



DEPARTMENT OF THE ARMY
FORT WORTH DISTRICT, CORPS OF ENGINEERS
P.O. BOX 17300
FORT WORTH, TX 76102-0300

April 17, 2023

**REQUEST FOR STATEMENT OF INTEREST
W9126G-22-2-SOI-2180**

Applicants must be a member in one of the following Cooperative Ecosystem Studies Units Regions:

Desert Southwest, Great Plains, and Gulf Coast CESU Regions

Project Title: 2023 National Register Testing on 11 Archaeological Sites on Fort Hood, Texas

A cooperative agreement is being offered ONLY to members of the Cooperative Ecosystem Studies Units (CESU) Program Region(s) identified above. Award will be made upon mutual agreement and acceptance of the terms and conditions contained in the request for proposal and the of the recipient's CESU Master Agreement. Note the established CESU Program indirect rate is 17.5%.

Responses to this Request for Statements of Interest will be used to identify potential organizations for this project. Approximately **\$209,000** is expected to be available to support this project for the **base period**.

Period of Performance. The base period of the agreement will extend 12 months from date of award. There will not be any follow-on periods.

Description of Anticipated Work: See attached Statement of Objectives

NOTE: At this time we are only requesting that you demonstrate available qualifications and capability for performing similar or same type of work by submitting a Statement of Interest. A full proposal and budget are NOT requested at this time.

Preparation of your Statement of Interest: Provide the following (Maximum length: 2 pages, single-spaced, 12 pt. font):

1. Name, Organization, Cage Code, Unique Entity ID, and Contact Information (Email)
2. Brief Statement of Qualifications (including):
 - a. Biographical sketch of the Principal Investigator, to include specific experience and capabilities in areas related to this project's requirements
 - b. Relevant past projects and clients with brief descriptions of these projects
 - c. Staff, faculty or students available to work on this project and their areas of expertise
 - d. Brief description of other capabilities to successfully complete the project: (e.g.

equipment, laboratory facilities, greenhouse facilities, field facilities, etc.)

Submission of Your Statement of Interest

1. Statements of Interest are due by 5:00 P.M., Central Time, on **24 May 2023**.
2. Submit your Statement of Interest via e-mail attachments or direct questions to:

(Specialist name)
Grants Specialist
USACE, Fort Worth District
Email: audria.j.gill@usace.army.mil
Office: 817-886-1925

Chanley Jenkins
Project Manager
USACE, Fort Worth District
Email: chanley.r.jenkins@usace.army.mil
Mobile: 918-798-9628

Review of Statements Received: All statements of interest received from a member of the CESU Region(s) identified above will be evaluated by a board comprised of one or more people at the receiving installation or activity, who will determine which statement(s) best meet the program objectives: offer the most highly qualified Principal Investigator, have the most relevant experience and the highest capability to successfully meet the program objectives. Submitters whose statements are determined to best meet the program objectives will be invited to submit a full proposal.

Timeline for Review of Statements of Interest: RSOL's are required to be posted on www.Grants.gov for 30 days prior to the Government making a decision and requesting full proposals.

Thank you for your interest in our Cooperative Agreements Program.

ALICE AUSTIN
Contracting Officer

Attachment: Statement of Objectives

STATEMENT OF OBJECTIVES
for
2023 National Register Testing on 11 Archaeological Sites on Fort Hood, Texas
25 January 2023

1.0 PURPOSE

1.1 The Fort Hood environmental program ensures military mission activities are conducted in compliance with all applicable environmental laws, regulations and policies. Article I B of the master agreement states the objectives of the CESU are to: provide research, technical assistance and education to federal land management, environmental and research agencies and their potential partners; develop a program of research, technical assistance and education that involves the biological, physical, social sciences needed to address resource issues and interdisciplinary problem-solving at multiple scales and in an ecosystem context at the local, regional, and national level; and place special emphasis on the working collaboration among federal agencies and universities and their related partner institutions.

1.2 This work requires an onsite support person located at Fort Hood, location The Cooperator shall provide all personnel, equipment, supplies, facilities, transportation, tools, materials, supervision, and other items and non-personal services necessary to perform Cultural Resources tasks as defined in this Statement of Objectives except for those items specified as government furnished property and services. The Cooperator Personnel shall meet qualifications as set forth in 36 CFR 61, the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation.

2.0 AUTHORITY

2.1 This cooperative agreement will be awarded using the authority under 10 U.S.C. § 2684 for Cultural Resources.

In agreement with the above stated goals, the recipient agrees to provide the necessary personnel, equipment, and materials required to implement, activities to support the installation's commitment toward environmental stewardship to manage natural and cultural resources in a responsible way that has the least impact on military missions and is beneficial to the region. In addition, the activities performed by the recipient must be completed in a manner conducive to guidelines outlined in the Endangered Species Act (16 USC 1531 et seq.), the National Historic Preservation Act (54 U.S.C. 300101 et seq.), the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.), the Archaeological Resources Protection Act (16 U.S.C. 470 et seq.), the National Environmental Policy Act (42 U.S.C. 4321 et seq.), applicable implementing regulations, Army Regulations 200-1, and any other applicable regulatory guidelines.

2.2 In accordance with section 6305 – *Using cooperative agreements of the Federal*

Grant and Cooperative Agreements Act of 1977 (31 U.S.C. § 6301 et seq.), all CESU projects must carry out a public purpose of support or stimulation, instead of acquiring goods or services for the exclusive direct benefit of the United States Government. Examples of carrying out a public purpose may include, but are not limited to, the following:

- Project results are made available to a wide audience (including nonfederal entities)
- Project results/outputs add to the scientific literature/knowledge base, with applicability and utility beyond the scope of the project footprint/study area
- Academic and other nonfederal partner institutions (and their personnel) gain professional experience, increase knowledge, and develop skills and abilities
- Students benefit from direct interaction with federal scientists, program and technical staff, and field unit managers

2.3 In accordance with section 6305 – *Using cooperative agreements* of the *Federal Grant and Cooperative Agreements Act of 1977* (31 U.S.C. § 6301 et seq.), substantial involvement is expected between the Department of Defense and the recipient when carrying out the activity contemplated by the cooperative agreement. The DoD agrees to participate at a national level in support of the CESU program as accepted in the Master MOU for the establishment and continuation of the CESU program Article II 1-4 and Article VI 1-7.

The installation further (hence DoD) agrees to provide substantial involvement as directed under the appropriate master agreement to include, but are not limited to, the following:

- INSTALLATION is involved in development of study methodology, data gathering, analysis, and/or report writing
- INSTALLATION actively participates and collaborates in carrying out the project plan of work, reviews and approves activities, helps train or select project staff or trainees
- INSTALLATION incurs in-kind or direct expenditures in carrying out the activities specified in the project agreement. Examples include, but are not limited to, the following: (Choose what applies must have at least 2 and you can add others that apply)
 - . Providing computing services
 - . Providing staff time to work on the project

3.0 DESCRIPTION OF OBJECTIVES

3.1 Archeological Testing of 11 Sites National Register of Historic Places (NRHP) eligibility testing on 11 archaeological sites located within Fort Hood training lands (Table 1 Below). These sites are currently managed as being unknown or potentially eligible for the NRHP with none having been formally tested. Task 1 is to conduct testing on all 11 sites identified below to determine: 1) is the site

NRHP eligible or 2) is the site not eligible. Some of the sites have been impacted by erosion and/or illegal looting activities in the past. On these sites, additional shovel tests and backhoe trenching may be required in order to ascertain if the site contains intact deposits. In addition, for historic aged sites a thorough review of archival records is necessary in order to determine the sites NRHP eligibility.

Table 1. Eleven Sites Requiring NRHP Testing.

