

REDUCING INDUSTRIAL SECTOR EMISSIONS IN PENNSYLVANIA PROGRAM GRANT AGREEMENT

This Reducing Industrial Sector Emissions in Pennsylvania (“RISE PA”) Program grant agreement is between the Commonwealth of Pennsylvania (“Commonwealth”), acting through the Department of Environmental Protection, with its principal offices located at 400 Market Street, Harrisburg, PA 17101 (“Department”) and _____ (“Grantee”), with its principal offices located at _____.

The Department is the executive agency of the Commonwealth responsible for the implementation of the Clean Air Act in the Commonwealth pursuant to the Air Pollution Control Act. 35 P.S. § 4004 (“APCA”). The APCA grants the Department the authority to receive and expend funds from the Federal government for the control, prevention, abatement, and reduction of air pollution in the Commonwealth. *Id.*

The US Environmental Protection Agency (“EPA”) has provided grant funding to the Department for the RISE PA Program (“Program”) to support industrial decarbonization efforts pursuant to Section 137 of the Clean Air Act, and as amended by Section 60114 of the Inflation Reduction Act of 2022.

The Grantee has submitted a grant application for the [Name of Project] project (“Project”) and the Department has approved the Grantee’s application.

The parties, intending to be legally bound, agree as follows:

1. Grant Award. Subject to the terms and conditions of this agreement and the availability of funds, the Department hereby awards to Grantee up to \$ [Amount] in Program funds to support the Project. The Grantee shall utilize the grant funds solely to carry out the Project in accordance with the scope of work and budget set forth in Attachment A.

2. Grant Term. The term of this agreement will commence on the date of the last Commonwealth signature (“Effective Date”) and will terminate three years from the later of: (a) the Performance Period end date (as defined below); or (b) the date of final payment (“Expiration Date”), unless sooner terminated in accordance with Section 6 of Attachment C. This agreement is not binding on the Commonwealth or the Department until all required Commonwealth signatures have been obtained and the Department sends a copy of the fully executed agreement to the Grantee.

3. Period of Performance. The period of performance for this agreement is _____ to _____ (“Performance Period”). The Grantee may utilize grant funds received pursuant to this agreement to pay for any eligible expenses and costs incurred by the Grantee for the Project during the Performance Period to carry out the activities described in Attachment A.

4. Attachments. The parties shall comply with the terms, conditions, and requirements set forth in the following attachments to this agreement:

- a) Attachment B – Commonwealth Standard Terms and Conditions for Grants;
- b) Attachment C – Department of Environmental Protection General Grant Conditions;
- c) Attachment D – Special Conditions;
- d) Attachment E – Federal Requirements; and
- e) Attachment F- Programmatic Terms and Conditions.

5. Integration and Merger. When fully executed by the parties, this agreement will be the final and complete agreement between the parties containing all the terms and conditions agreed on by the parties. All representations, understandings, promises, and agreements pertaining to the subject matter of this agreement made prior to or at the time this agreement is executed are superseded by this agreement, unless specifically accepted by any other term or provision of this agreement. There are no conditions precedent to the performance of this agreement, except as expressly set forth in this agreement.

6. Electronic Signatures. This agreement may be signed electronically in accordance with the Pennsylvania Electronic Transactions Act, Act 69 of 1999, 73 P.S. § 2260.301 et seq.

7. Counterparts. This agreement may be executed in counterparts, each of which is deemed an original and has the full force and effect as an original but all of which constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS.]

The parties, through their authorized representative, have signed this agreement below.

[GRANTEE NAME]

<<signatures obtained electronically>>

[TITLE] Date

Grantee Federal Tax Identification
Number: _____

**COMMONWEALTH OF PENNSYLVANIA,
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

<<signatures obtained electronically>>

[TITLE] Date

APPROVED AS TO LEGALITY AND FORM:

<<signatures obtained electronically>>

Chief/Assistant Counsel Date
Department of Environmental Protection

FORM PRE-APPROVED # 7C-FA-51.0
Office of General Counsel

FORM PRE-APPROVED # 7C-FA-51.0
Office of Attorney General

I hereby approve this agreement and certify that funds in the amount of [\$ AMOUNT] are
available under Appropriation _____.

Comptroller Date

Doc#: _____

**SCOPE OF WORK
&
BUDGET**

Commonwealth Standard Terms and Conditions Grant Version (Revised - 10/1/2023)

1. DEFINITIONS

Capitalized terms used in these Commonwealth standard terms and conditions that are not otherwise defined in these provisions have the meanings specified in the agreement to which they are attached.

2. INDEMNIFICATION

The Grantee shall indemnify and defend the Commonwealth against all third-party claims, suits, demands, losses, damages, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities, arising out of or in connection with any activities performed by the Grantee or its employees and agents pursuant to this agreement, as determined by the Commonwealth in its sole discretion.

3. NONDISCRIMINATION/SEXUAL HARASSMENT

- a. **Representations.** The Grantee represents that it is presently in compliance with and will remain in compliance with all applicable federal, state, and local laws, regulations, and policies relating to nondiscrimination and sexual harassment for the term of the agreement. The Grantee shall, upon request and within the time periods requested by the Commonwealth, furnish all necessary employment documents and records, including EEO-1 reports, and permit access to its books, records, and accounts by the Commonwealth for the purpose of ascertaining compliance with provisions of this Nondiscrimination/Sexual Harassment Clause.
- b. **Nondiscrimination/Sexual Harassment Obligations.** The Grantee shall not:
 - i. in any manner discriminate in the hiring of any employee(s) for the performance of the activities required under this agreement or any subgrant agreement, contract, or subcontract, by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act ("PHRA") and applicable federal laws, against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.
 - ii. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, against or intimidate any of its employees.

- iii. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the PHRA and applicable federal laws, in the provision of services under this agreement or any subgrant agreement, contract, or subcontract.
 - iv. in any manner discriminate by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of PHRA and applicable federal laws, against any subgrantee, contractor, subcontractor, or supplier who is qualified to perform the work to which this agreement relates.
 - v. in any manner discriminate against employees by reason of participation in or decision to refrain from participating in labor activities protected under the Public Employee Relations Act, Pennsylvania Labor Relations Act, or National Labor Relations Act, as applicable, and to the extent determined by entities charged with the Acts' enforcement and shall comply with any provision of law establishing organizations as employees' exclusive representatives.
- c. **Establishment of Grantee Policy.** The Grantee shall establish and maintain a written nondiscrimination and sexual harassment policy that complies with the applicable law and these Nondiscrimination/Sexual Harassment provisions and shall inform its employees in writing of the policy. The policy must contain a provision that states that sexual harassment will not be tolerated and employees who practice it will be disciplined. For the entire period of this agreement, the Grantee shall: (1) post its written nondiscrimination and sexual harassment policy or these Nondiscrimination/Sexual Harassment provisions conspicuously in easily accessible and well-lighted places customarily frequented by employees at or near where the grant activities are performed; or (2) provide electronic notice of the policy or this clause to its employees not less than annually.
- d. **Notification of Violations.** The Grantee's obligations pursuant to these provisions are ongoing from the effective date and through the Expiration Date of the agreement. Accordingly, the Grantee shall notify the Commonwealth if, at any time during the term of this agreement, it becomes aware of any actions or occurrences that would result in violation of these provisions.
- e. **Cancellation or Termination of Agreement.** The Commonwealth may cancel or terminate this agreement and all money due or to become due under this agreement may be forfeited for a violation of the terms and conditions of these Nondiscrimination/Sexual Harassment provisions. In addition, the granting agency may proceed with debarment or suspension and may place the Grantee in the Contractor Responsibility File.
- f. **Subgrant Agreements, Contracts, and Subcontracts.** The Grantee shall include these Nondiscrimination/Sexual Harassment provisions in its subgrant agreements, contracts, and subcontracts with all subgrantees, contractors, and

subcontractors providing goods or services under this agreement. The incorporation of these provisions in the Grantor's subgrants, contracts, or subcontracts does not create privity of contract between the Commonwealth and any subgrantee, contractor, or subcontractor, and no third-party beneficiaries are created by those provisions. If the Grantee becomes aware of a subgrantee's, contractor's, or subcontractor's violation of these provisions, the Grantee shall use its best efforts to ensure the subgrantee's, contractor's, or subcontractor's compliance with these provisions.

4. GRANTEE INTEGRITY

- a. **Definitions.** For purposes of these Grantee Integrity Provisions, the following definitions apply:
 - i. "Affiliate" means two or more entities where (a) a parent entity owns more than 50% of the voting stock of each of the entities; (b) a common shareholder or group of shareholders owns more than 50% of the voting stock of each of the entities; or (c) the entities have a common proprietor or general partner.
 - ii. "Grantee" means the individual or entity, that has entered into this agreement with the Commonwealth.
 - iii. "Grantee Related Parties" means any Affiliates of the Grantee and the Grantee's executive officers, Pennsylvania officers and directors, or owners of five percent or more interest in the Grantee.
 - iv. "Financial Interest" means ownership of more than a five percent interest in any business or holding a position as an officer, director, trustee, partner, employee, or holding any position of management.
 - v. "Gratuity" means tendering, giving, or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. The exceptions set forth in the [Governor's Code of Conduct, Executive Order 1980-18](#), as may be amended, 4 Pa. Code §7.153(b), apply.
 - vi. "Non-Solicitation Award Process" means a method of awarding grants based on predetermined criteria, without the solicitation of grant applications.
- b. **Representations and Warranties.**
 - i. **Grantee Representation and Warranties.** The Grantee represents, to the best of its knowledge and belief, and warrants that within the last five years neither the Grantee nor Grantee Related Parties have:

1. been indicted or convicted of a crime involving moral turpitude or business honesty or integrity in any jurisdiction;
 2. been suspended, debarred, or otherwise disqualified from entering into any contract with any governmental agency;
 3. had any business license or professional license suspended or revoked;
 4. had any sanction or finding of fact imposed as a result of a judicial or administrative proceeding related to fraud, extortion, bribery, bid rigging, embezzlement, misrepresentation or anti-trust; and
 5. been, and are not currently, the subject of a criminal investigation by any federal, state, or local prosecuting or investigative agency or civil anti-trust investigation by any federal, state, or local prosecuting or investigative agency.
- ii. **Contractor Explanation.** If the Grantee cannot make the representations and warranties set forth above at the time of its submission of its grant application or if the agreement is awarded pursuant to a Non-Solicitation Award Process at the time of the execution of the agreement, the Grantee shall submit a written explanation outlining the reasons why it cannot make those representations and warranties. The Commonwealth may, based on its evaluation of the explanation provided, determine whether it is in the Commonwealth's best interest to execute the agreement.
- iii. **Further Representations.** By submitting any bills, invoices, or requests for payment pursuant to the agreement, the Grantee further represents that it has not violated any of these Grantee Integrity Provisions during the term of the agreement.
- iv. **Notice.** The Grantee shall immediately notify the Commonwealth, in writing, if at any time during the term of the agreement it becomes aware of any event that would cause the Contractor's certification or explanation to change. The Grantee acknowledges that the Commonwealth may, in its sole discretion, terminate the agreement for cause if it learns that any of the certifications made in these Grantee Integrity Provisions are currently false or misleading due to intervening factual circumstances or were false or misleading or should have been known to be false or misleading when entering into the agreement.
- c. **Contractor Responsibilities.** During the term of this agreement, the Grantee shall:
- i. maintain the highest standards of honesty and integrity.
 - ii. take no action in violation of any applicable laws, regulations, or other requirements applicable to the Grantee that govern Commonwealth contracting or grant administration.

