

**OFFICE OF POLICY AND MANAGEMENT  
SPECIAL GRANT CONDITIONS #13.  
AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009,  
PUB. L. 111-5, AS AMENDED.**

Preamble

The American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, (Recovery Act) was enacted to preserve and create jobs and promote economic recovery, assist those most impacted by the recession, provide investments needed to increase economic efficiency by spurring technological advances in science and health, invest in transportation, environmental protection, criminal justice system and other infrastructure that will provide long term economic benefits, and stabilize State and local government budgets in order to minimize and avoid reductions in essential services and counterproductive State and local tax increases. Grantee shall use grant Recovery Act funds in a manner that maximizes job creation and economic benefit.

Grantee shall comply with all terms and conditions in the Recovery Act relating generally to governance, accountability, transparency, data collection and resources as specified in Recovery Act itself and as discussed below.

Be advised that Recovery Act funds can be used in conjunction with other funding as necessary to complete projects, but tracking and reporting must be separate to meet the reporting requirements of the Recovery Act and related guidance. For projects funded, in part, by sources other than the Recovery Act, Grantee should plan to keep separate records for Recovery Act funds and to ensure those records comply with the requirements of the Recovery Act.

The U.S. federal government has not fully developed the implementing instructions of the Recovery Act, particularly concerning the how and where for the new reporting requirements. Grantee shall be provided these details as they become available. Grantee must comply with all requirements of the Recovery Act. If Grantee believes there is any inconsistency between Recovery Act requirements and current requirements, the issues will be referred to Grantor for reconciliation.

Definitions

Covered Funds mean funds expended or obligated from appropriations under the Recovery Act. Covered Funds will be tracked and reported separately and will be identified as Recovery Act funds in the Grant Award. Covered Funds must be reimbursed by the notice of grant award end date.

Grantor herein means OPM.

**Special Provisions**

A. Segregation of Costs.

Grantee must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to

segregate, track and maintain these Covered Funds apart and separate from other revenue streams. No part of the Covered Funds shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects.

B. Prohibition on Use of Covered Funds - § 1604 of Pub. L. 111-5.

None of the Covered Funds provided under this Grant may be used by any state or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

C. Wage Rates - § 1606 of Pub. L. 111-5.

All laborers and mechanics employed by Grantee or Grantee's contractors and subcontractors on projects funded directly by or assisted in whole or in part by Covered Funds shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan numbered 14 of 1950 (64 Stat. 1267, 5 U.S.C. App.) and section 3145 of title 40 United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. §.3145, the Department of Labor has issued regulations at 29 C.F.R. parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations 29 C.F.R. 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

For additional guidance on the wage rate requirements of section 1606 of the Recovery Act contact Grantor. Grantor will direct initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

Grantee shall be required to maintain appropriate records to document compliance, and agrees that said records are subject to audit and may be included as part of reporting requirements.

D. Reporting Requirements for Grantees - § 1512 of Pub. L. 111-5.

Not later than 10 days after the end of each calendar quarter, Grantee shall submit a report to Grantor or to an address or website designated by Grantor. Specific reporting requirements applicable to Grantee are located and included within the Grant Award.

This information shall be reported to and published on the Internet at <https://www.appsvcs.opm.ct.gov/opmgrantsportal>.

Grantee must have a DUNS number and be registered in the Central Contractor Registration (CCR) prior to submitting its application.

Grantee acknowledges that it explicitly agrees and certifies herein that it shall comply with all reporting requirements prescribed by Grantor. Further to this certification, a failure to comply with the reporting requirements may, in addition to other administrative, civil or criminal penalties not listed herein, subject Grantee to the following:

- (1) After failure to report mandated data, as specified by the applicable federal grant award agency, Grantee may be (a) precluded from drawing down Covered Funds under ANY Grantor award, and/or (b) deemed ineligible for future grants or any other State awards, until such time as Grantee becomes current in its reporting obligations; and upon demand by Grantor, Grantee shall return to Grantor any unexpended award Covered Funds within 15 calendar days of the date of the demand notice.
- (2) Failure to comply with reporting requirements may result in termination of this Grant Award.

E. Access to Records - §§ 902 and 1515 of Pub. L. 111-5.

With respect to each grant or contract awarded utilizing at least some of the Covered Funds, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.) or of the Comptroller General is authorized to:

- (1) examine any records of Grantee, contractor or any of its subcontractors or subgrantees, administering such contract that pertain to, and involve transactions related to, the Grant, contract, subcontract, or subgrant; and
- (2) interview any officer or employee of Grantee, contractor, subgrantee or subcontractor regarding such transactions.

F. Publication - § 1852 of Pub. L. 111-5.

Section 1852 of the Recovery Act will require the publication of information regarding this Grant on the internet.

