



State: \_\_\_\_\_

### **Assurances and Certifications for 2023 Grant**

As a Federal agency, IMLS is required to obtain from all applicants certifications, including those regarding Nondiscrimination, Debarment and Suspension, Federal Debt Status, and Drug-Free Workplace. Applicants requesting more than \$100,000 in grant funds must also certify regarding lobbying activities and may be required to submit a “Disclosure of Lobbying Activities” form (Standard Form LLL). All State Library Administrative Agencies receiving Library Services and Technology assistance under 20 U.S.C. § 9121 *et seq.* must comply with applicable statutes and regulations including but not limited to those cited below. To receive Federal assistance, all applicants must provide this signed Statement of Assurances and Certifications.

The undersigned authorized representative, on behalf of the State Library Administrative Agency (SLAA), assures and certifies that, should a Federal award be made, the SLAA will comply with the statutes outlined below and all related IMLS regulations (for example, see 2 C.F.R. Chapter XXXI and 45 C.F.R. Chapter XI). These assurances are given in connection with any and all financial assistance from IMLS after the date this form is signed but may include payments after this date for financial assistance approved prior to this date. These assurances shall obligate the applicant for the period during which the Federal financial assistance is extended. The applicant recognizes and agrees that any such assistance will be extended in reliance on the representations and agreements made in these assurances and that the United States Government has the right to seek judicial enforcement of these assurances, which are binding on the applicant, its successors, transferees, and assignees, and on the authorized representative whose signature appears on the application form.

#### **A. Legal Authority and Capability**

Pursuant to 20 U.S.C. § 9122(5), the authorized representative, on behalf of the SLAA, provides assurance that the SLAA has the fiscal and legal authority and capability to administer all aspects of the Library Services and Technology subchapter of 20 U.S.C. Chapter 72, that it will establish the State’s policies, priorities, criteria, and procedures necessary to the implementation of all programs under this subchapter (including the development of a State Plan), and that it will submit copies of these materials for approval as required by regulations promulgated by the Director of the Institute of Museum and Library Services (IMLS).

#### **B. Internet Safety**

Pursuant to 20 U.S.C. § 9134(b)(7), the authorized representative, on behalf of the SLAA, provides assurance that the SLAA will comply with 20 U.S.C. § 9134(f), which sets out standards relating to Internet Safety for public libraries and public elementary school and secondary school libraries that do not receive services at discount rates under § 254(h)(6)

of 47 U.S.C., and for which IMLS State Program funds are used to purchase computers used to access the Internet or to pay for direct costs associated with accessing the Internet.

Each SLAA must assure IMLS that no funds made available under the Grants to States Program for a public library or public elementary or secondary school library that does not receive E-rate services may be used to purchase computers used to access the Internet, or to pay for the direct costs of accessing the Internet, unless the library has certified compliance with the applicable CIPA requirements.

### **C. State Plan**

Pursuant to 20 § U.S.C. 9134(b)(8), the authorized representative, on behalf of the SLAA, provides assurance that the SLAA will make reports, in such form and containing such information, as the Director may reasonably require to carry out the Library Services and Technology subchapter of 20 U.S.C. Chap. 72 and to determine the extent to which funds provided under this subchapter have been effective in carrying out the purposes of the LSTA.

### **D. Federal Funding Accountability and Transparency Act**

The SLAA agrees that it will comply with the Federal Funding Accountability and Transparency Act (FFATA or Transparency Act – P.L. 109-282, as amended by § 6202(a) of P.L. 110-252) (implemented in 2 C.F.R. part 170). In particular, this means reporting on subawards and executive compensation. (See also, 2 C.F.R. § 200.300(b) and [www.fsrs.gov](http://www.fsrs.gov).) With respect to FFATA, the SLAA agrees that it will comply with the Award Term in Appendix A hereto. The SLAA further provides assurance that it will comply with all other applicable Federal statutes and regulations and OMB circulars in effect with respect to the periods for which it receives grant funding.