- iii. establish and implement a written business integrity policy that includes, at a minimum, the requirements of these Grantee Integrity Provisions as they relate to the Grantee's activity with the Commonwealth and Commonwealth employees and ensure that its employees comply with the policy.
 - iv. not accept, agree to give, offer, confer, agree to confer, or promise to confer, directly or indirectly, any gratuity or pecuniary benefit to any person, or to influence or attempt to influence any person in violation of any federal or state law, regulation, executive order, statement of policy, management directive, or bulletin applicable to the award of grants or the administration of this agreement.
 - v. not have a financial interest in any other subgrantee, contractor, subcontractor, or supplier providing services, labor, or material under this agreement, unless the financial interest is disclosed to the Commonwealth in writing and the Commonwealth consents to Grantee's financial interest. The Grantee must disclose the financial interest to the Commonwealth at the time of submission of its grant application, or if a Non-Solicitation Award Process is used, no later than the date the Grantee signs the agreement. The Commonwealth shall be deemed to have consented if the required disclosure is received and all of the required Commonwealth signatures are affixed.
 - vi. comply with the requirements of the Lobbying Disclosure Act (65 Pa.C.S. § 13A01 et seq.) regardless of the method of award.
 - vii. comply with the requirements of Section 1641 of the Pennsylvania Election Code (25 P.S. § 3260a) if this agreement was awarded pursuant to a Non-Solicitation Award Process.
 - viii. immediately notify the Commonwealth or the Office of the State Inspector General, in writing, when the Grantee has reason to believe that any breach of ethical standards as set forth in law, the Governor's Code of Conduct, or these Grantee Integrity Provisions has occurred or may occur, including, but not limited to, contact by a Commonwealth officer or employee, which, if acted upon, would violate the ethical standards.
- d. **Investigations.** If a State Inspector General investigation is initiated, the Grantee shall:
- i. reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of the State Inspector General for investigations of the Grantee's compliance with the terms of this or any other agreement between the Grantee and the Commonwealth that results in the suspension or debarment of the Grantee. The Grantee shall not be responsible for

investigative costs for investigations that do not result in the Grantee's suspension or debarment.

- ii. cooperate with the Office of the State Inspector General in its investigation of any alleged Commonwealth agency or employee breach of ethical standards and any alleged Grantee non-compliance with these Grantee Integrity Provisions and make identified Grantee employees and volunteers available for interviews at reasonable times and places.
 - iii. upon the inquiry or request of an Inspector General, provide, or if appropriate, make promptly available for inspection or copying, any information of any type or form deemed relevant by the Office of the State Inspector General to Grantee's integrity and compliance with these provisions. This information may include, but is not be limited to, the Grantee's business or financial records, documents or files of any type or form that refer to or concern this agreement.
- e. **Termination.** For violation of any of these Grantee Integrity Provisions, the Commonwealth may terminate this agreement and any other contract with the Grantee, claim liquidated damages in an amount equal to the value of anything received in breach of these Grantee Integrity provisions, claim damages for all additional costs and expenses incurred in obtaining another grantee to complete performance under this agreement, and debar and suspend the Grantee from doing business with the Commonwealth. These rights and remedies are cumulative, and the use or non-use of any one does not preclude the use of all or any other. These rights and remedies are in addition to those the Commonwealth may have under law, statute, regulation, or otherwise.
- f. **Subcontracts.** The Grantee shall include these Grantee Integrity Provisions in its subgrant agreements, contracts, and subcontracts with all subgrantees, contractors, and subcontractors providing goods or services under this agreement. The incorporation of this provision in the Grantee's subgrant agreements, contracts, and subcontracts shall not create privity of contract between the Commonwealth and any subgrantee, contractor, or subcontractor, and no third-party beneficiaries are created by the inclusion of these provisions. If the Grantee becomes aware of a subgrantee's, contractor's, or subcontractor's violation of these provision, the Grantee shall use its best efforts to ensure their compliance with these provisions.

5. CONTRACTOR RESPONSIBILITY

- a. **Definition.** For the purpose of these provisions, the term "Contractor" means as any person, including, but not limited to, a bidder, offeror, loan recipient, grantee or lessor, who has furnished or performed or seeks to furnish or perform, goods, supplies, services, leased space, construction or other activity, under a contract, grant, lease, purchase order or reimbursement agreement with the Commonwealth. The term also includes a permittee, licensee, or any agency,

political subdivision, instrumentality, public authority, or other public entity in the Commonwealth.

b. **Contractor Representations.**

- i. The Contractor represents for itself and its subgrantees, contractors, and subcontractors required to be disclosed or approved by the Commonwealth, that as of the date of its execution of this agreement, that neither the Contractor, nor any of its subgrantees, contractors, and subcontractors, are under suspension or debarment by the Commonwealth or any governmental entity, instrumentality, or authority and, if the Contractor cannot make this representation, the Contractor shall submit, along with the agreement, a written explanation of why the certification cannot be made.
 - ii. The Contractor represents that, as of the date of its execution of this agreement, it has no tax liabilities or other Commonwealth obligations, or has filed a timely administrative or judicial appeal, if any liabilities or obligations exist, or is subject to a duly approved deferred payment plan if any liabilities exist.
- c. **Notification.** The Contractor shall notify the Commonwealth if, at any time during the term of the agreement, it becomes delinquent in the payment of taxes, or other Commonwealth obligations, or if it or, to the best of its knowledge, any of its subgrantees, contractors, or subcontractors are suspended or debarred by the Commonwealth, the federal government, or any other state or governmental entity. The Contractor shall provide this notification within 15 days of the date of suspension or debarment.
- d. **Default.** The Contractor's failure to notify the Commonwealth of its suspension or debarment by the Commonwealth, any other state, or the federal government constitutes an event of default of the agreement with the Commonwealth.
- e. **Reimbursement.** The Contractor shall reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of State Inspector General for investigations of the Contractor's compliance with the terms of this agreement or any other agreement between the Contractor and the Commonwealth that results in the suspension or debarment of the Contractor. These costs include, but are not be limited to, salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for investigative costs for investigations that do not result in the Contractor's suspension or debarment.
- f. **Suspension and Debarment List.** The Contractor may obtain a current list of suspended and debarred Commonwealth contractors by visiting the eMarketplace website at <http://www.emarketplace.state.pa.us> and clicking the Debarment list tab.

6. AMERICANS WITH DISABILITIES ACT

- a. **No Exclusion.** Pursuant to the Americans with Disabilities Act, 42 U.S. Code § 12101, et seq., no qualified individual with a disability may, on the basis of the disability, be excluded from participation in this contract or from activities provided for under this agreement.
- b. **Compliance.** For all goods and services provided pursuant to this agreement, the Contractor shall comply with Title II of the Americans with Disabilities Act, the "General Prohibitions Against Discrimination" set forth in 28 C. F. R. § 35.130, and all other regulations promulgated under Title II of the Americans with Disabilities Act that apply to state and local governments.
- c. **Indemnification.** The Contractor shall indemnify the Commonwealth against all third-party claims, suits, demands, losses, damages, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities, arising out of or in connection with the contractor's failure to comply with the provisions of paragraph a, as determined by the Commonwealth in its sole discretion.

7. APPLICABLE LAW AND FORUM

This contract is governed by and must be interpreted and enforced in accordance with the laws of the Commonwealth of Pennsylvania (without regard to any conflict of laws provisions) and the decisions of the Pennsylvania courts. The Contractor consents to the jurisdiction of any court of the Commonwealth of Pennsylvania and any federal courts in Pennsylvania and waives any claim or defense that such forum is not convenient or proper. Any Pennsylvania court or tribunal has in personam jurisdiction over the Contractor, and the Contractor consents to service of process in any manner authorized by Pennsylvania law. This provision may not be interpreted as a waiver or limitation of the Commonwealth's rights or defenses.

8. RIGHT TO KNOW LAW

- a. **Applicability.** The Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104, ("RTKL") applies to this contract.
- b. **Grantee Assistance.** If the Commonwealth needs the Grantee's assistance in any matter arising out of the RTKL related to this contract, the Commonwealth shall notify the Grantee that it requires the Grantee's assistance, and the Grantee shall provide to the Commonwealth:
 - i. access to, and copies of, any document or information in the Grantee's possession (Requested Information) arising out of this contract that the Commonwealth reasonably believes is a public record under the RTKL, within ten calendar days after receipt of written notification; and

- ii. any other assistance as the Commonwealth may reasonably request, in order to comply with the RTKL with respect to this contract.
- c. **Trade Secret or Confidential Proprietary Information.** If the Grantee considers the Requested Information to include a Trade Secret or Confidential Proprietary Information, as those terms are defined by the RTKL, or other information that the Contractor considers exempt from production under the RTKL, the Grantee shall notify the Commonwealth and provide, within seven calendar days of receipt of the written notice a written statement, signed by a representative of the Grantee, that explains why the requested material is exempt from public disclosure under the RTKL. If the Commonwealth determines that the Requested Information is clearly not exempt from disclosure, the Grantee shall provide the Requested Information to the Commonwealth within five business days of receipt of written notice of the Commonwealth's determination.
- d. **Reimbursement**
 - i. **Commonwealth Reimbursement.** If the Grantee fails to provide the Requested Information and the Commonwealth is ordered to produce the Requested Information, the Grantee shall reimburse the Commonwealth for any damages, penalties, or costs that the Commonwealth may incur as a result of the Grantee's failure, including any statutory damages assessed against the Commonwealth.
 - ii. **Contractor Reimbursement.** The Commonwealth will reimburse the Grantee for any costs that the Grantee incurs as a direct result of complying with these provisions only to the extent allowed under the fee schedule established by the Office of Open Records or as otherwise provided by the RTKL.
- e. **Challenges of Commonwealth Release.** The Grantee may file a legal challenge to any Commonwealth decision to release a record to the public with the Office of Open Records, or in the Pennsylvania Courts, however, the Grantee shall reimburse the Commonwealth for any legal expenses incurred by the Commonwealth as a result of the challenge, including any damages, penalties or costs that the Commonwealth may incur as a result of the Grantee's legal challenge, regardless of the outcome.
- f. **Waiver.** As between the parties, the Grantee waives all rights or remedies that may be available to it as a result of the Commonwealth's disclosure of Requested Information pursuant to the RTKL.
- g. **Survival.** The Grantee's obligations contained in this Section survive the termination or expiration of this contract.

9. OFFSET

The Commonwealth may set off the amount of any state tax liability or other obligation of the Grantee, or its subsidiaries, owed to the Commonwealth against any payments due the Grantee under any contract between the Commonwealth and Grantee.