Site	Age	Site Type	Location	Historic Archival Review	Cubic Meters	Backhoe Able to Access	Backhoe Trenches
41BL0147	Prehistoric	Burned Rock Scatter	Noland Creek	N/A	4	Y	4
41BL0779	Historic	Homestead	Noland Creek	Y	1	N/A	0
41BL0818	Historic	Homestead	Noland Creek	Y	1	N/A	0
41BL0935	Prehistoric	Burned Rock Midden	Owl Creek	N/A	5	N	0
41CV1510	Prehistoric	Lithic Scatter	Leon River	N/A	5	Y	6
41CV1507B	Prehistoric	Mounds	Leon River	N/A	2	Y	0
41CV1511	Prehistoric	Open Camp	Leon River	N/A	4	Y	4
41CV1512	Prehistoric	Burned Rock Scatter	Leon River	N/A	3	Y	3
41CV1515	Prehistoric	Open Camp	Leon River	N/A	4	Y	4
41CV1516	Prehistoric	Open Camp	Leon River	N/A	4	Y	4
41CV1517	Prehistoric	Open Camp	Leon River	N/A	4	Y	4
Total					37		29

3.2 Task 1 - Work Plan - Fort Hood Archeological Research Report # 13 is to be used as a guide for defining archeological sites and the criteria outlined in Report # 30 – *Significance Standards for Prehistoric Cultural Resources: A Case Study from Fort Hood, Texas* (Technical Report CRC94/04 from the U.S. Army Corps of Engineers Construction Engineering Research Laboratory) will be used for guidance to assess NRHP eligibility. Procedures established by Trierweiler et al. 1994 in Research Report 31 *Archaeological Investigations on 571 Prehistoric Sites at Fort Hood* is to be used to establish smaller management units or Subareas of NRHP eligibility when appropriate. Test unit and/or backhoe trench density requirements will be negotiated with the Fort Hood Cultural Resource Manager prior to fieldwork. The aerial photograph series for the areas (1938-present) will be examined to identify landscape changes and assist in the plan development. Permanent site datums will be set at each identified site, on which accurate sub meter GPS readings will be taken as a reference point to map site boundaries and any internal natural or cultural features of relevance. In addition, the locations of all excavation unit datums, shovel tests, and backhoe trench locations will be shot in using sub meter GPS data. Work plan shall include time for pre-field studies, archival research, and excavations of backhoe trenches prior to excavation in order to find intact areas for testing and recordation of the sites geologic setting. All newly identified and previously recorded sites that are revisited will be recorded on a Texas Archeological Research Laboratory (TARL) site form and will be submitted as such to TARL for a permanent site number or revisit documentation.

Evaluations of the significance of any cultural resources in regard to being recommended eligible or not eligible to the NRHP will be conducted to the maximum extent possible. If

smaller management units or subareas of NRHP eligibility are recommended, they should follow procedures established by Trierweiler et al. 1994. Fieldwork during testing shall be geared in such a way to generate as much data as possible to determine whether recorded sites are either 1) eligible, or 2) not eligible to the NRHP. Findings of potentially eligible should be avoided.

A work plan and schedule will be developed by the Cooperator and submitted to the Fort Hood Technical Representative prior to fieldwork (**Deliverable 1**). Fort Hood as examples of previous successful work plans if needed. The performing organization shall complete fieldwork within 6 months after the task order has been awarded. Final product will be completion of a final report containing methods and results of the investigations and recommendations for all of the sites identified during the survey.

SHPO Review of Draft Work Plan - One digital copy of the draft work plan will be submitted to the Fort Hood Technical Representative. When the draft work plan has been reviewed by the Fort Hood Technical Representative and found acceptable, with or without revisions, it will be forwarded to the SHPO by the Government. Any changes to the work plan or wording changes suggested by the SHPO will be negotiated by the Government. Should all changes suggested by the Government be acceptable to the Cooperator's field work may proceed on that basis.

3.3 Task 2 Field Work - Fieldwork will consist of the excavation of a maximum 38 cubic meters and 21 backhoe trenches on 11 sites listed in Table 1 above. If NRHP eligibility can be determined using less cubic meters as allotted in Table 1, then the remaining amount should be applied to another site or a possible alternative site not listed in Table 1 after consultation with Fort Hood POC. The spatial location of all datums, units, shovel tests, backhoe trenches, features encountered will be plotted on recent aerial imagery and recorded via a sub meter GPS data collector and location sent to Fort Hood CRM. The placement of test units and trenches at each site will be left to the discretion of the Field Supervisor in consultation with the Principal Investigator and the Fort Hood CRM. On sites with heavy disturbance, the use of a backhoe trench is advised to remove overburden and/or find suitable intact areas for testing. Backhoe trenches, creek cutbanks, and/or unit profiles can be used to assist geomorphologic interpretations. The project will support a maximum testing amount of 38 cubic meters (hand excavated 1-x-1 units). Backhoe and operator will not be provided by the Government and Project Personnel should include this in cost estimates. Project Personnel should not consider trench excavation as substitute for hand excavated test units. All cultural materials (excluding FCR) recovered will be documented on appropriate field data forms and collected for further analysis and curation by the Project Personnel.

3.3.1 GPS Data and Individual Site Forms - The spatial GPS data will be recorded in accordance with the coordinate system used at Fort Hood (WGS84). Spatial data will be submitted with completed TARL forms for each recorded site.

3.3.2 Archeology and Cultural Resources Data Analysis - The Project Personnel will conduct an analysis of archeological data and interpret the history of the

discovered cultural materials and identified archeology sites. Site characteristics that shall be addressed to the extent data allow include (but are not limited to): site age and number of temporal components; features and artifacts; overall site function as defined by artifact and feature assemblages; and any areas of the site having potential for buried cultural deposits.

3.3.3 Artifacts and Records - All artifacts recovered and records generated will be curated by site number (TARL#) in a manner similar to past archeological projects that are described in the Fort Hood Archeological Resource Management Series Reports (e.g., #50) with the exception of those artifacts and samples submitted by the Project Personnel for laboratory analysis. Curation databases and Catalogue/Accession numbers must be coordinated with the Technical POC at Fort Hood. Copies of the laboratory notes and other supporting documents for any analysis shall be furnished to the Government.

3.4 Task 3 Draft and Final Research Report - Results of the archeological investigations will be written and compiled into a research report in the Fort Hood Archeological Resource Management Series. Draft (**Deliverable 2**) and final (**Deliverable 3**) research reports will contain, but shall not necessarily be limited to, separate sections or chapters discussing historic context, field survey methods, research results, recovered artifact interpretations, summary, and NRHP eligibility recommendations. An executive summary addressing management-oriented issue in direct language avoiding jargon and a one-page abstract directed at professional archeologists are also required. Descriptive data may be included as a separately bound appendix (data compendium) or as a CD insert. However, nothing in this paragraph should be interpreted as requiring a data compendium as a specific deliverable. No specific site location data will be included in the main body of the report.

3.4.1 SHPO Review of Draft Research Report - One digital copy of the draft report will be submitted to the Fort Hood Technical Representative. When the draft report has been reviewed by the Fort Hood Technical Representative and found acceptable, with or without revisions, it will be forwarded to the SHPO by the Government. Any changes to the report findings or wording changes suggested by the SHPO will be negotiated by the Government. Should all changes suggested by the Government be acceptable to the Project Personnel, preparation of the final report may proceed on that basis. Disagreements about the content, conclusions, or wording of the final report will be discussed at a pre-publication conference between the Fort Hood Technical Representative and the Project Personnel. The final content of the report is the professional responsibility of the Project Personnel's Principal Investigator; however, the Government reserves the right to have published under the same cover a foreword or appendix written by the Fort Hood Technical Representative and addressing any issues which cannot be resolved at the pre-publication conference.

3.4.2 Final Research Report Reproduction - The Project Personnel shall prepare one tagged digital copy and 10 bound reproductions of the final research report (**Deliverable 4**) after it has been accepted by the Government. In order to protect

confidential site locations, a redacted public version of the final report on a tagged digital copy may be required. The format of these reports shall be consistent with other reports in the Archeological Resource Management Series that have been previously printed. The color and format of the cover, title page, and internal format style will remain consistent with that of Research Reports # 45, #47, #48, and #50. The first page of each printed report shall reproduce a completed Standard Form 298, (Report Documentation Page). A copy of that form and instructions for its completion will be furnished to the Project Personnel by the Fort Hood Technical Representative.

4.0 QUALIFICATIONS

4.1 All activities performed under this SOO will be conducted under the direct supervision of personnel who meet the applicable professional qualifications as set forth in 36 CFR 61, the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. All activities performed under this SOO are to be conducted under the direct supervision of personnel demonstrating previous experience evaluating archaeological sites for NRHP eligibility.

