 CFR §75.320(e)(1) Items of equipment with a current per unit fair market value of \$5,000 or less may be retained, sold or otherwise disposed of with no further obligation to the HHS awarding agency.
      - Provide the SF-428 S or other supporting documentation regarding the request.

- e. **SF-428 Attachment S.** The Supplemental Sheet may be submitted with the SF-428 Attachment B or C to provide additional information.

## GRANT PAYMENTS

14. ***Payment.*** All grant 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 grant 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 grant 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. Grant recipients must include a similar T&C for all subawards or contracts awarded under these programs. Prior to issuing subawards or contracts under this grant, the grant 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.*** Grant 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 grant 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 grant recipient.”

*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 grant recipients 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 grant 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 grant recipient. Examples of routine "services" are activities provided, such as janitorial and building maintenance services for the grant 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.

20. ***Contract Monitoring.*** Grant recipients are responsible for ensuring that contracts contain the applicable provisions described in Appendix II of 45 CFR Part 75. The grant 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 grant recipient and be sufficiently detailed for compliance.

21. *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 grant programs require the grant 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.
22. *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 prime recipients and subrecipient, or provide a 10 percent de minimis indirect cost rate as defined in 45 § 75.414(f).
23. *Subrecipient Monitoring.* Pass-through entities are required to advise subrecipients of requirements imposed on them by Federal laws, regulations, and the provisions of grant agreements as well as any supplemental requirements imposed by the pass-through entity. These include grant administrative and audit requirements (where applicable) under 45 CFR Part 75. The prime recipient must conduct a risk assessment of subrecipient(s) in accordance with 45 CFR §75.352(b). Additionally, all subrecipient(s) must obtain a DUNS number, or after government-wide implementation, a Unique Entity Identifier assigned by the 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. 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.g.i. *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 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. 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

24. The recipient must arrange for the conduct of audits as required by 45 CFR 75 Part F. Prime 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 grant 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* webpage at: <https://oig.hhs.gov/compliance/self-disclosure-info/>.