10. AUTOMATED CLEARING HOUSE (ACH) PAYMENTS

- a. **Payment Method.** The Commonwealth shall make payments to the Grantee through the Automated Clearing House (ACH). Within 10 days of the grant award, the Grantee must submit or must have submitted its ACH information within its user profile in the Commonwealth's Master Database. The Grantee may enroll to receive remittance information via electronic addenda and email (e-Remittance). ACH and e-Remittance information is available at the following:

<https://www.budget.pa.gov/Services/ForVendors/Pages/Direct-Deposit-and-e-Remittance.aspx>

- b. **Unique Identifier.** The Grantee must submit a unique invoice number with each invoice submitted. The Commonwealth shall list the Grantee's unique invoice number on its ACH remittance advice to enable the Grantee to properly apply the state agency's payment to the respective invoice or program.
- c. **ACH Information in the Commonwealth's Master Database.** The Grantee shall ensure that the ACH information contained in Commonwealth's Master Database is accurate and complete. The Grantee's failure to maintain accurate and complete information may result in delays in payments.

11. WORKER PROTECTION AND INVESTMENT

The Grantee shall comply with all applicable Pennsylvania state labor laws and worker safety laws including, but not limited to, the following:

- a. Construction Workplace Misclassification Act;
- b. Employment of Minors Child Labor Act;
- c. Minimum Wage Act;
- d. Prevailing Wage Act;
- e. Equal Pay Law;
- f. Employer to Pay Employment Medical Examination Fee Act;
- g. Seasonal Farm Labor Act;
- h. Wage Payment and Collection Law;

- i. Industrial Homework Law;
- j. Construction Industry Employee Verification Act;
- k. Act 102: Prohibition on Excessive Overtime in Healthcare;
- l. Apprenticeship and Training Act; and
- m. Inspection of Employment Records Law.

**DEPARTMENT OF ENVIRONMENTAL PROTECTION
GENERAL GRANT CONDITIONS**

1. Legality. The Grantee shall perform all work under this agreement in accordance with applicable statutes, rules, and regulations of the Federal, State, and local governments.
2. Subcontracts. The Grantee may not enter into contract or agreement for the execution of the Project activities or provision of services to the Project (other than purchases of supplies, or standard commercial or maintenance services) that is not incorporated in the approved Project Scope of Work or approved in advance by the Department. The approved contract or agreement must provide that the Grantee will retain ultimate control and responsibility for the Project, and that the subcontractor is bound by these conditions and any other requirements applicable to the Contractor in the conduct of the Project.
3. Changes. Changes to this agreement must be in made in the form of a formally executed amendment. Minor adjustments to this agreement may be made via a letter of mutual consent signed by the parties. Minor adjustments include:
 - a. The addition of work tasks incidental to the original scope of work.
 - b. Any updates or revisions to a scope of work to accommodate the extension of a period of performance for additional years as a result of continued program funding.
 - c. Reallocation of budget category dollar amounts to and from other budget categories. If no project budget is included in this agreement, deviations from any budget that is part of the project file must be reviewed and approved by the Department designated project advisor.
 - d. Extension of the Performance Period, subject to Comptroller approval.
4. Suspension. If the Department determines, in its sole discretion, that the terms and conditions of the agreement are not materially being met, the Department may, upon written notice to the Grantee, suspend the agreement until the Grantee has taken corrective action to the satisfaction of the Department, or until the agreement is terminated.
5. Assignment. In actual economic practice, overcharges by the Grantee's suppliers resulting from violations of State or Federal antitrust laws are, in fact, borne by the Commonwealth. As part of the consideration for the award of the grant, the Grantee assigns to the Commonwealth all right, title, and interest in and to any claims the Grantee now has or may hereafter acquire under State or Federal antitrust laws relating to the goods or services that are the subject of this agreement.
6. Termination. The Department may terminate the agreement, in whole or in part, at any time before the Project Completion Date:
 - a. if it, in its sole discretion, determines that terms and conditions of the Agreement have not been met, by providing written notice of termination to the Grantee. Payments or recoveries by the Department will be in accordance with the legal rights and obligations of the parties.

- b. if anticipated state or Federal funds are not obtained or continued at a sufficient level, by providing written notice of termination to the Grantee.
- c. for its convenience or for any other reason if the Department determines, in its sole discretion, that termination is in the best interest of the Commonwealth, or is otherwise appropriate, by providing written notice of termination to the Grantee. Payments or recoveries by the Department will be in accordance with the legal rights and obligations of the parties.

7. Conflict of Interest

- a. Interest of Parties and Others. No officer, member, employee, independent contractor, or elected official of the Commonwealth and no member of its governing body who exercises any functions or responsibilities in the review or approval of activities being performed under this agreement may participate in any decision relating to this agreement that affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested; nor may any such officer, member, elected official, or employee of the Commonwealth or any member of its governing body have any interest, direct or indirect, in this agreement or the proceeds of the grant award.
- b. Interest of Contractor. The Grantee represents and warrants that it presently has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of its work under this agreement. The Grantee further covenants that in the performance of this agreement, it shall not knowingly employ any person having such interest. The Grantee further represents and warrants that no member of the board of directors of the Grantee or any of its officers have an adverse interest.

8. Payments. The Department shall make payment to the Grantee as stipulated in the agreement or Attachment A, as applicable. The Grantee shall pay its subcontractors or vendors for purchases or work performed under this agreement within 45 days of receipt of payment from the Department for the applicable reimbursement request. If the Grantee has a current environmental violation, the Department may withhold payment until the environmental violation is resolved to the satisfaction of the Department.
9. Interest Payments. For purposes of the interest payments required under 72 P.S. § 1507, if the Department directs the Grantee to perform additional work that is not included in the agreement, and no amendment to the agreement has been executed by the parties for the additional work, or if the term of the agreement has expired, payment is not due under the agreement until after the required amendment for the additional work or time extension has been fully executed by all of the parties.

10. Fiscal Records. The Grantee shall maintain complete and accurate books, records, documents, correspondence, and other evidence pertaining to the costs and expenses of this agreement ("Records") at its principal office or place of business. The Records must properly reflect all costs, direct and indirect, of labor, materials, equipment, supplies, and services, and other costs and expenses of whatever nature for which funding has been provided under this agreement, and in accordance with generally accepted accounting principles and the Department's fiscal regulations and guidelines.
11. Retention of Records. The Grantee shall maintain the Records retain and make them available for audit for a period of three years after final payment is made and the agreement has expired or terminated, and all other pending matters are resolved.
12. Right to Audit. The Grantee shall grant the Department and the Office of Auditor General, or any of their duly authorized representatives, access to the Records for the purpose of conducting an audit of financial transactions, compliance with the terms of the agreement, and evaluation of the Grantee's performance. The Department may choose to examine excerpts, copies, and transcriptions of the Records during the course of an audit.
13. Copyright and Patent Indemnity. The Grantee shall indemnify and defend the Commonwealth against all claims, suits, demands, losses, damages, costs, and expenses, including without limitation, litigation expenses, attorneys' fees, and liabilities, arising out of or in connection with any alleged infringement of any copyright or patent related to the work, services, materials, reports, supplies, and computer programs provided by the Grantee under this agreement.
14. Copyright and Publication Rights. All publication rights and copyrights, in the documentation produced by the Grantee in connection with the grant activities or work performed under this agreement, rests with the Department. The Grantee shall not publish any of the results of the work without the written permission of the Department.
15. Sensitive Information. The Grantee shall not publish or otherwise disclose, any information or data obtained under the agreement from private individuals, organizations, or public agencies, including the Department, ("Sensitive Information") in a publication whereby Sensitive Information furnished by or about any person or establishment can be identified, except with the consent of that person or establishment. This limitation does not apply to information that the Grantee solely discloses to the Commonwealth or to matters of public record. Personal data, including names and addresses obtained in conjunction with grant activities ("Personal Data"), may not be used in any manner other than that contained in the scope of work. The Grantee shall not sell or use Personal Data to create solicitation lists of any kind, including donor solicitation lists.
16. Indirect Costs – If the Grantee requests payment for indirect costs it incurred performing the Project work set forth in the Statement of Work, the Grantee shall specify the method of determining those costs and provide sufficient documentation to support those costs. Regardless of the method used to calculate indirect costs, the amount charged must not exceed actual costs incurred.

17. Independent Contractor - Nothing contained in this agreement is intended or may be construed to, in any respect, create or establish the relationship of partners between the parties, or as constituting the Grantee as the representative or general agent of the Department for any purpose whatsoever.
18. Severability - The provisions of this agreement are severable. If any phrase, clause, sentence, or provision of this agreement is declared to be contrary to the Constitution of Pennsylvania or of the United States or of the laws of the Commonwealth the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person, or circumstance will not be affected.
19. Non-English Translations - This agreement has been prepared and written in English. Any non-English translation provided is for convenience only and is not valid or legally binding.

**SPECIAL REQUIREMENTS/
SPECIAL CONDITIONS**

The funding for this Agreement is 100% Federal from the Climate Pollution Reduction Grants Program (CPRG) under the Inflation Reduction Act (IRA) of 2022. Special terms and conditions apply to projects funded by the IRA.

Notification and Meetings:

1. **Meetings.** The Grantee shall meet with the Department at the request of either party to discuss the progress of the ongoing work.
2. **Duty to Notify.** The Grantee shall immediately notify the Department, in writing, of any unusual development or circumstances, which could significantly change or otherwise delay the work outlined in the Scope of Work. This includes changes in key personnel or project partners overseeing the work.
3. **Budget Changes.** The Grantee shall notify the Department, in writing, of any deviation from the original budget. The Grantee must receive written approval from the Department for any changes to the original budget.

Invoicing and Payment:

4. **Reimbursement.** Proof of payment is required for all reimbursement requests. Payments under this agreement will be made to the Grantee for reimbursement of expenditures for work completed by this agreement, if verified by the Department upon review of submitted receipts, invoices, or other appropriate original documents showing proof of payment. Payment documentation must be submitted with the Application for Reimbursement form. Reimbursement requests may be made on a quarterly basis.
5. **Documentation.** Financial statements for payment of work must include a detailed accounting of the various items of cost expenditure during the period covered. Quarterly Progress Reports that correspond to the invoice period identified on the Application for Reimbursement must be on file with the Department.
6. **Compliance.** Payments shall only be made if the Grantee is in full compliance with the terms and conditions of this agreement. To provide Grantees with flexible funding, up to 90% of the base grant award will be made available as project costs are incurred and paid by the Grantee. All remaining funds will be awarded upon completion of post project measurement and verification and will be subject to readjustment based on the participant's performance relative to the required GHG emissions reduction goal. The funding for the bonus awards will be withheld until after project completion and the Department has verified that the Grantee has satisfied the requirements.
7. **Right to Withhold.** The Department may decline to pay the final invoice if it is received more than 60 days after the project completion date.

8. **Right of Recovery.** The Department reserves the right to recover funding from grant recipients that do not meet the requirements of the grant agreement during the grant term.