5.0 CLEARANCES/SCHEDULE OF WORK, TRAINING & SECURITY REQUIREMENTS

5.1 A security clearance is not required for project personnel. The personnel shall comply with all Installation security requirements. At least 5 days before beginning performance, the project personnel shall submit to the Fort Hood Technical Point of Contact (Fort Hood POC) a listing of all personnel who will be on Fort Hood during the course of this SOO. Fort Hood will provide right of entry access to archival materials and Killeen Base.

The developed work plan described in Task 1 above will indicate when field work can begin. Delays may be encountered due to the training schedule and will need to be coordinated with the Fort Hood POC.

5.2 Physical Security: The Project Personnel shall be responsible for safeguarding all Government equipment, information and property provided for Project Personnel use. At the close of each work period, government materials shall be secured. Open test units and trenches at the end of the workday need to be visibly marked and secured in order to lower the chance of vehicles, pedestrians, wildlife, and/or cattle from falling in.

5.3 AT Level I Training: All Project Personnel, including personnel from any sub agency working with the technical team, requiring access to Army installations, facilities, controlled access areas, or require network access, shall complete AT Level I awareness training within 30 calendar days after project start date or effective date of incorporation of this requirement into the project, whichever is applicable. Upon request, the Project Personnel shall submit certificates of completion for each affected Project employee including any sub-agency employee, to the COR or to the projecting officer (if a COR is not assigned), within 5 calendar days after completion of training by all employees and sub agency personnel. AT Level I awareness training is available at the following

website: <http://jko.jten.mil/courses/at11/launch.html>; or it can be provided by the RA ATO in presentation form which will be documented via memorandum.

5.4 Access and General Protection/Security Policy and Procedures. All Project Personnel and all associated sub agency employees shall comply with applicable installation, facility and area commander installation/facility access and local security policies and procedures (provided by government representative). The Project Personnel shall also provide all information required for background checks to meet installation/facility access requirements to be accomplished by installation Provost Marshal Office, Director of Emergency Services or Security Office. Project Personnel workforce must comply with all personal identity verification requirements (FAR clause 52.204-9, Personal Identity Verification of Project Personnel Personnel) as directed by DOD, HQDA and/or local policy. In addition to the changes otherwise authorized by the changes clause of this project, should the Force Protection Condition (FPCON) at any installation or facility change, the Government may require changes in Project Personnel security matters or processes.

5.5 Access Not Requiring a Common Access Card. Project Personnel and all associated sub agency employees shall comply with adjudication standards and procedures using the National Crime Information Center Interstate Identification Index (NCIC-III) and Terrorist Screening Database (TSDB) (Army Directive 2014-05 / AR 190-13), applicable installation, facility and area commander installation/facility access and local security policies and procedures (provided by government representative, as NCIC and TSDB are available), or, at OCONUS locations, in accordance with status of forces agreements and other theater regulations.

Identification of Project Personnel Employees in the Federal Workplace (Aug 2008):

- (a) Project Personnel are not required to wear identification (ID) badges on Fort Hood.
- (b) Project Personnel shall clearly identify themselves to all attendees as a Project Personnel employee before the commencement of meetings with Government or other Project Personnel. Project Personnel shall clearly and immediately identify themselves as a Project employee when placing, answering or participating in telephone/VTC conversations with Government or other Project Personnel.
- (c) When Project Personnel send e-mail messages from or to a Governmentowned computer, they shall include a signature block that includes their employer's name and the employee's full name and e-mail address.
- (d) Each of the requirements set forth in paragraphs a-c above, must be included in all subprojects at any tier."

5.6 Suspicious Activity Reporting Training. The Project Personnel and all associated sub agency Personnel shall receive a brief/training (provided by the RA) on the local

suspicious activity reporting program. This locally developed training will be used to inform employees of the types of behavior to watch for and instruct employees to report suspicious activity to the project manager, security representative or law enforcement entity. This training shall be completed within 30 calendar days of project award and within 30 calendar days of new employees commencing performance with the results reported to the COR NLT 5 calendar days after the completion of the training.

5.7 OPSEC Training. All new Project Personnel employees will complete Level I OPSEC Training within 30 calendar days of their reporting for duty. Additionally, all Project Personnel employees must complete annual OPSEC awareness training. The Project Personnel shall submit certificates of completion for each affected Project Personnel and sub-Project agency Personnel employee, to the COR or to the projecting officer (if a COR is not assigned), within 5 calendar days after completion of training. OPSEC awareness training is available at the following websites: <https://www.iad.gov/ioss/> or <http://www.cdse.edu/catalog/operations-security.html>; or it can be provided by the RA OPSEC Officer in presentation form which will be documented via memorandum.

5.8 E Verify Program. The Project Personnel must pre-screen Candidates using the E-verify Program (<http://www.uscis.gov/e-verify>) website to meet the established employment eligibility requirements. The Vendor must ensure that the Candidate has two valid forms of Government issued identification prior to enrollment to ensure the correct information is entered into the E-verify system. An initial list of verified/eligible Candidates must be provided to the COR no later than 3 business days after the initial project award." *When projects are with individuals, the individuals will be required to complete a Form I-9, Employment Eligibility Verification, with the designated Government representative. This Form will be provided to the Projecting Officer and shall become part of the official project file.

6.0 GOVERNMENT FURNISHED MATERIALS OR PROPERTY

6.1 Material including GIS data, Report # 13 - Fort Hood Archeological Research, and Report #30 – Significance Standards for Prehistoric Cultural Resources, and other Fort Hood Research Reports are available upon request.

Government furnished materials or property is governed by 2 C.F.R. Part 200.312 which states that a) Title to federally owned property remains vested in the Federal government. The non-Federal entity must submit annually an inventory listing of federally owned property in its custody to the Federal awarding agency. Upon completion of the Federal award or when the property is no longer needed, the non-Federal entity must return the property to the Federal awarding agency for further Federal agency utilization.

7.0 COOPERATOR FURNISHED ITEMS – Cooperator shall provide all other personnel,

supplies, and necessary equipment to conduct the required tasks and prepare the deliverables associated with this effort. In addition, Cooperator is responsible for securing the operation of a backhoe and operator along with orange mesh safety fencing and posts

8.0 PERIOD OF PERFORMANCE: Period of performance will be 12 months from the date of award.

9.0 COORDINATION

- USACE Fort Worth District POC
Chanley Jenkins
918-798-9628
Chanley.r.jenkins@usace.army.mil

- Richard Jones, Fort Hood Cultural Resource Manager
254 288-0427
richard.s.jones.civ@mail.mil

Sunny Wood, Fort Hood Staff Archaeologist (Fieldwork and curation POC)
254 287-2633 (o)
254 535-0850 (c)
Sunny.a.wood.civ@army.mil

10.0 DELIVERABLES

10.1 Work Plan described in section 3.2 above

10.2 Status Reports - The cooperator shall provide the Fort Hood POC with either verbal or written status reports by the last day of each month stating the project personnel's activities during the month and description of activities scheduled for the upcoming month. Electronic mail communication is preferred.

10.3 Progress Reports for Invoicing - The cooperator shall provide quarterly progress reports each quarter with accompanying invoice. The cooperator may combine the 3 monthly status reports from above for each quarter to provide the required quarterly progress report to the USACE. A quarterly report must be submitted each quarter even if the cooperator doesn't plan to submit an invoice for that quarterly period. These reports and invoices are to be submitted via email to the USACE CESU post award email box (ceswf-cesu-invoice@usace.army.mil).

10.3 Annual Inventory – Required under 2CFR for Grants and Cooperative Agreements - Acquired Property purchased with funding from award - property records must be maintained that includes description of the property, serial number or other identification number, source of funding, who holds title, acquisition date, cost of property, percentage of Federal participation in project costs, location, use and condition of property, and ultimate disposition including date of disposal and sale price. A physical inventory must be taken, and results reconciled every two years. Copies of the inventory to be sent annually to USACE – SWF and the INSTALLATION.

10.4 Work Plan & Schedule – Section 3.4 Task 1 Deliverable 1

10.5 Draft Research Report. One electronic copy of a draft final report should be submitted no later than 160 days after completion of field work to Fort Hood technical representative and the USACE POC. See section 3.4 above Task 3 Deliverable 2.