### **E. Nondiscrimination**

The authorized representative, on behalf of the SLAA, certifies that the SLAA will comply with the following nondiscrimination statutes and their implementing regulations:

1. Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000 *et seq.*), which prohibits discrimination on the basis of race, color, or national origin (note: as clarified by Exec. Order No. 13166, the applicant must take reasonable steps to ensure that limited English proficient (LEP) persons have meaningful access to the applicant's programs (see IMLS guidance at 68 Federal Register 17679, April 10, 2003));
2. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 701 *et seq.*, including § 794), which prohibits discrimination on the basis of disability (note: IMLS applies the regulations in 45 C.F.R. part 1181 in determining compliance with Section 504 as it applies to recipients of Federal assistance);
3. Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681–1689), which prohibits discrimination on the basis of sex in education programs;

4. The Age Discrimination in Employment Act of 1975, as amended (42 U.S.C. § 6101 *et seq.*), which prohibits discrimination on the basis of age; and
5. The requirements of any other nondiscrimination statute(s) which may apply to the application.

#### **F. Debarment and Suspension**

The SLAA will comply with 2 C.F.R. part 3185 and 2 C.F.R. part 180, as applicable. The authorized representative, on behalf of the SLAA, certifies to the best of his or her knowledge and belief that neither the SLAA nor any of its principals for the Five-Year Plan:

1. are presently excluded or disqualified;
2. have been convicted within the preceding three years of any of the offenses listed in 2 C.F.R. § 180.800(a) or had a civil judgment rendered against it or them for one of those offenses within that time period;
3. are presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in 2 C.F.R. § 180.800(a); or
4. have had one or more public transactions (Federal, State, or local) terminated within the preceding three years for cause or default.

Where the SLAA is unable to certify to any of the statements in this certification, the authorized representative, on behalf of the applicant, shall attach an explanation to the application.

The SLAA, as a primary tier participant, is required to comply with 2 C.F.R. part 180 (Subpart C) (Responsibilities of Participants Regarding Transactions Doing Business with Other Persons) as a condition of participation in the award. The SLAA is also required to communicate the requirement to comply with 2 C.F.R. part 180 (Subpart C) (Responsibilities of Participants Regarding Transactions Doing Business with Other Persons) to persons at the next lower tier with whom the applicant enters into covered transactions.

As noted in the preceding paragraph, SLAAs who plan to use IMLS awards to fund contracts should be aware that they must comply with the communication and verification requirements set forth in the above Debarment and Suspension provisions.

#### **G. Federal Debt Status**

The authorized representative, on behalf of the SLAA, certifies to the best of his or her knowledge and belief that the applicant is not delinquent in the repayment of any Federal debt, including but not limited to unpaid Federal tax liability.

#### **H. Drug-Free Workplace**

The authorized representative, on behalf of the SLAA, certifies, as a condition of the award, that the SLAA will or will continue to provide a drug-free workplace by complying with the

requirements in 2 C.F.R. part 3186 (Requirements for Drug-Free Workplace (Financial Assistance)). In particular, the SLAA must comply with drug-free workplace requirements in Subpart B of 2 C.F.R. part 3186, which adopts the Governmentwide implementation (2 C.F.R. part 182) of Sections 5152-5158 of the Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101–8106). This includes, but is not limited to: making a good faith effort, on a continuing basis, to maintain a drug-free workplace; publishing a drug-free workplace statement; establishing a drug-free awareness program for employees; taking actions concerning employees who are convicted of violating drug statutes in the workplace; and identifying (either at the time of application or upon award, or in documents kept on file in the recipient’s offices) all known workplaces under Federal awards.

### **I. Trafficking in Persons**

The authorized representative, on behalf of the SLAA, certifies, as a condition of the award, that the applicant will comply with the trafficking in persons requirements that are set out in Appendix B.

### **J. Prohibitions Against Lobbying, Publicity, and Propaganda**

In accordance with Federal appropriations law, no IMLS funds may be used for publicity or propaganda purposes for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, electronic communication, radio, television, or video presentation designed to support or defeat the enactment of legislation before the Congress or any State or local legislature or legislative body or designed to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any State or local government. No IMLS funds may be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence the enactment of legislation, appropriations, regulation, administrative action, or Executive order proposed or pending before the Congress or any State government, State legislature or local legislature or legislative body.