Reporting

9. **Reporting Frequency.** The Grantee shall provide a Quarterly Progress Report by the 5th day of the following quarter. Quarterly Reporting will mirror the Federal Fiscal Year, and Quarterly Progress are due January 5, April 5, July 5, and October 5. Quarterly Reporting will be required throughout period of performance, and the Department will provide a Quarterly Progress Report Template. The report shall be emailed to the RISE PA resource account at ra-ep-cprg@pa.gov.
10. **Final Reporting.** The Grantee shall provide a Final Report that is due to the Department within 30 days from the project completion date. The Final Report and complete expenditures records shall be submitted prior to final payment. The report shall outline the completion status for each work element and give reasons for all significant deviations from the scheduled plan of work and how such deviations were justified. The Department will provide a Final Report Template. The report shall be emailed to the RISE PA resource account at ra-ep-cprg@pa.gov.

Title and Control of Property

11. **Restriction on Title.** The Grantee shall not lease, sell, transfer, or assign any real or personal property that is purchased partially or entirely with funds provided by the Department under this agreement unless the Grantee has obtained written approval of the Department. Transfer of the ownership of property or repayment of any proceeds from lease, sale, transfer or assigning, minus transaction costs will be required if the current fair market value of property exceeds \$5,000. However, the Department, in coordination with U.S. Environmental Protection Agency upon request by the Grantee, may, at their discretion, vest unconditional title or property interest acquired under this project regardless of the fair market value of the property.

Miscellaneous Provisions

12. **Compliance with Law.** Nothing in this agreement or the approval shall be construed as an authorization by the Department to conduct any activity otherwise governed by law or regulation. This agreement does not affect or replace any permit or other requirement of the Department's regulations. The Grantee must comply with all federal, state, and local laws, regulations, and permits governing its activities and is solely responsible for doing so.
13. **PA Preferred.** The Grantee shall use best efforts to engage the services of Pennsylvania businesses and to obtain Pennsylvania materials and equipment for use in the Project, provided that such services, materials, equipment are consistent with Project specifications and are available at competitive prices.
14. **Public Facing Documents.** Any printed document produced by the Grantee under this agreement that is selected by the Department for the purpose of printing, distribution, or

posting on the Department's website or other electronic media, shall be provided by the Grantee to the Department in an electronic format. Specifically, the document must be received as either a Microsoft Word or Adobe Acrobat PDF document. The Grantee shall include the statement, "This material was prepared with support and funding of the Pennsylvania Department of Environmental Protection's RISE PA Program. Any opinions, findings, conclusions, or recommendations expressed herein are those of the author(s) and do not necessarily reflect the views of the DEP."

15. **Conduct of Work.** Unless otherwise provided herein, the Grantee with due diligence shall complete the work described in Attachment A, Scope of Work. In determining whether or not the Grantee has performed with due diligence hereunder, it is agreed and understood that the DEP may measure the amount and quality of the Grantee's effort against the written representations made by the Grantee in the negotiations of this agreement.
16. **Inspection and Acceptance.** Final inspection and acceptance of all work required under this agreement shall be performed by the Department in coordination with EPA.
17. **Assignability.** This agreement may not be assigned by the Grantee either in whole or in part without the prior written consent of the Department.
18. **Environmental Protection.** In carrying out this agreement, the Grantee shall minimize pollution and shall strictly comply with all applicable environmental laws and regulations.

FEDERAL REQUIREMENTS

1. General Federal Funding. If this agreement is funded, in whole or in part, with funds from the Federal Government, or by non-Federal funds used to match a federal grant, the following provisions apply:
 - A. All work under this agreement must be performed in accordance with applicable statutes, rules, and regulations of the Federal Government. All applicable Federal statutes and provisions of the Code of Federal Regulations (CFR) in effect on the date of execution of this agreement are an integral part of this agreement.
 - B. All applicable contract provisions specified by the Federal Government are an integral part of this agreement.
2. EPA Funding. If this agreement is funded, in whole or in part, by a grant from the United States Environmental Protection Agency (EPA), all applicable provisions of 40 CFR Parts 31, 33, and 35 (Subpart O), in effect on the date of the Assistance Award for this Project, are an integral part of this agreement. Further, Grantee shall comply with the provisions pertaining to conflict of interest set forth at 40 CFR §35.6550(b)(2)(ii) and the MBE/WBE reporting requirements detailed more thoroughly in Section 6 of these terms.
3. Rights to Inventions Made Under a Contract or Agreement. Contracts or agreements for the performance of experimental, developmental, or research work must provide for the rights of the Federal Government and the recipient in any resulting invention in accordance with 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the Federal Grantor Agency. Further this agreement is subject to Federal Grantor Agency requirements and regulations pertaining to reporting and patent rights if the agreement involves research, developmental, experimental or demonstration work with respect to any discovery or invention which arises or is developed in the course of or under this agreement, as well as Federal Grantor Agency requirements and regulations pertaining to copyrights and rights in data.
4. Equal Employment Opportunity. The Grantee shall comply with Equal Employment Opportunity regulations as set forth in 41 CFR Part 60.
5. General Audit Requirements.
 - a. Audit Requirements. The Grantee shall comply with all Federal and State audit requirements including: the Single Audit Act Amendments of 1996; Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200 ("Uniform Guidance at 2 CFR Part 200"); and any other applicable law or regulation and any amendment to any other applicable law or regulation that may be enacted or promulgated by the Federal government. In instances where a Federal program-specific audit guide is applicable, the audit report package for a program-specific audit may be different and should be prepared in accordance with the audit guide and Uniform Guidance at 2 CFR Part 200.
 - B. Audit Thresholds.

- i. If the Grantee is a local government or non-profit organization and expends total Federal awards of \$1,000,000.00 or more during its fiscal year, received either directly from the Federal Government or indirectly through the Department, the Grantee is required to have an audit made in accordance with the provisions of Uniform Guidance at 2 CFR Part 200.
- ii. If the Grantee expends total Federal awards of less than \$1,000,000.00 during its fiscal year, it is exempt from the audit requirements of Uniform Guidance at 2 CFR Part 200, but is required to maintain auditable records of Federal awards and any state funds that supplement the awards, and to provide access to those records by Federal and state agencies or their designees.

C. Submission of Audit Information to the Commonwealth. The Grantee shall submit copies of the audit report package to the Commonwealth. The audit report package must include:

- i. the Data Collection Form;
- ii. financial statements and schedule of expenditures of Federal awards;
- iii. Auditor's reports on the financial statements and schedule of expenditures of Federal awards, internal control, and compliance as well as a schedule of findings and questioned costs;
- iv. a summary schedule of prior audit findings;
- v. a corrective action plan, if applicable; and
- vi. a Management letter comments.

The Grantee shall submit audit information to the Pennsylvania Office of the Budget, Bureau of Accounting and Financial Management, electronically, in the manner described on the Office of the Budget's webpage for Single Audit Submissions: <https://www.budget.pa.gov/Services/ForGranteesAndSubrecipients/Pages/SingleAuditSubmissions.aspx>.

D. Required Auditing Standards. The Grantee is responsible for obtaining the necessary audit and securing the services of a certified public accountant or other independent governmental auditor. Federal regulations preclude public accountants licensed in the Commonwealth of Pennsylvania from performing audits of Federal awards. The Grantee's auditor shall retain the audit documentation and audit reports for a minimum of five years from the date of issuance of the audit report, unless the Grantee's auditor is notified in writing by the Commonwealth or the cognizant or oversight Federal agency to extend the retention period. The Grantee's auditor must make the audit documentation available upon request to authorized representatives of the Commonwealth, the cognizant or oversight agency, the Federal funding agency, or the Government Accountability Office.

E. Commonwealth Audit Rights Reserved. The Commonwealth reserves the right for Federal and state agencies or their authorized representatives to perform additional audits of a financial or performance nature, if deemed necessary by Commonwealth or Federal agencies. Any additional audit work will rely on work already performed by the Grantee's auditor, and the costs for any additional work performed by the Federal or state agencies will be borne by those agencies at no additional expense to the Contractor.

6. Required Utilization of Minority Business Enterprises/Woman-Owned Business Enterprises (“MBE/WBE”) and Reporting Requirements.

- A. General Requirement for MBE/WBE Utilization. The Grantee shall not discriminate on the basis of race, color, national origin or sex in the performance of this agreement. The Grantee shall carry out applicable requirements of [40 CFR part 33](#) in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Grantee to carry out these requirements is a material breach of this agreement, which may result in the termination of this agreement or other legally available remedies.
- B. MBE/WBE Reporting Requirements. The Grantee shall provide the Commonwealth with documentation of all procurements awarded in relation to the Scope of Work provided in this agreement, regardless of the awarded amount. If a procurement involved a certified MBE/WBE entity, that information must also be included. Procurement activity must be reported to the Commonwealth by all Grantees, within 15 days of the close of each calendar quarter (January 15, April 15, July 15, and October 15, each a “Reporting Period”). A procurement is defined as any expenditure through contract, order, purchase, lease or barter of supplies, equipment, construction, or services needed to complete the work. All procurements *awarded* during the Reporting Period must be reported, even if it did not involve a certified MBE/WBE contractor. The Grantee shall submit procurement information for the Reporting Period even if no procurement occurred during the Reporting Period. Procurement documentation must be provided via email at RA-EPMBEWBE@pa.gov and meet the following requirements:
1. The subject line of the email must contain the following: **MBE/WBE Reporting for Report Period [INSERT APPLICABLE REPORTING PERIOD DATE] – NAME OF REPORTING ORGANIZATION, DEP DOCUMENT/CONTRACT NUMBER**
 - a. DEP Document Numbers usually begin with a C9, 40, 41, or 43.
 2. The body of the email must contain the following information:
 - a. Point of Contact Information: Name, Telephone Number, Email Address, Reporting Period.
 - b. If the entered report is a Final Report, indicate as much. A Final Reporting period is the last quarter of the agreement’s term.
 - c. If no procurements were awarded, indicate as such.
 - d. Total Procurements & MBE/WBE awarded during the Reporting Period (in dollars) in the following format:

	<u>Construction</u>	<u>Non- Construction</u>	<u>Total</u>
Total Procurement	\$ _____	\$ _____	\$ _____
MBE/WBE Combined	\$ _____	\$ _____	\$ _____

- e. If procurements were made during the Reporting Period, indicate whether the Grantee has followed the six Good Faith Efforts found in 40 CRF Part 33, Subchapter C, 40 CRF 33.501, and 2 CFR 200.321.
 - f. If procurements were made but no MBE/WBE procurements are being reported, indicate the reason as one of the following:
 - i. No MBE/WBE applied
 - ii. No MBE/WBE was qualified
3. An itemization of all procurements must be attached to the email. A template Excel spreadsheet is available upon request. An example of the desired information is as follows:

Federal CFDA#	Construction (Yes or No)	Commitment item/Expenditure Classification		Payment Type	Vendor Name	Actual Expend	No MBE/WBE(s) applied	No MBE/WBE(s) qualified	Other (Please explain)
66.805	No	6331100	Telecomm-Rec	check	CDW GOVT	\$ 19.52			

7. Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.). If the Grantee is in receipt of a grant award in excess of \$100,000, the Grantee shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.). Any contract entered into by the Grantee that is in excess of \$100,000 and utilizes these awarded funds must contain a provision that requires compliance with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.). The Department shall report violations to the Regional Office of the EPA.
8. U.S. Energy Policy and Conservation Act. The Grantee shall comply with mandatory standards and policies relating to energy efficiency in compliance with the U.S. Energy Policy and Conservation Act (Pub. L. 94-163).
9. Contract Work Hours and Safety Standards Act (40 U.S.C. 3701 et. seq.) – Where applicable, all contracts awarded by the Grantee in excess of \$100,000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers must include a provision for compliance with the Contract Work Hours and Safety Standards Act, as supplemented by Department of Labor regulations (29 CFR Part 5). The Act, each contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The Act is applicable to construction work and provides that no laborer or mechanic will be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
10. Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 276c) – All contracts and subgrants entered into by the Grantee under this agreement in excess of \$100,000 for construction or repair must include a provision for compliance with the Copeland “Anti-

Kickback” Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The Grantee shall report all suspected or reported violations to the Federal Grantor Agency.

11. Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) – When required by Federal program legislation, all construction contracts awarded by the Department and the Grantee of more than \$2000 must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) and as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). Under this Act, contractors must be required to pay wages to laborers and mechanics not less than the prevailing wage rates and fringe benefits, as determined by the Secretary of Labor, for corresponding classes of laborers and mechanics employed on similar projects in the area. In addition, contractors must be required to pay wages not less than once a week. The Department shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract is conditioned upon the acceptance of the wage determination. The Department shall report all suspected or reported violations to the Federal Grantor Agency.
12. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) – Grantees who apply or bid for an award of more than \$100,000 must file the required certification. Each grantee certifies to its grantor that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each grantee must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.
13. Build America, Buy America Act (23 U.S.C. 313; 23 CFR 635.410)
 - A. General Requirement. As required by Section 70914 of the Build America Buy America (BABA) Act, also known as the “Infrastructure Investment and Jobs Act”, P.L. 117-58, on or after May 14, 2022, none of the funds under a federal award that are part of Federal financial assistance program for infrastructure may be obligated for a project unless all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States, unless subject to a waiver approved by the United States Department of Interior. The requirements of this section must be included in all subawards, including all contracts and purchase orders for work or products under this program.
 - B. Applicability to Infrastructure Projects. The Grantee is hereby notified that none of the funds provided under this award may be used for a project for infrastructure unless:
 1. all iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;

2. all manufactured products used in the project are produced in the United States—this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
 3. all construction materials are manufactured in the United States—this means that all manufacturing processes for the construction material occurred in the United States.
- C. Excluded Items. The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to a project site and removed at or before the completion of the infrastructure project. Nor does a BABA preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.
14. Debarment and Suspension (Executive Orders 12549 and 12689). No contract shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with Executive Orders 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than Executive Order 12549. Grantees and any contractor to whom they award contracts utilizing the Federal money that is the subject of this Agreement must certify that they are not debarred, suspended, or proposed for debarment by the Federal Government. Certifications made by contractors of Grantee must be retained by Grantee and made available to the Department upon request.
 15. Appropriation Contingency. This commitment is contingent upon funds being appropriated by the legislature for each succeeding fiscal year and Federal funds being provided to the Commonwealth for the contract purpose.
 16. Registration and Identification Information. The Grantee shall maintain current registration in the System for Award Management (www.sam.gov) at all times during which it has active federal awards funded pursuant to this agreement. A Unique Entity Identifier (UEI) number is one of the requirements for registration in the System for Award Management. The Grantee shall provide its assigned UEI number to the Commonwealth along with the Grantee's return of the signed agreement. The Department will not process this agreement for Commonwealth signature until the Grantee provides this required information.
 17. Primary Location. The Grantee must provide to the Commonwealth the primary location of performance under the award, including the city, State, and zip+4. If performance is to occur in multiple locations, the Grantee must list the location where the largest amount of the grant award is to be expended pursuant to this agreement. The Grantee must provide

this information to the Commonwealth when the Grantee returns the signed agreement. The Department will not process this agreement for Commonwealth signature until the Grantee provides this required information.

18. FFATA Requirements.

- A. Information Required. Pursuant to the Federal Funding Accountability and Reporting Act ("FFATA"), the Grantee must provide to the Department the names and total compensation of the five most highly compensated officers of the entity if—
1. the entity in the preceding fiscal year received—
 - a. 80% or more of its annual gross revenues in Federal awards;
and
 - b. \$25,000,000 or more in annual gross revenues from Federal awards; and
 2. the public does not have access to information about the compensation of the senior executives of the entity 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.
- B. Exemption Requirements. If the Grantee does not meet the conditions listed above, it must specifically affirm to the Department that the requirements of this clause are inapplicable to the Grantee. The Grantee must provide information responding to this question along with the Grantee's return of the signed agreement. The Department will not process this grant until such time that Grantee provides the information responding to this question.

PROGRAMMATIC TERMS AND CONDITIONS

Programmatic Conditions

Climate Pollution Reduction Implementation Grants Programmatic Terms and Conditions

A. Deliverables

The first phase of the Climate Pollution Reduction Grants (CPRG) program provided funding for designing Priority Climate Action Plans (PCAPs) that incorporate a variety of measures (i.e., programs, policies, measures, and projects) that reduce greenhouse gas (GHG) emissions. The purpose of this CPRG Implementation assistance agreement is to implement proposed measures within a specified PCAP identified in the CPRG Implementation Grant General Competition application. All programs, policies, measures, and projects contained in the final, approved CPRG implementation assistance agreement workplan are required deliverables.

The recipient agrees to implement GHG reduction programs, policies, projects, and measures (collectively referred to as “GHG reduction measures,” or “measures”) identified in a PCAP developed under a CPRG planning grant and included in the CPRG implementation grant workplan. The recipient agrees to ensure that each is successfully implemented before the end of the grant project period. The recipient agrees to successful project implementation, which includes the process of putting a decision or plan into effect; executing the program, policies, projects and/or measures, not just planning or designing the programs, policies, projects and/or measures. The recipient agrees to adequately describe the actual environmental outputs and outcomes achieved, including actual GHG emissions reduced, not just the expected outputs and outcomes of the proposed measures. Clean Air Act (CAA) section 137 also requires that CPRG Implementation grant recipients address the degree to which a grant reduces GHG emissions in total and with respect to low-income and disadvantaged communities, where “greenhouse gas” refers to the air pollutants carbon dioxide (CO₂), hydrofluorocarbons (HFCs), methane (CH₄), nitrous oxide (N₂O), perfluorocarbons (PFCs), and sulfur hexafluoride (SF₆).

To the best of their ability, the recipient agrees to:

- implement GHG emission reduction programs, policies, measures, and projects that are expected to reduce GHG emissions (or enhance GHG removals) by the estimated cumulative total GHG emission reductions from the final approved workplan;
- only report emission reductions occurring as a result of CPRG funding; and
- only report emission reduction data in units of million metric tons of carbon dioxide equivalent (MMTCO₂e) where appropriate, calculated using the global warming potentials (GWP) in the International Panel on Climate Change's (IPCC) Fifth Assessment Report.

Refer to the Notice of Funding Opportunity, EPA-R-OAR-CPRGI-23-07 (https://www.epa.gov/system/files/documents/2023-09/CPRG_General_Competition_NOFO.pdf), Appendix B, Global Warming Potentials for GHGs, for details about how to apply GWP values for different gases.

For the measures included in the final, approved assistance agreement work plan, the recipient agrees to provide transparent GHG emission reduction estimates based on high-quality, thorough, reasonable, and comprehensive methodologies, assumptions, and calculations. Examples of tools that could be used to assist in these GHG quantifications can be found at: <https://www.epa.gov/inflation-reduction-act/climate-pollution-reduction-grants>.

B. Final Approved Work Plan and Modifications

The recipient agrees to implement the measures in the EPA-approved work plan that will achieve significant cumulative GHG reductions by 2030 and beyond.

Recipient agrees to carry out the project in accordance with the final approved workplan. Recipients are required to report deviations from budget or project scope or objective, and must request prior written approval from the EPA:

- For any change in the scope or objective of the project or program (even if there is no associated budget revision requiring prior written approval);
- For change in key personnel (including employees and contractors) that are identified by name or position in the Federal award;
- For the disengagement from a project for more than three months, or a 25% reduction in time and effort devoted to the Federal award over the course of the period of performance, by the approved project director or principal investigator;
- For the inclusion of costs that require prior approval in accordance with 2 CFR Part 200 Subpart E—Cost Principles or 48 CFR part 31, “Contract Cost Principles and Procedures,” as applicable;
- For the transfer of funds budgeted for participant support costs as defined in 2 CFR Section 200.1 Definitions to other budget categories;
- For the subawarding, transferring or contracting out of any work under the award;
 - Changes in the total approved cost-sharing amount
 - When the need arises for additional Federal funds to complete the project.

Proposed modifications to the approved work plan or budget, including additions, deletions, or changes in the schedule, shall be submitted in a timely manner to the EPA Project Officer for approval. Depending on the type or scope of changes, a formal amendment to the award may be necessary. Major project modifications may include but are not limited to: changes to the approved environmental results, outputs or outcomes, types and number of affected devices or equipment, the approved types of emission reduction technologies to be implemented, specific programs or policies to be adopted, or changes to the approved project location(s). Any change that would significantly alter the cumulative GHG reductions achieved by 2030 and beyond and affect the achievement of community benefits, especially in low-income and disadvantaged communities, may not be allowed. The recipient shall not make changes to the proposed activities in the EPA-approved work plan without prior written approval from the EPA. The recipient shall contact the EPA Project Officer with the proposed changes; however, depending on the type of change, the Agency Award Official or Grant Management Officer may need to make the final determination. If issues regarding proposed measures arise that cannot be resolved, the EPA may elect to

terminate the assistance agreement, and/or if applicable, recover ineligible expenditures from the recipient. Any significant changes to the approved work plan that would result in undermining the integrity of the award competition will not be approved.

For grants that are awarded to a recipient that is serving as the lead for a coalition under the CPRG program, the recipient agrees to abide by the terms set out in the Memorandum of Agreement (MOA), including the roles, responsibilities, and commitments that each partner will provide to ensure project success, the operating model for the coalition, and the resources that each partner will contribute to the project. As established in the CPRG coalition's MOA, the lead applicant is accountable to the EPA and accepts full responsibility for effectively carrying out the full scope of work and proper financial management of the grant. Coalition members who are grant subrecipients are accountable to the lead applicant for proposed use of EPA funding and successful project implementation. The recipient shall not make changes to the signed MOA without prior written approval from the EPA.

C. Performance Reporting and Final Performance Report

1. Performance Reports - Content

The recipient agrees to inform the EPA as soon as it is aware of problems, delays, or adverse conditions that will materially impair the recipient's ability to meet the outputs/outcomes specified in the final, approved assistance agreement work plan. The recipient agrees to inform the EPA immediately rather than waiting until the next performance report is due.