10.6 Final Research Report. No later than 220 days after completion of field work. 10 Perfect Bound copies and one electronic copy. One electronic copy of the redacted general public version is also preferred. Send only one electronic copy of the final document to the USACE representative. See section 3.4 & 3.4.2 above Task 3 Deliverables 3 & 4.

10.7 Artifacts and project Records. 3 copies of the Artifacts and Project Records need to be sent to the Fort Hood technical representative.

11.0 This cooperative agreement may be administered through a CESU only upon mutual agreement and official authorization by both parties of the acceptance of the application of the CESU Network IDC rate (17.5%).

Any resulting cooperative agreement will be subject to and recipient/cooperator shall comply with 2 CFR 200.313 “Equipment”, 200.314 “Supplies”, and 200.315 “Intangible Property” which includes use of research data.

[End of SOO]

Terms and Conditions
for COOPERATIVE AGREEMENT
9 Mar 22

AUTHORITY

In accordance with 10 U.S.C. § 2358, 10 U.S.C. § 2694, 10 U.S.C. § 2684, and Pub. L. 103-139 (FY 94 NDAA, page 107 Stat. 1422) DoD is authorized to enter into cooperative agreements with States, nonprofit organizations, and academic institutions to maintain & improve natural resources on, or to benefit natural and historic research on Department of Defense installations, support research, technical assistance, and educational services consistent with the mission of the DoD.

ADMINISTRATIVE INFORMATION AND ORDER OF PRECEDENCE

This agreement is entered into between the U.S. Army Corps of Engineers, Southwest District, hereinafter referred to as GOVERNMENT, and the organization identified on the Cover Page, block 10a, hereinafter referred to as RECIPIENT. The parties to this agreement act in their independent capacities in their performance of their respective functions under this agreement and neither party is to be considered the officer, agent, or employee of the other.

This agreement will be administered in accordance with, and recipients shall comply with, the applicable requirements of the Office of Management and Budget Grant and Agreement Regulations, Title 2 Code of Federal Regulations (CFR.) Subtitle A, including Title 2 CFR part 200 and the Department of Defense Grants and Agreements Regulations (DoDGAR) 32 CFR Subtitle A, Chapter 1, Subchapter C.

In the event of a conflict between the terms of this agreement and other governing documents, the conflict shall be resolved by giving precedence in descending order as follows:

1. 2 CFR part 200;
2. 32 CFR Subtitle A, Chapter I, Subchapter C (DoDGAR);
3. The articles contained in this agreement;
4. The attachments to this agreement, if any.

MODIFICATIONS TO THIS AGREEMENT:

Modifications to this agreement may be proposed by either party. But neither party shall implement a change until the change has been negotiated and approved by the Government's Grants Officer. The recipient shall submit requests to change the agreement to the Program Manager with a copy to the Grants Officer at least 30 calendar days before the desired effective date. Only the Grants Officer has the authority to act on behalf of the Government to modify this agreement.

Bilateral Modifications: Bilateral modifications may be issued by the Grants Officer for any changes to the Scope of Work, any decrease in funds or increase in funds due to a change in the Scope of Work, and any termination or cancellation of the agreement. Bilateral modifications require the signatures of an authorized representative of the Recipient and the Grants Officer.

Unilateral Modifications: The Government may implement administrative changes to this agreement as a unilateral modification. For the purposes of this agreement, administrative changes include a change in paying office, change in appropriation data, change in phone number of POC, changes in the Grants Officer, points of contact specified for the Federal Government or recipient, changes in address or phone numbers or email addresses, corrections of obvious typographical or calculation errors, or changes that are mutually agreed to by the recipient and the Grants Officer and supported by other documentation. The Grants Officer may also make unilateral changes to exercise pre-negotiated options which do not change the cost or scope of work previously accepted. Unilateral modifications require the signature of the Grants Officer only.

PROCUREMENT: The Recipient's systems for acquiring goods and services under this agreement shall comply with 2 C.F.R. §§ 200.317 to 200.326.

SUBAWARDS: The Recipient shall apply to each subaward the administrative requirements of the DoDGAR applicable to the particular type of sub-recipient. 2 C.F.R. Part 200 shall be applied to awards to universities, hospitals, and other non-profit organizations included in the definition of “recipient” in part 32 of the DoDGAR, as well as States, local governments, and Indian tribal governments. Unless specifically excluded, provisions below shall apply to sub-recipients performing work under awards.

UNSATISFACTORY PERFORMANCE/NON-COMPLIANCE WITH AWARD PROVISIONS

Failure to perform the scope of work in accordance with the terms of this award or failure to comply with any or all of the provisions of this award may result in designation of the Recipient as high risk and assignment of special award conditions or other actions for this award such as withholding payment, requiring performance or financial audits, suspension of this award, termination, or any other action provided by law.

TERMINATION: The Grants Officer may terminate this agreement by written notice to the Recipient upon a finding that the Recipient has failed to comply with the material provisions of this agreement. See 2 CFR 200.339. In addition to the remedies identified in 200.339, the Government may use any of the remedies identified in § 200.338 when determined appropriate.

Should the recipient be unable to complete the project, all unexpended monies in addition to any expended amounts determined unallowable in accordance with 2 CFR Part 220 and shall be returned to the U.S. Army Corps of Engineers (USACE).

The USACE SWF District will follow the procedures set forth in 2 CFR 200.341 for providing the opportunity to challenge a suspension or termination action.

The USACE SWF District will follow the procedures set forth in 2 CFR 200.342 for determining the allowability of costs associated with the suspension or termination of an agreement.

CLOSEOUT PROCEDURES: Closeout, subsequent adjustments, continuing responsibilities, and collection of amounts due are subject to the requirements at 2 C.F.R. §§ 200.343, 200.344 and 200.345.

Closeout, adjustment and collection of amounts due shall be accomplished in accordance with 2 CFR 200.343-345 and Subpart F. The Grants Officer may make a settlement for any downward adjustments to the Federal share of costs after closeout reports are received.

Essential documents for closeout include the following:

1. Final SF 270
2. Final SF 425
3. SF 428 with attachment B (C and S when applicable)
4. DD Form 882
5. Final report (See 2 CFR 200.328)
6. Cover Form SF 298

Forms and their instructions can be downloaded at **www.grants.gov**.

Any additional documents and procedures required by OMB, DOD and the terms and conditions for this agreement will be provided to the cooperator.

The final invoice will only be paid after completion and acceptance of the final reporting package.

Collection of Amounts Due: The USACE SWF District will follow the procedures set forth in 2 CFR 200.345 for the collection of any debt owed to the Federal Government.

OPTIONS: If the agreement contains option(s), the Government reserves the right to exercise pre-negotiated and accepted option(s) unilaterally.

STANDARDS FOR FINANCIAL AND PROGRAM MANAGEMENT

Payments: SEE-2 CFR 200.305

Notice Of Electronic Funds Transfer (EFT): Pursuant to 32 C.F.R. § 22.810, it is a Governmentwide requirement to use EFT in the payment of any grant or cooperative agreement for which an application or proposal was submitted or renewed on or after 26 July 1996, unless the recipient has obtained a waiver by submitting to the head of the pertinent Federal agency a certification that it has neither an account with a financial institution nor an authorized payment agent. To be paid, recipient must submit a Payment Information Form (Standard Form SF-3881) to the responsible DoD payment office.

The Government will reimburse the Recipient up to the negotiated amount for performance in Conformance with the terms of this cost-reimbursable agreement. The Government is not liable for any expenditure in excess of this amount unless agreed to by modification of this agreement. All obligations are subject to the availability of appropriations from Congress.

Payments will be made on a reimbursable basis for allowable, allocable and reasonable actual costs incurred. The recipient shall submit a "Request for Advance or Reimbursement" (SF270) with other required documentation to SWF-CESU-INVOICE@usace.army.mil at minimum on a quarterly basis (within 30 calendar days of the January 1, April 1, July 1, and September 30 reporting periods) and no more frequently than monthly. Invoices shall contain an itemized breakdown of costs either from the financial system or other backup documentation to support the actual costs incurred. Payment will be made by EFT. Ensure an email address is provided in the "Printed Name and Title" block to provide a method of prompt communication should the need arise.