### **K. Certification Regarding Lobbying Activities**

(Applies to Applicants Requesting Funds in Excess of \$100,000) (31 U.S.C. § 1352)

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

- (a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the authorized representative, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person (other than a regularly employed officer or employee of the applicant, as

provided in 31 U.S.C. § 1352) for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the authorized representative shall complete and submit Standard Form LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

- (c) The authorized representative shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

#### **L. Criminal Disclosures and Reporting of Matters Related to Recipient Integrity and Performance**

- (a) As a non-Federal entity, the SLAA must disclose, in a timely manner, in writing to IMLS, or to the pass-through entity if you are a subrecipient or contractor, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. (See also 2 C.F.R. § 200.113 and 2 C.F.R. part 3185).
- (b) The authorized representative, on behalf of the SLAA, certifies that, as part of its award and as applicable, it will comply with Award Term for Recipient Integrity and Performance Matters attached hereto as **Appendix C**.

#### **M. Acknowledgement of IMLS Support**

All materials publicizing or resulting from grant activities must contain an acknowledgement of IMLS support, unless IMLS advises otherwise. This includes invitations, brochures, and signage; audio/video programming for radio, television, or web broadcast; and websites, social media, PowerPoint presentations, and email announcements. (See [Grantee Communications Kit](#), available at [www.imls.gov](http://www.imls.gov), for specific guidance).

The type of recognition varies according to the type of activity. Please use the following guidelines for acknowledgment:

- Written materials must include a credit line indicating IMLS as a source of support;
- Graphic items such as posters or brochures should include the IMLS logo (see [Grantee Communications Kit](#), available at [www.imls.gov](http://www.imls.gov)) displayed in accordance with the [Logo Standards Guide](#);

- Online products, digital publications, and websites should include links to the IMLS website, [www.ims.gov](http://www.ims.gov); and
- Audio/video broadcasts must include a tagline indicating IMLS as a source of support. Video broadcasts should display the IMLS logo.

In materials that contain or present substantive project content, such as an exhibition, article, catalogue, or other publication, video documentary, or online exhibition or website, the acknowledgment must also include the following statement:

“The views, findings, conclusions or recommendations expressed in this (publication) (program) (exhibition) (website) (article) do not necessarily represent those of the Institute of Museum and Library Services.”

If you have any questions about whether your product requires this statement, contact the IMLS Office of Communications.

#### **N. Acknowledgement of Federal Support**

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 grantees receiving IMLS-appropriated funding, 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. The percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

#### **O. General Certification**

The authorized representative, on behalf of the SLAA, certifies that the SLAA will comply with all applicable requirements of all other Federal laws, executive orders, regulations, and policies governing this program.

#### **P. Certifications Required for Certain Projects**

The following certifications are required if applicable to the project for which an application is being submitted. Applicants should be aware that additional Federal certifications, not listed below, might apply to a particular project.

#### **Native American Human Remains and Associated Funerary Objects**

The authorized representative, on behalf of the SLAA, certifies that the SLAA will comply with the provisions of the Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C. § 3001 *et seq.*), which applies to any organization that controls or possesses Native

American human remains, associated funerary objects and/or cultural items and which receives Federal funding, even for a purpose unrelated to the Act.

### **Historic Properties**

The authorized representative, on behalf of the SLAA, certifies that the SLAA will assist the awarding agency in ensuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (54 U.S.C. § 306101), Exec. Order No. 11593, and any related applicable preservation laws.

### **Environmental Protections**

The authorized representative, on behalf of the SLAA, certifies that the SLAA will comply with environmental standards, including the following:

- a. institution of environmental quality control measures under the National Environmental Policy Act of 1969, as amended (42 U.S.C. § 4321 *et seq.*) and Exec. Order No. 11514;
- b. notification of violating facilities pursuant to Exec. Order No. 11738;
- c. protection of wetlands pursuant to Exec. Order No. 11990, as amended by Exec. Order No. 12608;
- d. evaluation of flood hazards in floodplains in accordance with Exec. Order No. 11988, as amended (see Exec. Order No. 12148);
- e. assurance of project consistency with the approved state management program developed under the Coastal Zone Management Act of 1972, as amended (16 U.S.C. § 1451 *et seq.*);
- f. conformity of Federal actions to State (Clean Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. § 7401 *et seq.*);
- g. protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended (42 U.S.C. § 300f *et seq.*); and
- h. protection of endangered species under the Endangered Species Act of 1973, as amended (16 U.S.C. § 1531-1543).

