



**Federal Demonstration
Partnership**

Redefining the Government University Research Partnership

**FEDERAL DEMONSTRATION PARTNERSHIP IV
GENERAL TERMS AND CONDITIONS**

April 1, 2005

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FDP IV Terms and Conditions

FDP IMPLEMENTATION OF FEDERAL MANAGEMENT CIRCULARS

I. General

1. **Purpose.** These Federal Demonstration Partnership (FDP) General Terms and Conditions incorporate the requirements of U. S. Office of Management and Budget Circulars as they apply to grants made by Federal awarding agencies to educational and non-profit organizations when each is a party to "Federal Demonstration Project Phase IV Agreement."
http://www.nsf.gov/awards/managing/fed_dem_part.jsp

2. **Definitions.** Terms used in these general terms and conditions have the meanings given in section ____2 of OMB Circular A-110¹, with the following additions and clarifications:

- (a) In lieu of the definition given in paragraph ____2(e), the term "award" means the award.
- (b) If the recipient establishes a lower limit than \$5,000 for "equipment," as permitted by the definition in paragraph ____2(l), then items with acquisition costs less than \$5,000 are included as equipment for the recipient's purposes only. The Federal requirements for equipment, as specified in Articles 33 or 34 of the award, apply only to items with acquisition costs of \$5,000 or more per unit.
- (c) "Federal awarding agency" as defined in paragraph ____2(o) means the Federal agency that made the award.
- (d) "Funding period" has the meaning given in paragraph ____2(r), with the additional clarification that the term includes any extension of the expiration date of the award, such as a no-cost extension authorized by paragraph (b) (3)of Article 25.
- (e) "Program income," as defined in paragraph ____2(x), does not include the receipt of principal on loans, rebates, credits, discounts, etc., or interest earned on any of them, unless the agency-specific requirements provide otherwise.
- (f) The term "property" includes supplies in addition to other types of property identified in the definition in paragraph ____2(aa).
- (g) In lieu of the definition given at paragraph ____2(cc), the term "recipient" means the organization that received the award.
- (h) In lieu of the definition given in paragraph ____2(ff), the term "subaward" means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a recipient to an eligible subrecipient or by a subrecipient to a lower tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include procurement of goods and services nor does it include: technical assistance, which provides services instead of money; other assistance in the form of loans, loan guarantees, interest subsidies, or insurance; direct payments of any kind to individuals; and, contracts which are required to be entered into and administered under procurement laws and regulations
- (i) The term "subrecipient," as defined in paragraph ____2(gg) includes the types of organizations shown for the Federal awarding agency in the Appendix A to the FDP Operating Procedures, found at the website http://www.nsf.gov/awards/managing/fed_dem_part.jsp.

¹ OMB Circular A-110, *Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations* is codified at 2 CFR §215.

3. Reserved.

4. Deviations. Any request by the recipient for waiver or deviation from any provision of either these general terms and conditions or the agency specific requirements shall be submitted to the awarding agency's designated representative identified on the signature page of the Demonstration Agreement. Any request by the recipient for a waiver or deviation from any special condition attached to the award shall be submitted to the cognizant awarding agency official for the award (usually the Grants Officer or Contracting Officer who signed the award on behalf of the awarding agency).

5. Subawards. Section 5 of OMB Circular A-110 is incorporated herein with the following clarification: The applicable provisions for subawards are described in the Appendix A to the Federal Demonstration Partnership "Operating Procedures" found in the matrix at the following website: http://www.nsf.gov/awards/managing/fed_dem_part.jsp.

II. Preaward Requirements

10. Purpose. The requirements in Sections ____.10 through ____.17 of OMB Circular A-110 are not incorporated into these General Terms and Conditions, except that Article 11 addresses national policy requirements.

11. National Policy Requirements. By signing the agreement or accepting funds under the agreement, the recipient assures that it will comply with the applicable provisions for national policy requirements found in Appendix B to the Federal Demonstration Partnership "Operating Procedures" found in the matrix at the following website: http://www.nsf.gov/awards/managing/fed_dem_part.jsp. Should an applicable national requirement be missing from the matrix, recipients and subrecipients are nevertheless responsible for compliance with applicable national policy requirements.