In light of the requirements under the Recovery Act, Grantee's application may contain technical data and other data, including trade secrets and/or exempted, privileged or confidential information, which the applicant does not want disclosed to the public or used by the federal government for any purpose other than the application. Information about this Grant will be published on the Internet. To protect such data, the applicant should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the application with the following Notice as well as referring to the Notice on each page to which the Notice applies:

**Notice of Restriction on Disclosure and Use of Data.** The data contained in pages \_\_\_ of this application have been submitted in confidence and contain trade secrets, proprietary information or information that is exempted because of its particular sensitive nature or the release of which would pose a safety risk, and such data shall be used or disclosed only for evaluation purposes, provided that if this applicant receives an award as a result of or in connection with the submission of this application, the originating federal grant agency shall have the right to use or disclose the data here to the extent provided in

the award. This restriction does not limit the federal government's right to use or disclose data obtained without restriction from any source, including the applicant.

G. Protecting State and Local Government and Contractor Whistleblowers - § 1553 of Pub. L. 111-5.

The requirements of Section 1553 of the Recovery Act are summarized below. They include, but are not limited to:

Prohibition on Reprisals: An employee of Grantee receiving Covered Funds, may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Federal Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a federal agency, or their representatives, information that the employee believes is evidence of:

- (1) gross mismanagement of an agency contract or grant relating to Covered Funds;
- (2) a gross waste of Covered Funds;
- (3) a substantial and specific danger to public health or safety related to the implementation or use of Covered Funds;
- (4) an abuse of authority related to the implementation or use of Covered Funds; or
- (5) a violation of law, rule, or regulation related to an agency contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to Covered Funds.

Non-enforceability of Certain Provisions Waiving Rights and Remedies or Requiring Arbitration: Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

Requirement to Post Notice of Rights and Remedies: Any Grantee receiving Covered Funds, shall post notice of the rights and remedies as required therein. (Refer to Section 1553 of the Recovery Act located at [www.recovery.gov](http://www.recovery.gov), for specific requirements of this section and prescribed language for the notices.)

H. False Claims Act and Fraud, Waste, Abuse and Similar Misconduct.

Grantee shall promptly refer to the Department of Energy (DOE), for all grants that are emanating from the DOE, or the Department of Justice (DOJ), for all grants that are emanating from the DOJ, or the Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor or

other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict or interest, bribery, gratuity or similar misconduct involving those Covered Funds.

The OIG address is:  
Office of the Inspector General  
U.S. Department of Justice  
Investigation Division  
950 Pennsylvania, N.W.  
Room 4706  
Washington, DC 20530

e-mail: [oig.hotline@usdoj.gov](mailto:oig.hotline@usdoj.gov)

hotline: (Contact information in English and Spanish): 800-869-4499

or hotline fax: 202-616-9881

Additional information is available from the DOJ OIG website at [www.usdoj.gov/oig](http://www.usdoj.gov/oig)

The DOE address is:  
U.S. Department of Energy  
1000 Independence Avenue, S.W.  
Washington, D.C. 20585

I. Information in Support of Recovery Act Reporting.

Grantee may be required to submit backup documentation for expenditures of Covered Funds including such items as timecards and invoices. Grantee shall provide copies of backup documentation at the request of Grantor or its designee.

J. Availability of Covered Funds.

Covered Funds obligated to this award are available for reimbursement of costs until the notice of grant award end date.

K. Buy American - § 1605 of Pub. L. 111-5.

(a) None of the Covered Funds provided under this Grant may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. Grantee shall incorporate this requirement in all subgrants or subcontracts.

(b) Subsection (a) shall not apply in any case or category of cases in which the head of the federal department or federal agency finds that:

- (1) applying subsection (a) would be inconsistent with the public interest;
- (2) iron, steel, and the relevant manufactured goods are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality; or
- (3) inclusion of iron, steel and manufactured goods produced in the United States will increase the cost of the overall project by more than 25 percent.

(c) If the head of a federal department or federal agency determines that it is necessary to waive the application of subsection (a) based on a finding under subsection (b), the head of the department or agency shall publish in the Federal Register a detailed written justification as to why the provision is being waived.

(d) This section shall be applied in a manner consistent with United States obligations under international agreements.

(e) Implementation of this provision should follow in any forthcoming requirements in the Federal Acquisition Regulation or as otherwise identified by the Federal Contracting Officer.

(f) Grantee shall be required to maintain appropriate records to document compliance, and agrees that said records are subject to audit and may be included as part of reporting requirements.

(g) Required Use of American Iron, Steel, and Manufactured Goods (Covered Under International Agreements) — Section 1605 of the Recovery Act

(1) Definitions. As used in this award term and condition —

*Designated country* —

(i) *A World Trade Organization Government Procurement Agreement country*: Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden Switzerland, and United Kingdom;

(ii) *A Free Trade Agreement (FTA) country*: Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore; or

(iii) *A United States-European Communities Exchange of Letters (May 15, 1995) country*: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom.

*Designated country iron, steel, and/or manufactured goods* —

(i) Is wholly the growth, product, or manufacture of a designated country; or

(ii) In the case of a manufactured good that consist in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different manufactured good distinct from the materials from which it was transformed.

*Domestic iron, steel, and/or manufactured good* —

(i) Is wholly the growth, product, or manufacture of the United States; or

(ii) In the case of a manufactured good that consists in whole or in part of materials from another country, has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed. There is no requirement with regard to the origin of components or subcomponents in manufactured goods or products, as long as the manufacture of the goods occurs in the United States.