The authorized representative, on behalf of the SLAA, certifies that the project will comply with the Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. § 1271 *et seq.*), related to protecting components or potential components of the national wild and scenic rivers system.

The authorized representative, on behalf of the SLAA, certifies that the SLAA will comply with the flood insurance purchase requirements of the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. § 4001 *et seq.*), which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more, or as otherwise designated.

**Research on Human Subjects**

The authorized representative, on behalf of the SLAA, certifies that the SLAA will comply with 45 C.F.R. part 46 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

**Research on Animal Subjects**

The authorized representative, on behalf of the SLAA, certifies that the SLAA will comply with the Animal Welfare Act of 1966, as amended (7 U.S.C. § 2131 *et seq.*) pertaining to the care, handling, and treatment of warm-blooded animals held for research, teaching, or other activities supported by this award of assistance.

These assurances and certifications are provided in connection with any and all financial assistance from the Institute of Museum and Library Services after the date this form is signed. This includes payments after such date for financial assistance approved before such date. The SLAA recognizes and agrees that any such assistance will be extended in reliance on the representations and agreements made in this assurance, and that the U.S. shall have the right to seek judicial enforcement of this Statement of Program Assurances and Certifications. These assurances and certifications are binding on the SLAA, its successors, transferees, and assignees, and on the Authorized Certifying Official whose signature appears below.

The undersigned further provides assurances that it will include, as applicable, the language of the assurances and certifications in all subawards and that all subrecipients shall certify and disclose accordingly.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above assurances and certifications.

\_\_\_\_\_  
Signature of Authorized Certifying Official

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Certifying Official Name and Title (Print)

For additional information on these Assurances and Certifications, contact the IMLS State Programs Office at 955 L’Enfant Plaza North, SW, Suite 4000, Washington, DC 20024-2135 or [stateprograms@imls.gov](mailto:stateprograms@imls.gov) by email



## APPENDIX A

### Reporting Subaward and Executive Compensation

The SLAA must comply with Federal law pertaining to reporting subawards and executive compensation information (Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by Section 6202 of Public Law 110-252). Accordingly, IMLS includes the following award term from Appendix A to 2 C.F.R. part 170 (Reporting Subaward and Executive Compensation Information) in each award to a non-Federal entity under which the total funding will include \$30,000 or more in Federal funding at any time during the project or program period:

I. Reporting Subawards and Executive Compensation.

a. *Reporting of first-tier subawards.*

1. *Applicability.* Unless exempt as provided in paragraph d. of this award term, the SLAA must report each action that equals or exceeds \$30,000 or more in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).
2. *Where and when to report.*
  - i. The non-Federal entity or Federal agency must report each obligating action described in paragraph a.1. of this award term to [www.fsrs.gov](http://www.fsrs.gov).
  - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2023, the obligation must be reported by no later than December 31, 2023.)
3. *What to report.* The SLAA must report the information about each obligating action that the submission instructions posted at [www.fsrs.gov](http://www.fsrs.gov).

b. *Reporting total compensation of recipient executives for non-Federal entities.*

1. *Applicability and what to report.* The SLAA must report total compensation for each of the SLAA's five most highly compensated executives for the preceding completed fiscal year, if—
  - i. the total Federal funding authorized to date under this Federal award equals or exceeds \$30,000 as defined in 2 C.F.R. § 170.320;
  - ii. in the preceding fiscal year, the SLAA received—
    - (A) 80 percent or more of the SLAA's annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards); and
    - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 C.F.R. § 170.320 (and subawards); and
  - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of

the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), § 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at [www.sec.gov/answers/execomp.htm](http://www.sec.gov/answers/execomp.htm).)