Cost Sharing: If cost sharing has been determined to apply to this Agreement, the Recipient's contributions may count as cost sharing only to the extent that they comply with the criteria at 2 C.F.R. § 200.306

Program Income: SEE-2 CFR 200.307

Recipients are required to account for program income related to projects financed in whole or in part with Federal funds. Program income earned during the project period will be retained by the recipient and shall be added to the funds committed by the sponsoring DoD component and used to further eligible program objectives.

Revision of budget/program plans: Recipient shall request prior approval for plan/budget changes in accordance with 2 C.F.R. § 200.308.

Pre-award Costs: 2 CFR 200.308 (d) (1) and 200.458

The Recipient may incur costs 90 calendar days before the Federal awarding agency makes the Federal award. Expenses more than 90 calendar days pre-award require prior approval of the Federal awarding agency. All costs incurred before the Federal awarding agency makes the Federal award are at the recipient's risk (i.e. the Federal awarding agency is under no obligation to reimburse such costs if for any reason the recipient does not receive a Federal award or if the Federal award is less than anticipated and inadequate to cover such costs). See also § 200.458 Pre-award costs.

No Cost Extension: 2 CFR 200.308 (d) (2)

The recipient may initiate a one-time extension of the period of performance by up to 12 months unless one or more of the conditions outlined in paragraphs (d)(2)(i) through (iii) apply. For one-time extensions, the recipient must notify the Federal awarding agency in writing with the supporting reasons and revised period of performance at least 10 calendar days before the end of the period of performance specified in the Federal award. This one-time extension may not be exercised merely for the purpose of using unobligated balances.

Period of Performance Costs: SEE-2 CFR 200.309

A recipient may charge to the Federal award only allowable costs incurred during the period of performance (except as described in § 200.461 Publication and printing costs) and any costs incurred before the Federal awarding agency

or pass-through entity made the Federal award that were authorized by the Federal awarding agency of pass-through entity.

Cost Principles: SEE-2 CFR 200 Subpart E

Allowability of costs shall be determined in accordance with the cost principles applicable to the entity incurring the costs. For institutions of higher education that may be recipients, sub-recipients, or contractors the allowability is determined in accordance with the provisions 2 CFR 200 Subpart E – “Cost Principles.”

Financial Management Systems: The Recipient shall establish or use existing financial systems that comply with Generally Accepted Accounting Principles and with 2 C.F.R. §§ 200.302 and 200.303.

Audits: SEE-2 CFR 200 Subpart F

Recipients and sub-recipients that are institutions of higher education or other non-profit organizations (including hospitals) shall be subject to the audit requirements contained in the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and 2 CFR 200 Subpart F “Audit Requirements.” A copy of the latest audit, if applicable, shall be provided with any proposal. In addition, during performance of any Agreement with the Government, the Recipient shall provide a copy any new auditor’s report to the Government’s Agreement Administrator upon receipt.

Retention and Access to Records: Recipient’s financial records, supporting documents, statistical records and all other records pertinent to this agreement shall be retained and access to these records by the Government shall be permitted in accordance with 2 CFR §200.333 through § 200.337. Copies in electronic format may be substituted for original records.

Financial Reporting: SEE-2 CFR 200. 327

The recipient shall report the status of funds for all projects or programs using SF 270 no later than 30 calendar days after the end of the specified reporting period (quarterly unless specified otherwise in the Statement of Objectives).

A final SF 425 shall be submitted within 90 days after the expiration date of the award.

Financial reports shall be submitted to the Government’s Agreement Administrator at the following email address: SWF-CESU-INVOICE@usace.army.mil

Monitoring and Reporting Program Performance

Recipients shall monitor the program and submit performance reports in accordance with 2 CFR 200.328. Reports may be submitted in electronic form.

The required performance reports identified in the Cooperative Agreement statement of work or statement of objectives prescribes the frequency with which performance reports shall be submitted. Form SF-PPR will be used for reporting and will be submitted electronically to SWF-CESU-INVOICE@usace.army.mil. Unless stated otherwise, performance in the award reports will be due quarterly. The type of information to be contained in the performance report is identified in 2 CFR 200.328. In addition, the report must include the percentage of work completed, and the expected completion of future work. Each comment should be associated with a line item on the agreement.

Any required technical annual reports will be stated within the Statement of Objectives.

FINAL PERFORMANCE REPORTS are due 90 calendar days after the expiration date or termination of the award. Final report needs to have OMB form SF 298.

Property Management:

Equipment: Equipment purchased under the cooperative agreement shall vest with the recipient, and its use, management, and disposition shall be in accordance with 2 C.F.R. § 200.313.

Title to equipment acquired under a Federal award will vest upon acquisition in the non-Federal entity, unless a statute specifically authorized the Federal agency to vest title in the non-Federal entity without further obligation to the Federal Government, and the Federal agency elects to do so, the title must be a conditional title per 2 CFR 200.313(a).

When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or other activities currently or previously supported by a Federal awarding agency, except as otherwise provided in Federal statutes, regulations or Federal awarding agency disposition instructions, the non-Federal entity must request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award. [For this agreement, the Federal awarding agency requests that any equipment items vital to support military readiness missions be retained by the Federal government.] Items of equipment acquired by the recipient using Federal funds with a current market value of less than \$5,000 shall vest with the recipient subject to conditions of 2 CFR 200.313(e)(1).

Supplies: Title to supplies (including computing devices) will vest in the non-Federal entity upon acquisition subject to conditions in 2 CFR 200.314. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other Federal award, the non-Federal entity must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal government for its share.

Intangible Property: Title to intangible property acquired under a Federal award vests upon acquisition in the non-Federal entity subject to conditions in 2 CFR 200.315. DoD reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

Rights to Inventions Made under a Contract, Grant or Cooperative Agreement

Cooperative agreements for the performance of experimental, developmental, or research work shall 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." Any intent to seek patents for any inventions resulting from research conducted using a Department of Defense grant or cooperative agreement must be disclosed on the DD form 882, Report of Inventions and Subcontracts, as described in section 2 CFR 200.315 of this document.

Government Furnished Property: Title to federally owned property remains vested in the Federal Government. Federally furnished equipment is not in-kind assistance. Recipient shall submit an annual inventory report to the Government listing all federally owned property in their custody.

Reporting Requirements: The following forms shall be utilized to meet 2 CFR part 200 reporting requirements:

- SF-428 Tangible Personal Property Report

- SF-428 A – Annual Report due within 30 days after completion of each period of performance

- SF-428 B – Final Report due within 90 days after completion of the award

- SF-428 C – Disposition Request

- RPSR – Real Property Status Report

- RPSP Attachment A – General Reporting

- RPSR Attachment B – Request to Acquire, Improve or Furnish

- RPSR Attachment C – Disposition Request

Procurement Standards: The recipient's procurement system shall comply with the standards identified in part § 200.317 through 326 for use by recipients in establishing procedures for the procurement of supplies and other expendable property, equipment, real property, and other services with Federal Funds. The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.

Claims, Disputes, and Appeals

Parties shall communicate with one another in good faith and in a timely and cooperative manner when raising issues under this Cooperative Agreement. Department of Defense policy is to resolve issues through discussions and mutual agreement at the Grants Officer's level, either through unassisted negotiations or through a mutually agreeable means of Alternative Dispute Resolutions, whenever possible.

When a claim cannot be resolved by the parties, the parties agree to use the procedures identified in 32 C.F.R. § 22.815 as the administrative process to resolve claims, disputes and appeals. Under 32 C.F.R. § 22.815, a recipient's claim must: (1) be submitted in writing; (2) specifying the nature and basis for the relief requested; and (3) include all data that supports the claim. Claims by a DoD component to a recipient shall be the subject of a written decision by a Grants Officer. Within 60 calendar days of receipt of a written claim, the Grants Officer shall either: (1) prepare a written decision; or (2) notify the Recipient of a specific date when he or she will render a written decision if more time is required to do so. The decision of the Grants Officer is final. The recipient has the right to appeal the decision to the Grant Appeal Authority within 90 days of receiving the decision. Particulars concerning the appeal process are specified in Department of Defense Directive 3210.06, 32 C.F.R. § 22.815(e), and Army Appeals Authority AFARS § 5133.90 (Grant and Cooperative Agreement Claims, Disputes and Appeals).