The recipient agrees to adequately describe the actual environmental outputs and outcomes achieved, not just the expected outputs and outcomes of the proposed measures. The recipient agrees to report out on each performance measures that will be the mechanism to track, measure, and report progress toward achieving the expected outputs and outcomes for each GHG reduction measure. The recipient agrees to track and report separately on the work conducted and GHG emissions reductions for each measure (program, policy, measure, or project) specified in the final, approved assistance agreement work plan. Recipients also agree to track and report separately on the budgets for each measure.

In accordance with 2 CFR 200.329, the recipient agrees to submit semi-annual, one-year, and final performance progress reports that include brief information on each of the areas specified below. To ensure the EPA can effectively monitor progress towards the achievement of measures, the recipient also agrees to report progress for each measure identified in the final, approved assistance agreement work plan as soon as work is completed and information is available.

a. Semi-Annual: The recipient agrees to submit semi-annual performance reports that include brief information on each of the following areas:

(1) a comparison of actual technical progress and milestones achieved during the reporting period to the outputs/outcomes and performance measures established in the final, approved assistance agreement work plan, which may include technical changes made to the project, public events conducted, websites published, release of public-facing documents or tools, or other reportable activities described in the work plan;

(2) a consolidated budget update with separate tracking for each measure (that is, how much was spent on equipment, supplies, contractors, subgrants, etc., during the reporting period and cumulatively) and,

when appropriate, additional pertinent information such as analysis and explanation of cost overruns, high-unit costs, cost-share expenditures, program income, infrastructure costs subject to Buy America, Build America (BABA) compliance, or requested budget modifications (for example, when the recipient is requesting to move funding from one budget category to another);

(3) if necessary, a description of the reasons why any implementation timeline milestones or outputs/outcomes were missed for each measure established in the final, approved assistance agreement work plan, including the recipient's strategy to address challenges faced and/or the recipient's approach to ensure that the approved outputs/outcomes for each measure will be achieved within the period of performance;

(4) documentation of community engagement activities conducted in low-income and disadvantaged communities for each measure, which describes how the activities were publicized, categorizes respondents/attendees (e.g., the number of people from Tribal governments, federal government, state government, local government, nonprofits, for profits, universities, and the public), explains how input from participants was considered in decisions for implementing the measure, and details how meaningful engagement with low-income and disadvantaged communities will be continuously included in the development and implementation of the measure;

(5) as applicable, strategies for mitigating environmental risks;

(6) a description of any climate resiliency planning, siting, design, and operation of the project.

(7) as applicable, updates to individuals, including those from coalition members, who serve as key contacts and/or any changes to the roles and responsibilities of key contacts involved in each measure and the reason(s) for the change(s);

(8) as applicable, updates regarding which organizations have the authority to implement each measure and the reason(s) for the change(s);

(9) as applicable, updates regarding changes to contracts, subgrants, and participant support costs;

(10) as applicable, progress on generating high-quality jobs with a diverse, highly skilled workforce and support of strong labor standards; and

(11) summary of anticipated activities for the next 6-month reporting period.

b. One-year report: As part of the second semi-annual progress report (*i.e.* the more detailed one-year report), the recipient agrees to report the additional data to the EPA using the reporting template from the EPA's Information Collection Request 2806.01, Office of Management and Budget (OMB) Control Number 2060-0763. The reporting template will be made available to grant recipients through an electronic data interface to be specified by EPA upon approval of the Information Collection Request. This includes co-pollutant emissions reductions of each pollutant impacted by each measure, the sector impacted, and the county in which the emissions change. In addition, the recipient agrees to report the Climate and Economic Justice Screening Tool (CEJST) Census tract IDs or the EPA's EJScreen Census block group IDs for areas affected by GHG reduction measures, consistent with the EPA's definition of low-income and disadvantaged communities for the CPRG program.

c. Final Report: The recipient also agrees to submit a detailed final report and to report certain data

associated with the final report to the EPA using the reporting template from the EPA's Information Collection Request 2806.01, OMB Control Number 2060-0763.

d. Subaward Performance Reporting

Subawards establish a financial assistance relationship under which the subrecipient's employees and contractors implement programs and projects to accomplish the goals and objectives of the grant. Subrecipients (which includes Coalition members) are subject to the same federal requirements as the pass-through entity. (For more details, see General Terms and Conditions 8. Establishing and Managing Subawards, applicable provisions of 2 CFR Part 200, the EPA's Subaward Policy). The recipient must report on its subaward monitoring activities under 2 CFR 200.332(d). Examples of items that must be reported if the pass-through entity has the information available are:

- (1) Summaries of results of reviews of financial and programmatic reports.
- (2) Summaries of findings from site visits and/or desk reviews to ensure effective subrecipient performance.
- (3) Environmental results the subrecipient achieved.
- (4) Summaries of audit findings and related pass-through entity management decisions.
- (5) Actions the pass-through entity has taken to correct deficiencies such as those specified at 2 CFR 200.332(e), 2 CFR 200.208 and the 2 CFR Part 200.339 Remedies for Noncompliance.

2. Performance Reports - Frequency

The recipient agrees to submit **semi-annual** performance reports electronically to the EPA Project Officer within 30 days after the six-month reporting period ends. Semi-annual reports are due according to the following schedule. If a due date falls on a weekend or holiday, the report will be due on the next business day. If a project start date falls within a defined reporting period, the recipient must report for that period by the given due date unless otherwise noted. This semi-annual reporting schedule shall be repeated for the duration of the award agreement.

October 1 – March 31 Reporting Period: report due April 30

April 1 – September 30 Reporting Period: report due October 30

As part of the second semi-annual performance report that is submitted one year after the grant award, the recipient agrees to submit the **one-year** performance report that includes the additional details specified above in section C.1.b.

The recipient must submit the final performance report no later than 120 calendar days after the end date of the period of performance.

D. Allowable and Unallowable Activities

The recipient agrees to only use this CPRG Implementation grant award funding to implement measures in the EPA approved workplan for this CPRG Implementation grant and follow the grant Terms and Conditions.

All costs charged to the award to support these activities must meet the requirements for allowability under 2 CFR Part 200, Subpart E as well as applicable provisions of 2 CFR Part 1500. In addition, the recipient agrees to obtain prior approval from the EPA Award Official prior to the expenditure of the award for financial assistance as well as other activities that involve acquiring real property, including related equipment purchases, if not already in the EPA approved work plan.

The recipient agrees to not use the award for the following unallowable activities: (a) activities that are not in the EPA approved work plan; (b) activities that support measures, activities or projects outside the boundaries of the ten EPA regions. The recipient also agrees not to use this CPRG award to replace existing program federal funding, but the recipient may use CPRG funds to supplement or expand existing programs. The recipient also agrees not to use the award for activities associated with defending against, settling, or satisfying a claim by a private litigant, except when either (a) the claim stems from the recipient's compliance with the terms and conditions of the award agreement or (b) the recipient has obtained prior written approval from the EPA Project Officer.

The recipient agrees to not use the award to aid regulated entities to comply with EPA regulatory requirements.

E. Davis-Bacon Related Act Term and Condition

1. Program Applicability

- a. Climate Pollution Reduction Implementation Grants.
- b. Section 314 of the Clean Air Act.
- c. Construction activities conducted under a Climate Pollution Reduction Implementation Grant.
- d. The recipient must work with the appropriate authorities to determine wage classifications for the specific project(s) or activities subject to Davis Bacon under this grant.

2. Davis-Bacon and Related Acts

Davis-Bacon and Related Acts (DBRA) (<https://www.dol.gov/agencies/whd/government-contracts/construction>) is a collection of labor standards provisions administered by the Department of Labor, that are applicable to grants involving construction. These labor standards include the:

- a. Davis-Bacon Act, which requires payment of prevailing wage rates for laborers and mechanics on construction contracts of \$2,000 or more;
- b. Copeland "Anti-Kickback" Act, which prohibits a contractor or subcontractor from inducing an employee into giving up any part of the compensation to which he or she is entitled; and

c. Contract Work Hours and Safety Standards Act, which requires overtime wages to be paid for over 40 hours of work per week, under contracts in excess of \$100,000.

3. Recipient Responsibilities When Entering Into and Managing Contracts

a. Solicitation and Contract Requirements:

(1) Include the Correct Wage Determinations in Bid Solicitations and Contracts: Recipients are responsible for complying with the procedures provided in [29 CFR 1.6](#) when soliciting bids and awarding contracts.

(2) Include DBRA Requirements in All Contracts: Include the following text on all contracts under this grant:

“By accepting this contract, the contractor acknowledges and agrees to the terms provided in the DBRA Requirements for Contractors and Subcontractors Under EPA Grants (<https://www.epa.gov/grants/contract-provisions-davis-bacon-and-related-acts>).”

b. After Award of Contract:

(1) Approve and Submit Requests for Additional Wages Rates: Work with contractors to request additional wage rates if required for contracts under this grant, as provided in [29 CFR 5.5\(a\)\(1\)\(iii\)](#).

(2) Provide Oversight of Contractors to Ensure Compliance with DBRA Provisions: Ensure contractor compliance with the terms of the contract, as required by [29 CFR 5.6](#).

4. Recipient Responsibilities When Establishing and Managing Additional Subawards

a. Include DBRA Requirements in All Subawards (including Loans): Include the following text on all subawards under this grant:

“By accepting this award, the EPA subrecipient acknowledges and agrees to the terms and conditions provided in the DBRA Requirements for EPA Subrecipients (<https://www.epa.gov/grants/contract-provisions-davis-bacon-and-related-acts>).”

b. Provide Oversight to Ensure Compliance with DBRA Provisions: Recipients are responsible for oversight of subrecipients and must ensure subrecipients comply with the requirements in [29 CFR 5.6](#).

5. Consideration as Part of Every Prime Contract Covered by DBRA

The contract clauses set forth in this Term & Condition, along with the correct wage determinations, will be considered to be a part of every prime contract covered by Davis-Bacon and Related Acts (see [29 CFR 5.1](#)), and will be effective by operation of law, whether or not they are included or incorporated by reference into such contract, unless the

Department of Labor grants a variance, tolerance, or exemption. Where the clauses and applicable wage determinations are effective by operation of law under this paragraph, the prime contractor must be compensated for any resulting increase in wages in accordance with applicable law.

F. Cybersecurity Condition

1. State Grant Cybersecurity

a. The recipient agrees that when collecting and managing environmental data under this assistance agreement, it will protect the data by following all applicable State law cybersecurity requirements.

b. (1) The EPA must ensure that any connections between the recipient's network or information system and EPA networks used by the recipient to transfer data under this agreement, are secure.

For purposes of this Section, a connection is defined as a dedicated persistent interface between an Agency IT system and an external IT system for the purpose of transferring information. Transitory, user-controlled connections such as website browsing are excluded from this definition.