*Foreign iron, steel, and/or manufactured good* means iron, steel and/or manufactured good that is not domestic or designated country iron, steel, and/or manufactured good.

*Manufactured good* means a good brought to the construction site for incorporation into the building or work that has been —

(i) Processed into a specific form and shape; or

(ii) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

*Public building and public work* means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

*Steel* means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(2) *Iron, steel, and manufactured goods.*

(i) The award term and condition described in this subsection implements —

(a) Section 1605(a) of the Recovery Act, by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States; and

(b) Section 1605(d) of the Recovery Act, which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of section 1605 of the Recovery Act do not apply to designated country iron, steel, and/or where the iron, steel or manufactured goods

used in the project are from a party to an international agreement that obligates the recipient to treat the goods and services of that party the same as domestic goods and services. This obligation shall only apply to projects with an estimated value of \$7,443,000 or more.

- (ii) The grantee shall use only domestic or designated country iron, steel, and manufactured goods in performing the work funded in whole or part with this award, except as provided in paragraphs (2)(iii) and (2)(iv) of this subsection.
  - (iii) The requirement in paragraph (2)(ii) of this subsection does not apply to the iron, steel, and manufactured goods listed by the Federal Government as follows: None
  - (iv) The award official may add other iron, steel, and manufactured goods to the list in paragraph (2)(iii) of this subsection if the Federal Government determines that —
    - (a) The cost of domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, and/or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase the overall cost of the project by more than 25 percent;
    - (b) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or
    - (c) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.
- (3) *Request for determination in an applicability of section 1605 of the Recovery Act or the Buy American Act.*
- (i)(a) Any grantee request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (2)(iv) of this subsection shall include adequate information for Federal Government evaluation of the request, including —
- (1) A description of the foreign and domestic iron, steel, and/or manufactured goods;
  - (2) Unit of measure;
  - (3) Quantity;
  - (4) Cost;

- (5) Time of delivery or availability;
  - (6) Location of the project;
  - (7) Name and address of the proposed supplier; and
  - (8) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (2)(iv) of this subsection.
- (b) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (4) of this subsection.
- (c) The cost of iron, steel, or manufactured goods shall include all delivery costs to the construction site and any applicable duty.
- (d) Any grantee request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the grantee does not submit a satisfactory explanation, the award official need not make a determination.
- (ii) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other appropriate actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds, as appropriate, by at least the differential established in 2 CFR 176.110(a).
- (iii) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods other than designated country iron, steel, and/or manufactured goods is noncompliant with the applicable Act.
- (4) Data. To permit evaluation of request under paragraph (2) of this subsection based on unreasonable cost, the applicant shall include the following information and any applicable supporting data based on the survey of suppliers:

Description	Unit of Measures	Quantity	Cost (dollars)
Item 1:			
Foreign steel, iron or manufactured good			
Domestic steel, iron, or manufactured good			
Item 2:			
Foreign steel, iron or manufactured good			
Domestic steel, iron or manufactured good			

L. Certifications - § 1511 of Pub. L. 111-5.

With respect to Covered Funds made available to local governments or agencies for infrastructure investments, the mayor, other chief executive, or agency head, as appropriate, certifies by acceptance of this award that the infrastructure investment has received the full review and vetting "required by law" and that the chief executive accepts responsibility that the infrastructure investment is an appropriate use of tax payer dollars. Grantee shall provide an additional certification that includes a description of the investment, the estimated total cost, and the amount of Covered Funds to be used for posting the investment on the Internet. A local government or agency may not receive infrastructure investment funding from Covered Funds unless this certification is made.

M. National Environmental Policy Act - § 1609 of Pub. L. 111-5.

Grantee understands if the federal government has determined that the National Environmental Policy Act (NEPA), the National Historic Preservation Act, and other related federal environmental impact analyses requirements apply in the use of these grant funds, Grantee specifically agrees to assist Grantor in complying with said requirements and understands and agrees that complying with NEPA may require the preparation of an Environmental Assessment and/or Environmental Impact statement as directed by the federal government.

N. Misuse of Award Covered Funds.

Grantee understands and agrees that misuse of award funds may result in a range of penalties, including, but not limited to, suspension of current and future funds, suspension or debarment from federal grants, recoupment of monies provided under an award, and civil and/or criminal penalties.

O. Decontamination and/or Decommissioning Costs.

Notwithstanding any other provisions of this Grant, the federal government and Grantor shall not be responsible for or have any obligation to Grantee for (i) Decontamination and/or Decommissioning (D&D) of any of Grantee's facilities, or (ii) any costs which may be incurred by Grantee in connection with the D&D of any of its facilities due to the performance of the work under this Grant, whether said work was performed prior to or subsequent to the effective date of this Grant.

P. One Time Funding.

Grantee understands and agrees that awards under the Recovery Act will be one time awards and accordingly that its proposed project activities and deliverables are to be accomplished without additional federal funding.