Nothing in this section is intended to limit the recipient's right to any remedy under the law.

Compliance with Laws: By signing or accepting funds under this agreement, Recipient agrees that it will comply with all applicable federal, state and local laws, codes, regulations, rules and orders.

Certification Regarding Lobbying: A separate certification regarding lobbying must be submitted per 32 CFR. Part 28.

Prohibition on Using Funds under Grants and Cooperative Agreements with Entities that Require Certain Internal Confidentiality Agreements: SEE Section 743 of the Financial Services and General Government Appropriations Act, 2015 (Division E of the Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. 113-235)

(a) The recipient may not require its employees, contractors, or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting them from lawfully reporting that waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.

(b) The recipient must notify its employees, contractors, or subrecipients that the prohibitions and restrictions of any internal confidentiality agreements inconsistent with paragraph (a) of this award provision are no longer in effect.

(c) The prohibition in paragraph (a) of this award provision does not contravene requirements applicable to Standard Form 312, Form 4414, or any other form issued by a Federal department or agency governing the nondisclosure of classified information.

(d) If the Government determines that the recipient is not in compliance with this award provision, it:

(1) Will prohibit the recipient's use of funds under this award, in accordance with section 743 of Division E of the Consolidated and Further Continuing Resolution Appropriations Act, 2015, (Pub. L. 113-235) or any successor provision of law; and

(2) May pursue other remedies available for the recipient's material failure to comply with award terms and conditions.

2 CFR § 200.216 Prohibition on certain telecommunications and video surveillance services or equipment.

(a) Recipients and sub-recipients are prohibited from obligating or expending loan or grant funds to:

(1) Procure or obtain;

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

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

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

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

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

(b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

(c) See Public Law 115–232, section 889 for additional information.

(d) See also § 200.471.

2 CFR § 200.471 Telecommunication costs and video surveillance costs.

(a) Costs incurred for telecommunications and video surveillance services or equipment such as phones, internet, video surveillance, cloud servers are allowable except for the following circumstances:

(b) Obligating or expending covered telecommunications and video surveillance services or equipment or services as described in § 200.216 to:

(1) Procure or obtain, extend or renew a contract to procure or obtain;

(2) Enter into a contract (or extend or renew a contract) to procure; or

(3) Obtain the equipment, services, or systems.

32 CFR § 22.815 Claims, disputes, and appeals.

(a) Award terms. Grants officers shall include in grants and cooperative agreements a term or condition that incorporates the procedures of this section for:

(1) Processing recipient claims and disputes.

(2) Deciding appeals of grants officers' decisions.

(b) Submission of claims -

(1) Recipient claims. If a recipient wishes to submit a claim arising out of or relating to a grant or cooperative agreement, the grants officer shall inform the recipient that the claim must:

(i) Be submitted in writing to the grants officer for decision;

(ii) Specify the nature and basis for the relief requested; and

(iii) Include all data that supports the claim.

(2) DoD Component claims. Claims by a DoD Component shall be the subject of a written decision by a grants officer.

(c) Alternative Dispute Resolution (ADR) -

(1) Policy. DoD policy is to try to resolve all issues concerning grants and cooperative agreements by mutual agreement at the grants officer's level. DoD Components therefore are encouraged to use ADR procedures to the maximum extent practicable. ADR procedures are any voluntary means (e.g., mini-trials or mediation) used to resolve issues in controversy without resorting to formal administrative appeals (see paragraph (e) of this section) or to litigation.

(2) Procedures.

(i) The ADR procedures or techniques to be used may either be agreed upon by the Government and the recipient in advance (e.g., when agreeing on the terms and conditions of the grant or cooperative agreement), or may be agreed upon at the time the parties determine to use ADR procedures.

(ii) If a grants officer and a recipient are not able to resolve an issue through unassisted negotiations, the grants officer shall encourage the recipient to enter into ADR procedures. ADR procedures may be used prior to submission of a recipient's claim or at any time prior to the Grant Appeal Authority's decision on a recipient's appeal (see paragraph (e)(3)(iii) of this section).

d) Grants officer decisions.

(1) Within 60 calendar days of receipt of a written claim, the grants officer shall either:

(i) Prepare a written decision, which shall include the reasons for the decision; shall identify all relevant data on which the decision is based; shall identify the cognizant Grant Appeal Authority and give his or her mailing address; and shall be included in the award file; or

(ii) Notify the recipient of a specific date when he or she will render a written decision, if more time is required to do so. The notice shall inform the recipient of the reason for delaying the decision (e.g., the complexity of the claim, a need for more time to complete ADR procedures, or a need for the recipient to provide additional information to support the claim).

(2) The decision of the grants officer shall be final, unless the recipient decides to appeal. If a recipient decides to appeal a grants officer's decision, the grants officer shall encourage the recipient to enter into ADR procedures, as described in paragraph (c) of this section.

(e) Formal administrative appeals -

(1) Grant appeal authorities. Each DoD Component that awards grants or cooperative agreements shall establish one or more Grant Appeal Authorities to decide formal, administrative appeals in accordance with paragraph (e)(3) of this section. Each Grant Appeal Authority shall be either:

(i) An individual at a grade level in the Senior Executive Service, if civilian, or at the rank of Flag or General Officer, if military; or

(ii) A board chaired by such an individual.

(2) Right of appeal. A recipient has the right to appeal a grants officer's decision to the Grant Appeal Authority (but note that ADR procedures, as described in paragraph (c) of this section, are the preferred means for resolving any appeal).

(3) Appeal procedures -

(i) Notice of appeal. A recipient may appeal a decision of the grants officer within 90 calendar days of receiving that

decision, by filing a written notice of appeal to the Grant Appeal Authority and to the grants officer. If a recipient elects to use an ADR procedure, the recipient is permitted an additional 60 calendar days to file the written notice of appeal to the Grant Appeal Authority and grants officer.

(ii) Appeal file. Within 30 calendar days of receiving the notice of appeal, the grants officer shall forward to the Grant Appeal Authority and the recipient the appeal file, which shall include copies of all documents relevant to the appeal. The recipient may supplement the file with additional documents it deems relevant. Either the grants officer or the recipient may supplement the file with a memorandum in support of its position. The Grant Appeal Authority may request additional information from either the grants officer or the recipient.

(iii) Decision. The appeal shall be decided solely on the basis of the written record unless the Grant Appeal Authority decides to conduct fact-finding procedures or an oral hearing on the appeal. Any fact-finding or hearing shall be conducted using procedures that the Grant Appeal Authority deems appropriate.

(f) Representation. A recipient may be represented by counsel or any other designated representative in any claim, appeal, or ADR proceeding brought pursuant to this section, as long as the representative is not otherwise prohibited by law or regulation from appearing before the DoD Component concerned.

(g) Non-exclusivity of remedies. Nothing in this section is intended to limit a recipient's right to any remedy under the law.

NATIONAL POLICY AWARD PROVISIONS: By signing or accepting funds under this agreement, the recipient assures that it will comply with the applicable provisions of the following national policies (32 CFR Subchapter C)

Nondiscrimination National Policy Requirements

By signing this award or accepting funds under this award, you assure that you will comply with applicable provisions of the national policies prohibiting discrimination:

1. On the basis of race, color, or national origin, in Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), as implemented by Department of Defense (DoD) regulations at 32 CFR part 195.
2. On the basis of gender, blindness, or visual impairment, in Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), as implemented by DoD regulations at 32 CFR part 196.
3. On the basis of age, in the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), as implemented by Department of Health and Human Services regulations at 45 CFR part 90.
4. On the basis of disability, in the Rehabilitation Act of 1973 (29 U.S.C. 794), as implemented by Department of Justice regulations at 28 CFR part 41 and DoD regulations at 32 CFR part 56.
5. On the basis of disability in the Architectural Barriers Act of 1968 (42 U.S.C. 4151 et seq.) related to physically handicapped persons' ready access to, and use of, buildings and facilities for which Federal funds are used in design, construction, or alteration.