If the recipient's connections as defined above do not go through the Environmental Information Exchange Network or the EPA's Central Data Exchange, the recipient agrees to contact the EPA Project Officer (PO) and work with the designated Regional/Headquarters Information Security Officer to ensure that the connections meet EPA security requirements, including entering into Interconnection Service Agreements as appropriate. This condition does not apply to manual entry of data by the recipient into systems operated and used by the EPA's regulatory programs for the submission of reporting and/or compliance data.

(2) The recipient agrees that any subawards it makes under this agreement will require the subrecipient to comply with the requirements in (b)(1) if the subrecipient's network or information system is connected to EPA networks to transfer data to the Agency using systems other than the Environmental Information Exchange Network or the EPA's Central Data Exchange. The recipient will be in compliance with this condition: by including this requirement in subaward agreements; and during subrecipient monitoring deemed necessary by the recipient under 2 CFR 200.332(d), by inquiring whether the subrecipient has contacted the EPA Project Officer. Nothing in this condition requires the recipient to contact the EPA Project Officer on behalf of a subrecipient or to be involved in the negotiation of an Interconnection Service Agreement between the subrecipient and the EPA.

G. Climate Resilience:

To the extent practicable, the recipient agrees to incorporate current and future climate change risk in planning, siting, design, and operation of the project. Approaches for incorporating climate change risk may make use of climate change data and information (e.g., projections and emission scenarios) that are reflective of the project's anticipated lifespan. This includes consideration of the climate change risks posed to the individuals, communities, local governments, organizations, or other entities served by the project over

its anticipated lifespan.

H. Subawards

Refer to the General Terms and Condition, 8. “Establishing and Managing Subawards” and EPA Subaward Policy webpage (<https://www.epa.gov/grants/grants-policy-issuance-gpi-16-01-epa-subaward-policy-epa-assistance-agreement-recipients>) for access to additional information, including a subaward agreement template found in Appendix D.

The recipient must include the Build America, Buy America terms in any subawards, request for proposals, or solicitations for bids, and in all contracts.

I. Subawards for For-profit Entities

In addition to the EPA General Term and Condition “Establishing and Managing Subawards”, the recipient (i.e. “pass-through entity”) agrees to require that for-profit subrecipients comply with Subparts A through F of the Uniform Grant Guidance (2 CFR Part 200) and the Federal cost principles applicable to for-profit entities located at 48 CFR Part 31, with the exception of the method of payment to for-profit subrecipients must be “reimbursement” rather than “advance”. Pass-through entities must obtain documentation that the for-profit subrecipient has incurred eligible and allowable costs prior to releasing EPA funds to the subrecipient.

J. Equipment and Devices

1. Procurement of Systems, Equipment and Devices

When purchasing replacement systems, equipment and/or devices, the recipient agrees the replacement systems, equipment or device:

- a. will continue to perform a similar function and operation as the system, equipment or device that is being permanently rendered inoperable;
- b. will achieve the estimated emission reductions included in the EPA-approved work plan;
and
- c. is consistent in its intended use, operation and location as described in the EPA-approved work plan.

The procurement of systems, equipment or devices should follow the EPA's Best Practice Guide for Procuring Services, Supplies, and Equipment Under EPA Assistance Agreements (<https://www.epa.gov/grants/best-practice-guide-procuring-services-supplies-and-equipment-under-epa-assistance>).

2. Operation and Maintenance

The recipient will assure the continued proper operation and maintenance of systems, equipment and devices funded under this agreement. Such practices shall be operated and maintained for the expected lifespan of the specific measure and in accordance with

commonly accepted design standards and specifications. The recipient shall include a provision in every applicable sub-agreement (subaward or contract) awarded under this grant requiring that the management practices for the project be properly operated and maintained. Likewise, the sub-agreement will assure that similar provisions are included in any sub-agreements that are awarded by the sub-recipient.

3. Equipment Use and Management

Equipment is defined as tangible personal property having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes (see Capital assets at 2 CFR 200.1 Definitions), or the amount specified in Equipment at 2 CFR 200.1. Under 2 CFR 200.313, if the CPRG grant recipient purchases equipment with CPRG federally-awarded funds, title to the equipment vests in the grant recipient and there will be no ongoing requirements for the grant recipient for the purchased equipment after the end of the grant period.

These conditions must be met by the grant recipient for equipment use and management during the grant period:

- a. Use the equipment for the authorized purposes of the project during the period of performance or until the property is no longer needed for the purposes of the project.
- b. Not encumber the property without approval of the Federal awarding agency or pass-through entity.
- c. Use and dispose of the property as described below. Equipment use and management instructions are applicable to assistance agreement recipients and subrecipients acquiring equipment under this award. Per 2 CFR 200.313(b), state agencies may use and manage equipment acquired through a Federal award by the state in accordance with state laws and procedures. Per 2 CFR 200.313(b), Indian Tribes must use, manage, and dispose of equipment acquired under a Federal award in accordance with tribal laws and procedures.

Recipient agrees that at the end of the project period the recipient will continue to use the equipment purchased under this assistance agreement in the project or program for which it was acquired as long as needed, whether or not the project or program continues to be supported by the Federal award. After the end of the grant period, equipment purchased under this award that is no longer needed, may be retained, sold, or otherwise disposed of with no further obligation to the Federal awarding agency.

Consistent with 2 CFR 200.313, unless instructed otherwise, a grant recipient may keep the equipment and continue to use it on the project originally funded through this assistance agreement or on other federally funded projects whether or not the project or program continues to be supported by Federal funds. When acquiring replacement equipment, the non-Federal entity may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

Subrecipients are subject to the same federal requirements as the grant recipient (also known as the "pass-through entity") and they must comply with applicable subaward

provisions of 2 CFR Part 200, the EPA Subaward Policy, and the EPA's General Term and Condition for Subawards.

Under 2 CFR 200.313, if the CPRG grant recipient purchases equipment with CPRG federally-awarded funds, title to the equipment vests with the grant recipient and there will be no ongoing requirements for the grant recipient for the purchased equipment after the end of the grant period.

In this case, equipment includes systems, equipment and devices.

K. Equipment Disposition for State Recipients

State agencies may dispose of equipment acquired under a Federal award by the state in accordance with state laws and procedures.

L. QUALITY ASSURANCE

Authority: Quality Assurance applies to all assistance agreements involving environmental information as defined in [2 C.F.R. § 1500.12](#) Quality Assurance.

The recipient shall ensure that subawards involving environmental information issued under this agreement include appropriate quality requirements for the work. The recipient shall ensure sub-award recipients develop and implement the Quality Assurance (QA) planning documents in accordance with this term and condition; and/or ensure sub-award recipients implement all applicable approved QA planning documents.

1. Quality Management Plan (QMP)

a. Prior to beginning environmental information operations, the recipient must:

i. Develop a QMP,

ii. Prepare the QMP in accordance with the current version of EPA's [Quality Management Plan \(QMP\) Standard](#). Submit the document for EPA review, and

iv. Obtain EPA Quality Assurance Manager or designee (hereafter referred to as QAM) approval.

OR

i. Submit a previously EPA-approved and current QMP,

ii. The EPA Quality Assurance Manager or designee (hereafter referred to as QAM) will notify the recipient and EPA Project Officer (PO) in writing if the QMP is acceptable for this agreement.

b. The recipient must submit the QMP within 60 days after grant award.

c. The recipient must review their approved QMP at least annually. These documented

reviews shall be made available to the sponsoring EPA organization if requested. When necessary, the recipient shall revise its QMP to incorporate minor changes and notify the EPA PO and QAM of the changes. If significant changes have been made to the Quality Program that affect the performance of environmental information operations, it may be necessary to re-submit the entire QMP for re-approval. In general, a copy of any QMP revision(s) made during the year should be submitted to the EPA PO and QAM in writing when such changes occur. Conditions requiring the revision and resubmittal of an approved QMP can be found in section 6 of EPA's [Quality Management Plan \(QMP\) Standard](#).

d. The recipient must submit a QMP crosswalk with the QMP.

2. Quality Assurance Project Plan (QAPP)

a. Prior to beginning environmental information operations, the recipient must:

i. Develop a QAPP,

ii. Prepare QAPP in accordance with the current version of EPA's [Quality Assurance Project Plan \(QAPP\) Standard](#),

iii. Submit the document for EPA review, and

iv. Obtain EPA Quality Assurance Manager or designee (hereafter referred to as QAM) approval.

b. The recipient must submit the QAPP 60 days after project selection.

c. The recipient shall notify the PO and QAM when substantive changes are needed to the QAPP. EPA may require the QAPP be updated and re-submitted for approval.

d. The recipient must review their approved QAPP at least annually. The results of the QAPP review and any revisions must be submitted to the PO and the QAM at least annually and may also be submitted when changes occur.

For Reference:

- [Quality Management Plan \(QMP\) Standard and EPA's Quality Assurance Project Plan \(QAPP\) Standard](#); contain quality specifications for EPA and non-EPA organizations and definitions applicable to these terms and conditions.
- [EPA QA/G-5: Guidance for Quality Assurance Project Plans](#).
- [EPA's Quality Program](#) website has a [list of QA managers](#), and [Specifications for EPA and Non-EPA Organizations](#).
- The Office of Grants and Debarment [Implementation of Quality Assurance Requirements for Organizations Receiving EPA Financial Assistance](#).

M. Retention / Required Documentation

In accordance with 2 CFR 200.334, the recipient must retain all Federal award records, including but not limited to, financial records, supporting documents, and statistical records for at least three years from the date of submission of the final financial report. The records must be retained until all litigation, claims, or audit findings have been resolved and final action has been taken if any litigation, claim, or audit is started before the expiration of the three-year period. Examples of the required records include: (1) time and attendance records and supporting documentation; and (2) documentation of compliance with statutes and regulations that apply to the project.

In accordance with 2 CFR 200.337, the EPA, the Inspector General, the Comptroller General, and the pass-through entity, or any of their authorized representatives, have the right of access to any documents, papers or records of the recipient which are pertinent to the grant award. The rights of access are not limited to the required retention period, but last as long as the records are retained.

If the demonstration projects or activities, device and/or the device components are to be sold, the recipient must comply with the program income requirements (see the Program Income section below).

N. Program Audit

The EPA will conduct random reviews of recipients to protect against waste, fraud, and abuse. As part of this process, the EPA, or its authorized representatives may request documentation from current recipients to verify statements made on the application and reporting documents. Recipients may be selected for advanced monitoring, including a potential site visit to confirm project details. The EPA, or its authorized representatives, may also conduct site visits to confirm documentation is on hand and that the project is completed as agreed upon, as well as confirm applicable infrastructure adheres to Build America, Buy America (BABA) requirements. Recipients are expected to comply with site visit requests and recordkeeping requirements and must supply the EPA with any requested documents for three years from the date of submission of the final expenditure report, or risk cancellation of an active grant application or other enforcement action.

O. Use of Submitted Information

Applications and reporting materials submitted under this competition may be released in part or in whole in response to a Freedom of Information Act (FOIA) request. The EPA recommends that applications and reporting materials not include trade secrets or commercial or financial information that is confidential or privileged, or sensitive information that, if disclosed, would invade another individual's personal privacy (e.g., an individual's salary, personal email addresses, etc.). However, if such information is included, it will be treated in accordance with [40 CFR 2.203](#). (Review EPA clause IV.a, Confidential Business Information, under EPA Solicitation Clauses (<https://www.epa.gov/grants/epa-solicitation-clauses>)).