2. *Where and when to report.* The SLAA must report executive total compensation described in paragraph b.1. of this award term:
  - i. As part of the SLAA's registration profile at [SAM](#).
  - ii. By the end of the month following the month in which this award is made, and annually thereafter.
- c. *Reporting of total compensation of subrecipient executives.*
  1. *Applicability and what to report.* Unless exempt as provided in paragraph d. of this award term, for each first-tier non-Federal entity subrecipient under this award, the SLAA shall report the names and total compensation of each of the subrecipient's five most highly compensated executives for the subrecipient's preceding completed fiscal year, if—
    - i. in the subrecipient's preceding fiscal year, the subrecipient received—
      - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards) and
      - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
    - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. § 78m(a), § 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at [www.sec.gov/answers/execomp.htm](http://www.sec.gov/answers/execomp.htm).)
  2. *Where and when to report.* The SLAA must report subrecipient executive total compensation described in paragraph c.1. of this award term:
    - i. To the recipient.
    - ii. By the end of the month following the month during which the SLAA makes the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), the SLAA must report any required compensation information of the subrecipient by November 30 of that year.
- d. *Exemptions:* If, in the previous tax year, the SLAA had gross income, from all sources, under \$300,000, the SLAA is exempt from the requirements to report:

1. Subawards, and
  2. The total compensation of the five most highly compensated executives of any subrecipient.
- e. *Definitions.* For purposes of this award term:
1. *Federal Agency* means a Federal agency as defined at 5 U.S.C. § 551(1) and further clarified by 5 U.S.C. § 552(f).
  2. *Non-Federal entity* means all of the following, as defined in 2 C.F.R. part 25:
    - i. A Governmental organization, which is a State, local government, or Indian tribe;
    - ii. A foreign public entity;
    - iii. A domestic or foreign nonprofit organization; and
    - iv. A domestic or foreign for-profit organization.
  3. *Executive* means officers, managing partners, or any other employees in management positions.
  4. *Subaward*:
    - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which the SLAA received this award and that the SLAA as the recipient award to an eligible subrecipient.
    - ii. The term does not include the SLAA's procurement of property and services needed to carry out the project or program (for further explanation, see 2 C.F.R. § 200.1).
    - iii. A subaward may be provided through any legal agreement, including an agreement that the SLAA or a subrecipient considers a contract.
  5. *Subrecipient* means a non-Federal entity or Federal agency that:
    - i. Receives a subaward from the SLAA (the recipient) under this award; and
    - ii. Is accountable to the SLAA for the use of the Federal funds provided by the subaward.
  6. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 C.F.R. § 229.402(c)(2)).

(See Appendix A to 2 C.F.R. part 170 (Reporting Subaward and Executive Compensation Information).)

## APPENDIX B

### Trafficking in Persons

The SLAA must comply with Federal law pertaining to trafficking in persons. Under 22 U.S.C. §7104(g), any grant, contract, or cooperative agreement entered into by a Federal agency under which funds are to be provided to a private entity shall include a condition that authorizes the Federal agency (IMLS) to terminate the grant, contract, or cooperative agreement, or take other authorized actions, if the grantee or any subgrantee, or the contractor or any subcontractor, engages in, or uses labor recruiters, brokers, or other agents who engage in trafficking in persons, the procurement of a commercial sex act, the use of forced labor, or acts that directly support or advance trafficking in persons. 2 C.F.R. part 175 requires IMLS to include the following award term, which is made a part of these General Terms and Conditions:

- a. *Provisions applicable to a recipient that is a private entity.*
  1. The SLAA, as the recipient, its employees, subrecipients under this award, and subrecipients' employees may not—
    - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
    - ii. Procure a commercial sex act during the period of time that the award is in effect; or
    - iii. Use forced labor in the performance of the award or subawards under the award.
  2. IMLS as the Federal awarding agency may unilaterally terminate this award, without penalty, if the SLAA or a subrecipient that is a private entity —
    - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
    - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either—
      - A. Associated with performance under this award; or
      - B. Imputed to the SLAA or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 C.F.R. Chapter XXXI, part 3185.
- b. *Provision applicable to a recipient other than a private entity.*

IMLS as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity—

  1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
    - i. Associated with performance under this award; or
    - ii. Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 C.F.R. part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” as implemented by our agency at 2 C.F.R. part 3185.
- c. *Provisions applicable to any recipient.*
1. The SLAA must inform IMLS immediately of any information the SLAA receives from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
  2. IMLS’s right to terminate unilaterally that is described in paragraph a.2 or b of this section:
    - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. §7104(g)), and
    - ii. Is in addition to all other remedies for noncompliance that are available to us under this award.
  3. The SLAA must include the requirements of paragraph a.1 of this award term in any subaward the SLAA makes to a private entity.
- d. *Definitions.* For purposes of this award term:
1. “Employee” means either:
    - i. An individual employed by the SLAA or a subrecipient who is engaged in the performance of the project or program under this award; or
    - ii. Another person engaged in the performance of the project or program under this award and not compensated by the SLAA including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
  2. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
  3. “Private entity”:
    - i. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 C.F.R. § 175.25.
    - ii. Includes:
      - A. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 C.F.R. § 175.25(b).