Environmental National Policy Requirements

You must:

1. Comply with all applicable Federal environmental laws and regulations. The laws and regulations identified in this section are not intended to be a complete list.
2. Comply with applicable provisions of the Clean Air Act (42 U.S.C. 7401, et seq.) and Clean Water Act (33 U.S.C. 1251, et seq.).
3. Comply with applicable provisions of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), as implemented by the Department of Housing and Urban Development at 24 CFR part 35. The requirements concern lead-based paint in buildings owned by the Federal Government or housing receiving Federal assistance.
4. Immediately identify to us, as the Federal awarding agency, any potential impact that you find this award may have on:
 - a. The quality of the "human environment", as defined in 40 CFR 1508.14, including wetlands; and provide any help we may need to comply with the National Environmental Policy Act (NEPA, at 42 U.S.C. 4321 et seq.), the regulations at 40 CFR 1500-1508, and E.O. 12114, if applicable; and assist us to prepare Environmental Impact Statements or other environmental documentation. In such cases, you may take no action that will have an environmental impact (e.g., physical disturbance of a site such as breaking of ground) or limit the choice of

reasonable alternatives to the proposed action until we provide written notification of Federal compliance with NEPA or E.O. 12114.

b. Flood-prone areas and provide any help we may need to comply with the National Flood Insurance Act of 1968, as amended by the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.), which require flood insurance, when available, for federally assisted construction or acquisition in flood-prone areas.

c. A land or water use or natural resource of a coastal zone that is part of a federally approved State coastal zone management plan and provide any help we may need to comply with the Coastal Zone Management Act of 1972 (16 U.S.C. 1451, et seq.) including preparation of a Federal agency Coastal Consistency Determination.

d. Coastal barriers along the Atlantic and Gulf coasts and Great Lakes' shores and provide help we may need to comply with the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.), concerning preservation of barrier resources.

e. Any existing or proposed component of the National Wild and Scenic Rivers system and provide any help we may need to comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. 1271 et seq.).

f. Underground sources of drinking water in areas that have an aquifer that is the sole or principal drinking water source and in wellhead protection areas, and provide any help we may need to comply with the Safe Drinking Water Act (42 U.S.C. 300f et seq.).

5. Comply fully with the Endangered Species Act of 1973, as amended (ESA, at 16 U.S.C. 1531 et seq.), and implementing regulations of the Departments of the Interior (50 CFR parts 10-24) and Commerce (50 CFR parts 217-227). You also must provide any help we may need in complying with the consultation requirements of ESA section 7 (16 U.S.C. 1536) applicable to Federal agencies or any regulatory authorization we may need based on the award of this grant. This is not in lieu of responsibilities you have to comply with provisions of the Act that apply directly to you as a U.S. entity, independent of receiving this award.

6. Fully comply with the Marine Mammal Protection Act of 1972, as amended (MMPA, at 16 U.S.C. 1361 et seq.) and provide any assistance we may need in obtaining any required MMPA permit based on an award of this grant.

National policy requirements concerning live organisms

1. Human subjects.

a. You must protect the rights and welfare of individuals who participate as human subjects in research under this award and comply with the requirements at 32 CFR part 219, DoD Instruction (DoDI) 3216.02, 10 U.S.C. 980, and when applicable, Food and Drug Administration (FDA) regulations.

b. You must not begin performance of research involving human subjects, also known as human subjects research (HSR), that is covered under 32 CFR part 219, or that meets exemption criteria under 32 CFR 219.101(b), until you receive a formal notification of approval from a DoD Human Research Protection Official (HRPO). Approval to perform HSR under this award is received after the HRPO has performed a review of your documentation of planned HSR activities and has officially furnished a concurrence with your determination as presented in the documentation.

c. In order for the HRPO to accomplish this concurrence review, you must provide sufficient documentation to enable his or her assessment as follows:

i. If the HSR meets an exemption criterion under 32 CFR 219.101(b), the documentation must include a citation of the exemption category under 32 CFR 219.101(b) and a rationale statement.

ii. If your activity is determined as “non-exempt research involving human subjects”, the documentation must include:

(A) Assurance of Compliance (i.e., Department of Health and Human Services Office for Human Research Protections (OHRP) Federalwide Assurance (FWA)) appropriate for the scope of work or program plan; and

(B) Institutional Review Board (IRB) approval, as well as all documentation reviewed by the IRB to make their determination.

d. The HRPO retains final judgment on what activities constitute HSR, whether an exempt category applies, whether the risk determination is appropriate, and whether the planned HSR activities comply with the requirements in paragraph 1.a of this section.

e. You must notify the HRPO immediately of any suspensions or terminations of the Assurance of Compliance.

f. DoD staff, consultants, and advisory groups may independently review and inspect your research and research procedures involving human subjects and, based on such findings, DoD may prohibit research that presents unacceptable hazards or otherwise fails to comply with DoD requirements.

g. Definitions for terms used in paragraph 1 of this article are found in DoDI 3216.02.

2. Animals.

a. Prior to initiating any animal work under the award, you must:

- i. Register your research, development, test, and evaluation or training facility with the Secretary of Agriculture in accordance with 7 U.S.C. 2136 and 9 CFR 2.30, unless otherwise exempt from this requirement by meeting the conditions in 7 U.S.C. 2136 and 9 CFR parts 1-4 for the duration of the activity.
 - ii. Have your proposed animal use approved in accordance with DoDI 3216.01, Use of Animals in DoD Programs by a DoD Component Headquarters Oversight Office.
 - iii. Furnish evidence of such registration and approval to the grants officer.
 - b. You must make the animals on which the research is being conducted, and all premises, facilities, vehicles, equipment, and records that support animal care and use available during business hours and at other times mutually agreeable to you, the United States Department of Agriculture Office of Animal and Plant Health Inspection Service (USDA/APHIS) representative, personnel representing the DoD component oversight offices, as well as the grants officer, to ascertain that you are compliant with 7 U.S.C. 2131 et seq., 9 CFR parts 1-4, and DoDI 3216.01.
 - c. Your care and use of animals must conform with the pertinent laws of the United States, regulations of the Department of Agriculture, and regulations, policies, and procedures of the Department of Defense (see 7 U.S.C. 2131 et seq., 9 CFR parts 1-4, and DoDI 3216.01).
 - d. You must acquire animals in accordance with DoDI 3216.01.
3. Use of Remedies.

Failure to comply with the applicable requirements in paragraphs 1-2 of this section may result in the DoD Component's use of remedies, e.g., wholly or partially terminating or suspending the award, temporarily withholding payment under the award pending correction of the deficiency, or disallowing all or part of the cost of the activity or action (including the federal share and any required cost sharing or matching) that is not in compliance. See OAR Article III.

Other National Policy Requirements

1. **Debarment and suspension.** You must comply with requirements regarding debarment and suspension in Subpart C of 2 CFR part 180, as adopted by DoD at 2 CFR part 1125. This includes requirements concerning your principals under this award, as well as requirements concerning your procurement transactions and subawards that are implemented in PROC Articles I through III and SUB Article II.
2. **Drug-free workplace.** You must comply with drug-free workplace requirements in Subpart B of 2 CFR part 26, which is the DoD implementation of 41 U.S.C. chapter 81, "Drug-Free Workplace."
3. **Lobbying.**
 - a. You must comply with the restrictions on lobbying in 31 U.S.C. 1352, as implemented by DoD at 32 CFR part 28, and submit all disclosures required by that statute and regulation.
 - b. You must comply with the prohibition in 18 U.S.C. 1913 on the use of Federal funds, absent express Congressional authorization, to pay directly or indirectly for any service, advertisement or other written matter, telephone communication, or other device intended to influence at any time a Member of Congress or official of any government concerning any legislation, law, policy, appropriation, or ratification.
 - c. If you are a nonprofit organization described in section 501(c)(4) of title 26, United States Code (the Internal Revenue Code of 1968), you may not engage in lobbying activities as defined in the Lobbying Disclosure Act of 1995 (2 U.S.C., chapter 26). If we determine that you have engaged in lobbying activities, we will cease all payments to you under this and other awards and terminate the awards unilaterally for material failure to comply with the award terms and conditions.
4. **Officials not to benefit.** You must comply with the requirement that no member of Congress shall be admitted to any share or part of this award, or to any benefit arising from it, in accordance with 41 U.S.C. 6306.
5. **Hatch Act.** If applicable, you must comply with the provisions of the Hatch Act (5 U.S.C. 1501-1508) concerning political activities of certain State and local government employees, as implemented by the Office of Personnel Management at 5 CFR part 151, which limits political activity of employees or officers of State or local governments whose employment is connected to an activity financed in whole or part with Federal funds.
6. **Native American graves protection and repatriation.** If you control or possess Native American remains and associated funerary objects, you must comply with the requirements of 43 CFR part 10, the Department of the Interior implementation of the Native American Graves Protection and Repatriation Act of 1990 (25 U.S.C., chapter 32).
7. **Fly America Act.** You must comply with the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118), commonly referred to as the "Fly America Act," and implementing regulations at 41 CFR 301-10.131 through 301-10.143. The law and regulations require that U.S. Government financed international air travel of passengers and transportation of personal effects or property must use a U.S. Flag air carrier or be performed under a cost sharing arrangement with a U.S. carrier, if such service is available.