The EPA may make publicly available on the EPA's website or another public website copies or portions of CPRG grant project information.

The EPA reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or

otherwise use, and to authorize others to use, for federal purposes, submitted project photos, including use in program materials.

P. REAL PROPERTY

In accordance with 2 CFR 200.311, title to real property acquired or improved under this agreement will vest upon acquisition in the recipient. This property must be used for the originally authorized purpose as long as needed for that purpose, during which time the recipient must not dispose of or encumber its title or other interests.

1. Disposition

When real property is no longer needed for the originally authorized purpose, the recipient must obtain disposition instructions from the EPA. The instructions will provide for one of the following alternatives:

- a. Retain title after compensating the EPA. The amount paid to the EPA will be calculated by multiplying the percentage of EPA's contribution towards the original purchase (and costs of any improvements) by the current fair market value of the property. However, in those situations where recipient is disposing of real property acquired or improved with a Federal award and acquiring replacement real property under the same Federal award, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.
- b. Sell the property and compensate the EPA. The amount paid to the EPA will be calculated by multiplying the percentage of EPA's contribution towards the original purchase (and cost of any improvements) by the proceeds of the sale after deducting any actual and reasonable expenses paid to sell or fix up the property for sale. When the Federal award has not been closed out, the net proceeds from the sale may be offset against the original cost of the property. When directed to sell the property, the recipient must sell the property utilizing procedures that provide for competition to the extent practicable and that result in the highest possible return.
- c. Transfer title to the EPA or a third party designated/approved by the EPA. The recipient is entitled to be paid an amount calculated by multiplying the percentage of the recipient's contribution towards the original purchase of the real property (and cost of any improvements) by the current fair market value of the property.

2. Recordation

As authorized by 2 CFR 200.316, the EPA requires that recipients who use EPA funding to purchase real property or to improve real property through an EPA funded construction project record a lien or similar notice in the real property records for the jurisdiction in which the real property is located which indicates that the real property has been acquired or improved with federal funding and that use and disposition conditions apply to the real property.

Q. SIGNAGE REQUIREMENTS

1. Investing in America Emblem

The recipient will ensure that a sign is placed at construction sites supported in whole or in part by this award displaying the official Investing in America emblem and must identify the project as a “project funded by President Biden's Inflation Reduction Act” as applicable. The sign must be placed at construction sites in an easily visible location that can be directly linked to the work taking place and must be maintained in good condition throughout the construction period.

The recipient will ensure compliance with the guidelines and design specifications provided by the EPA for using the official Investing in America emblem available at: <https://www.epa.gov/invest/investing-america-signage>

2. Procuring Signs

Consistent with section 6002 of RCRA, 42 U.S.C. 6962, and 2 CFR 200.323, recipients are encouraged to use recycled or recovered materials when procuring signs. Signage costs are considered an allowable cost under this assistance agreement provided that the costs associated with signage are reasonable. Additionally, to increase public awareness of projects serving communities where English is not the predominant language, recipients are encouraged to translate the language on signs (excluding the official Investing in America emblem or the EPA logo or seal) into the appropriate non-English language(s). The costs of such translation are allowable, provided the costs are reasonable.

R. USE OF LOGOS

If the EPA logo is appearing along with logos from other participating entities on websites, outreach materials, or reports, it must **not** be prominently displayed to imply that any of the recipient or subrecipient's activities are being conducted by the EPA. Instead, the EPA logo should be accompanied with a statement indicating that PADEP financial support from the EPA under an Assistance Agreement. More information is available at: <https://www.epa.gov/stylebook/using-epa-seal-and-logo#policy>

S. Public or Media Events

The EPA encourages the recipient to notify the EPA Project Officer listed in this award document of public or media events publicizing the accomplishment of significant events related to construction projects as a result of this agreement and provide the opportunity for attendance and participation by federal representatives with at least ten (10) working days' notice.

T. National Programmatic Term and Condition for Fellowship, Internship Programs and Similar Programs Supported by EPA Financial Assistance

1. EPA funds for this program may only be used for participant support cost payments, scholarships, tuition remission and other forms of student aid for citizens of the United States, its territories, or possessions, or for individuals lawfully admitted to the United States for permanent residence.

2. The recipient and program participants are responsible for taxes, if any, on payments made to or on behalf of individuals participating in this program that are allowable as participant support costs under 2 CFR 200.1 or [2 CFR 200.456](#) and scholarships and other forms of student aid such as tuition remission under [2 CFR 200.466](#). EPA encourages recipients and program participants to consult their tax advisers, the U.S. Internal Revenue Service, or state and local tax authorities regarding the taxability of stipends, tuition remission and other payments. However, EPA does not provide advice on tax issues relating to these payments.

3. Participant support cost payments, scholarships, and other forms of student aid such as tuition remission are lower tiered covered Nonprocurement transactions for the purposes of [2 CFR 180.300](#) and EPA's Suspension and Debarment Term and Condition. Recipients, therefore, may not make participant support cost payments to individuals who are excluded from participation in Federal Nonprocurement programs under [2 CFR Part 180](#). Recipients are responsible for checking the eligibility of program participants in the System for Award Management (SAM) or obtaining eligibility certifications from the program participants.

See EPA Guidance on Participant Support Costs: <https://www.epa.gov/sites/default/files/2020-11/documents/epa-guidance-on-participant-support-costs.pdf>.

U. Competency of Organizations Generating Environmental Measurement Data

In accordance with Agency Policy Directive Number FEM-2012-02, Policy to Assure the Competency of Organizations Generating Environmental Measurement Data under Agency-Funded Assistance Agreements.

Recipient agrees, by entering into this agreement, that it has demonstrated competency prior to award, or alternatively, where a pre-award demonstration of competency is not practicable, Recipient agrees to demonstrate competency prior to carrying out any activities under the award involving the generation or use of environmental data. Recipient shall maintain competency for the duration of the project period of this agreement and this will be documented during the annual reporting process. A copy of the Policy is available online at <https://www.epa.gov/sites/production/files/2015-03/documents/competency-policy-aaia-new.pdf> or a copy may also be requested by contacting the EPA Project Officer for this award.

V. Geospatial Data Standards

All geospatial data created must be consistent with Federal Geographic Data Committee (FGDC) endorsed standards. Information on these standards may be found at <https://www.fgdc.gov/>.

W. Health and Safety Plan

Before beginning field work, the recipient must have a health and safety plan in place providing for the protection of on-site personnel and area residents, unless specifically waived by the award official. This plan need not be submitted to the EPA but must be made available to the EPA upon request. The recipient's health and safety plan must comply with Occupational Safety and Health Administration (OSHA) 29 CFR 1910.120, entitled

“Hazardous Waste Operations and Emergency Response.”

X. Foreign Entity of Concern

The recipient agrees to not directly transfer EPA funds through a subaward, contract, or participant support costs to a foreign entity of concern (FEOC). The EPA considers FEOCs to include foreign entities that are owned by, controlled by, or subject to the jurisdiction or direction of a government of a foreign country that is a covered nation as defined by Congress in Section 40207 of the Infrastructure Investment and Jobs Act. The EPA uses the proposed interpretive rule from the U.S. Department of Energy (DOE) to provide additional guidance in determining FEOCs. See 88 Fed. Reg. 84,082 (Dec. 4, 2023). If DOE finalizes an interpretive rule that differs in material respects from the proposal, the EPA may amend the award agreement accordingly.

Additionally, the recipient agrees to develop and implement internal controls that ensure EPA funds are not directly transferred to FEOCs, including through subawards, contractors, and participant support costs.

Y. Historic Preservation

National Historic Preservation Act (NHPA)

Section 106 of the NHPA requires all federal agencies to consider the effects of their undertakings, including the act of awarding a grant or cooperative agreement, on historic properties, and to provide the Advisory Council on Historic Preservation (ACHP) a reasonable opportunity to comment on such undertakings. The recipient must assist the EPA Project Officer in complying with NHPA if any activities funded under this grant impact a historic property. Historic properties include: (a) land or buildings listed in or eligible for listing on the National Register of Historic Places; (b) archaeologically sensitive areas or in an area where traditional cultural properties are located; and (c) properties that are associated with significant historic events, are associated with significant people, embody distinctive characteristics, and contain important precontact information.

The recipient should work with their Project Officer to ensure that subrecipients are available to work with EPA on any required consultation process with the State or Tribal Historic Preservation Office prior to commencing the project to ensure compliance with Section 106 of the NHPA.

If NHPA compliance is required, necessary Section 106 consultation activities, such as historic or architectural surveys, structural engineering analysis of buildings, public meetings, and archival photographs, can be considered allowable and allocable grant costs.

Archeological and Historic Preservation Act (AHPA)

This law applies if archeologically significant artifacts or similar items are discovered after an EPA-funded construction project has begun, and compliance may be coordinated with the NHPA, discussed above. The AHPA requires federal agencies to identify relics, specimens, and other forms of scientific, prehistorical, historical, or archaeological data that may be lost during the construction of federally-sponsored projects to ensure that these resources are not inadvertently transferred, sold, demolished or substantially altered, or allowed to deteriorate significantly. The recipient must ensure that subrecipients performing construction projects are aware of this requirement, and the recipient must notify EPA if the

AHPA is triggered.

Z. Other Federal Requirements

In addition to the statutes outlined in the Labor and Equitable Workforce Programmatic Term and Condition, Build America, Buy America Programmatic Act Term and Condition, Historic Preservation Programmatic Term and Condition, the recipient must comply with all federal cross-cutting requirements. These requirements include, but are not limited to:

- **Endangered Species Act**, as specified in 50 CFR Part 402: Non-Federal entities must identify any impact or activities that may involve a threatened or endangered species. Federal agencies have the responsibility to ensure that no adverse effects to a protected species or habitat occur from actions under Federal assistance awards and conduct the reviews required under the Endangered Species Act, as applicable.
- **Federal Funding Accountability and Transparency Act**: Recipients of financial assistance awards must comply with the requirements outlined in 2 CFR Part 170, Reporting Subaward and Executive Compensation and in the General Term and Condition "Reporting Subawards and Executive Compensation."
- **Farmland Protection Policy Act**: This statute requires EPA to use criteria developed by the Natural Resources Conservation Service (NRCS) to identify the potential adverse effects of Federal programs on farmland and its conversion to nonagricultural uses, to mitigate these effects, and to ensure that programs are carried out in a manner that is compatible with the farmland preservation policies of state and local governments, and private organizations. Recipients may need to work with EPA or NRCS, as appropriate, to ensure compliance.
- **Coastal Zone Management Act**: Projects funded under federal financial assistance agreements must be consistent with a coastal State's approved management program for the coastal zone.

For additional information on cross-cutting requirements visit <https://www.epa.gov/grants/epa-subaward-cross-cutter-requirements>.