- B. A for-profit organization.
- iii. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).

## Appendix C<sup>1</sup>

### Award Term and Condition for Recipient Integrity and Performance Matters

#### A. Reporting of Matters Related to Recipient Integrity and Performance

##### 1. General Reporting Requirement

If the total value of your currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then you as the recipient during that period of time must maintain the currency of information about civil, criminal, or administrative proceedings described in paragraph 2 of this award term and condition in the OMB-designated integrity and performance system (SAM.gov). This is a statutory requirement under section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

##### 2. Proceedings About Which You Must Report

Submit the information required about each proceeding that:

- a. Is in connection with the award or performance of a grant, cooperative agreement, or procurement contract from the Federal Government;
- b. Reached its final disposition during the most recent five-year period; and
- c. Is one of the following:
  - (1) A criminal proceeding that resulted in a conviction, as defined in paragraph 5 of this award term and condition;
  - (2) A civil proceeding that resulted in a finding of fault and liability and payment of a monetary fine, penalty, reimbursement, restitution, or damages of \$5,000 or more;
  - (3) An administrative proceeding, as defined in paragraph 5 of this award term and condition, that resulted in a finding of fault and liability and your payment of either a monetary fine or penalty of \$5,000 or more or reimbursement, restitution, or damages in excess of \$100,000; or
  - (4) Any other criminal, civil, or administrative proceeding if:
    - (i) It could have led to an outcome described in paragraph 2.c.(1), (2), or (3) of this award term and condition;
    - (ii) It had a different disposition arrived at by consent or compromise with an acknowledgment of fault on your part; and

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<sup>1</sup> Pursuant to 2 C.F.R. 200.211(c)(1)(iii), (if the total Federal share of the Federal award may include more than \$500,000 over the period of performance, this Award Term must be included. See also 2 C.F.R. 200.113 Mandatory disclosures by non-Federal entity or applicant; Appendix XII to 2 C.F.R. part 200.

- (iii) The requirement in this award term and condition to disclose information about the proceeding does not conflict with applicable laws and regulations.

### **3. Reporting Procedures**

Enter in the SAM Entity Management area the information that SAM requires about each proceeding described in paragraph 2 of this award term and condition. You do not need to submit the information a second time under assistance awards that you received if you already provided the information through SAM because you were required to do so under Federal procurement contracts that you were awarded.

### **4. Reporting Frequency**

During any period of time when you are subject to the requirement in paragraph 1 of this award term and condition, you must report proceedings information through SAM for the most recent five year period, either to report new information about any proceeding(s) that you have not reported previously or affirm that there is no new information to report. Recipients that have Federal contract, grant, and cooperative agreement awards with a cumulative total value greater than \$10,000,000 must disclose semiannually any information about the criminal, civil, and administrative proceedings.

### **5. Definitions**

For purposes of this award term and condition:

- a. Administrative proceeding means a non-judicial process that is adjudicatory in nature in order to make a determination of fault or liability (e.g., Securities and Exchange Commission Administrative proceedings, Civilian Board of Contract Appeals proceedings, and Armed Services Board of Contract Appeals proceedings). This includes proceedings at the Federal and State level but only in connection with performance of a Federal contract or grant. It does not include audits, site visits, corrective plans, or inspection of deliverables.
- b. Conviction, for purposes of this award term and condition, means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon a verdict or a plea, and includes a conviction entered upon a plea of nolo contendere.
- c. Total value of currently active grants, cooperative agreements, and procurement contracts includes—
  - (1) Only the Federal share of the funding under any Federal award with a recipient cost share or match; and
  - (2) The value of all expected funding increments under a Federal award and options, even if not yet exercised.

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