8. Use of United States-flag vessels. You must comply with the following requirements of the Department of Transportation at 46 CFR 381.7, in regulations implementing the Cargo Preference Act of 1954:

a. Pursuant to Public Law 83-664 (46 U.S.C. 55305), at least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds under this award, and which may be transported by ocean vessel, must be transported on privately owned United States-flag commercial vessels, if available.

b. Within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph 8.a of this section must be furnished to both our award administrator (through you in the case of your contractor's bill-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

9. Research misconduct. You must comply with requirements concerning research misconduct in Enclosure 4 to DoD Instruction 3210.7, "Research Integrity and Misconduct." The Instruction implements the Governmentwide research misconduct policy that the Office of Science and Technology Policy published in the Federal Register (65 FR 76260, December 6, 2000, available through the U.S. Government Printing Office website: <https://www.federalregister.gov/documents/2000/12/06/00-30852/executive-office-of-the-president-federal-policy-on-research-misconduct-preamble-for-research>).

10. Requirements for an Institution of Higher Education Concerning Military Recruiters and Reserve Officers Training Corps (ROTC).

a. As a condition for receiving funds available to the DoD under this award, you agree that you are not an institution of higher education (as defined in 32 CFR part 216) that has a policy or practice that either prohibits, or in effect prevents:

i. The Secretary of a Military Department from maintaining, establishing, or operating a unit of the Senior Reserve Officers Training Corps (ROTC) - in accordance with 10 U.S.C. 654 and other applicable Federal laws - at that institution (or any subelement of that institution);

ii. Any student at that institution (or any subelement of that institution) from enrolling in a unit of the Senior ROTC at another institution of higher education.

iii. The Secretary of a Military Department or Secretary of Homeland Security from gaining access to campuses, or access to students (who are 17 years of age or older) on campuses, for purposes of military recruiting in a manner that is at least equal in quality and scope to the access to campuses and to students that is provided to any other employer; or

iv. Access by military recruiters for purposes of military recruiting to the names of students (who are 17 years of age or older and enrolled at that institution or any subelement of that institution); their addresses, telephone listings, dates and places of birth, levels of education, academic majors, and degrees received; and the most recent educational institutions in which they were enrolled.

b. If you are determined, using the procedures in 32 CFR part 216, to be such an institution of higher education during the period of performance of this award, we:

i. Will cease all payments to you of DoD funds under this award and all other DoD grants and cooperative agreements; and

ii. May suspend or terminate those awards unilaterally for material failure to comply with the award terms and conditions.

11. Historic preservation. You must identify to us any:

a. Property listed or eligible for listing on the National Register of Historic Places that will be affected by this award, and provide any help we may need, with respect to this award, to comply with Section 106 of the National Historic Preservation Act of 1966 (54 U.S.C. 306108), as implemented by the Advisory Council on Historic Preservation regulations at 36 CFR part 800 and Executive Order 11593, "Identification and Protection of Historic Properties," [3 CFR, 1971-1975 Comp., p. 559]. Impacts to historical properties are included in the definition of "human environment" that require impact assessment under NEPA (See NP Article II, Section A).

b. Potential under this award for irreparable loss or destruction of significant scientific, prehistorical, historical, or archeological data, and provide any help we may need, with respect to this award, to comply with the Archaeological and Historic Preservation Act of 1974 (54 U.S.C. chapter 3125).

12. Relocation and real property acquisition. You must comply with applicable provisions of 49 CFR part 24, which implements the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601, et seq.) and provides for fair and equitable treatment of persons displaced by federally assisted programs or persons whose property is acquired as a result of such programs.

13. Confidentiality of patient records. You must keep confidential any records that you maintain of the identity, diagnosis, prognosis, or treatment of any patient in connection with any program or activity relating to substance abuse education, prevention, training, treatment, or rehabilitation that is assisted directly or indirectly under this award, in accordance with 42 U.S.C. 290dd-2.

14. Pro-Children Act.

You must comply with applicable restrictions in the Pro-Children Act of 1994 (Title 20, Chapter 68, subchapter X, Part B of the U.S. Code) on smoking in any indoor facility:

a. Constructed, operated, or maintained under this award and used for routine or regular provision of kindergarten, elementary, or secondary education or library services to children under the age of 18.

b. Owned, leased, or contracted for and used under this award for the routine provision of federally funded health care, day care, or early childhood development (Head Start) services to children under the age of 18.

15. Constitution Day. You must comply with Public Law 108-447, Div. J, Title I, Sec. 111 (36 U.S.C. 106 note), which requires each educational institution receiving Federal funds in a Federal fiscal year to hold an educational program on the United States Constitution on September 17th during that year for the students served by the educational institution.

16. Trafficking in persons. You must comply with requirements concerning trafficking in persons specified in the award term at 2 CFR 175.15(b), as applicable.

17. Whistleblower protections. You must comply with 10 U.S.C. 2409, including the:

a. Prohibition on reprisals against employees disclosing certain types of information to specified persons or bodies; and

b. Requirement to notify your employees in writing, in the predominant native language of the workforce, of their rights and protections under that statute.

LIABILITY PROVISION (INDEMNIFICATION)

Governmental Parties:

(1) The Federal Agencies (excluding the U.S. Forest Service), Host University, and Partner Institutions which are governmental parties, each accept responsibility for any property damage, injury, or death caused by the acts or omissions of their respective employees, acting within the scope of their employment, to the fullest extent permitted by their respective applicable laws, including laws concerning self-insurance.

(2) To the extent work by governmental parties is to be performed through sub-contract by non-governmental entities or persons, the governmental party sub-contracting work will require that subcontracted entity or person to meet provisions (1), (2), and (3) for non-governmental parties stated below.

(3) This provision is applicable to the U.S. Forest Service acting by and through the Forest Service, USDA does hereby recognize potential liability for payment of claims for injury or loss of property of personal injury or death caused by the Government, or any officer, agent or employee thereof, while acting within the scope of his/her office of employment under circumstances when the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred (28 U.S.C. §§1346 (b), 2672 et seq.).

Non-governmental Parties: Work provided by non-governmental entities or persons, will require that entity or person to:

(1) Have public and employee liability insurance from a responsible company or companies with a minimum limitation of one million dollars (\$1,000,000) per person for any one claim, and an aggregate limitation of three million dollars (\$3,000,000) for any number of claims arising from any one incident. In subsequent modifications, the parties may negotiate different levels of liability coverage, as appropriate. The policies shall name the United States as an additional insured, shall specify that the insured shall have no right of subrogation against the United States for payments of any premiums or deductibles due thereunder, and shall specify that the insurance shall be assumed by, be for the account of, and be at the insured's sole risk; and

(2) Pay the United States the full value for all damages to the lands or other property of the United States caused by such person or organization, its representatives, or employees; and

(3) Indemnify, save and hold harmless, and defend the United States against all fines, claims, damages, losses, judgments, and expenses arising out of, or from, any omission or activity of such person or organization, its representatives, or employees.

(4) Non-governmental Partner Institutions shall provide the Federal Agencies confirmation of such insurance coverage, prior to beginning specific work authorized herein and specified in subsequent modifications.

END OF TERMS & CONDITIONS