12. Reserved.

13. Reserved.

14. Reserved.

15. Reserved.

16. Reserved.

17. Reserved.

III. Post Award Requirements

Post-award requirements in these General Terms and Conditions implement the provisions in Subpart C of OMB Circular A-110. The numbering of the articles in these General Terms and Conditions therefore parallels the numbering of the Circular's provisions (e.g., Article 21 in this document implements section ____.21 of OMB Circular A-110).

III.A. Financial and Program Management

20. Purpose of financial and program management. Articles 21 through 29 reflect Federal Awarding Agency implementation of Sections ____.21 through ____.29 of OMB Circular A-110.

21. Standards for financial management systems. The recipient's financial management system shall meet the standards specified in paragraph (b) of section ____.21 of OMB Circular A-110.

22. Payment. Section ____.22 of OMB Circular A-110 governs the Federal awarding agency's and recipient's responsibilities concerning payments, with the following clarifications: (a) Payments will be made in advance, subject to the conditions described in paragraph (b) of section ____.22, unless the Federal awarding agency provides otherwise in the agency-specific terms and conditions or the award document. (b) With respect to paragraph (l) of section ____.22, the complete address for remitting checks for interest earned on Federal advances is Department of Health and Human Services, Payment Management System, P.O. Box 6021, Rockville, MD 20852.

(1) In keeping with Electronic Funds Transfer rules (31 CFR § 206), interest should be remitted to the HHS Payment Management System through an electronic medium such as the FEDWIR Deposit System.

Electronic remittances should be in the format and should include any data that are specified by the HHS as being necessary to facilitate direct deposit in HHS' account at the Department of the Treasury.

(2) Recipients that do not have electronic remittance capability should send a check to the address in section (b) above.

23. Cost sharing or matching. Section ____23 of OMB Circular A-110 governs the allowability and valuation of third party in-kind and recipient contributions toward cost sharing or matching, with the following clarifications:

(a) Should Section ____23 be amended to specify documentation requirements for different types of cost sharing (e.g., mandatory, voluntary, or excess voluntary), these documentation requirements are hereby incorporated into the FDP General Terms and Conditions:

(b) The recipient may include unrecovered indirect costs as part of cost sharing or matching.

(c) Certain other costs or valuation methods require approval of the Federal awarding agency, in accordance with paragraphs (c) and (g) (2) of section ____ 23.

(d) Full value of equipment or other capital assets and fair rental charges for land may be allowed, instead of only depreciation or use charges, provided that the Federal awarding agency has approved the charges.

24. Program income. The use and disposition of program income is governed by section ____24 of OMB Circular A-110. Unless the agency-specific requirements of the award specify otherwise:

(a) The additive method of paragraph ____24(b)(1) will be used to dispose of program income, in accordance with paragraph ____24(d).

(b) The recipient will have no obligation to the Federal Government for program income earned after the end of the project period, in accordance with paragraph ____24(e).

(c) The recipient will have no obligation to the Federal Government for program income earned from license fees and royalties for copyrighted material, in accordance with paragraph ____24(h).

25. Revision of budget and program plans.

(a) The budget plan is the financial expression of the project or program as approved during the award process. The approved budget includes the Federal share of project costs and that portion of the non-Federal share of project costs, if any, that the recipient and the Federal awarding agency formally agree upon as cost sharing (see paragraph (a) of Article 23).

(b) The recipient must obtain the prior written approval of the Federal awarding agency before making any of the following project changes:

(1) A change in scope or objectives of the project as stated in the approved application or approved modifications thereto, such as a change in the phenomenon(a) under study, even if there is no associated budget revision.

(2) The absence or change of the Principal Investigator/Project Director (PI/PD). If the approved PI/PD severs his or her connection with the recipient or otherwise relinquishes active direction of the project (either permanently or for a continuous period of more than 3 months or a 25 percent reduction in time devoted to the project), then the recipient must either:

(i) Appoint a replacement PI/PD with the approval of the awarding agency;

(ii) Seek and receive prior approval from the awarding agency for the reduction of time devoted to the project; or

(iii) Relinquish the award (in which case the award will be terminated by mutual agreement, in accordance with Article 61).

(3) The need for additional federal funding. The maximum obligation of the Federal awarding agency to the recipient is the amount indicated in the award as obligated by that agency. Nothing in this Article or in the other requirements of the award requires the awarding agency to make any additional award of funds or limits its discretion with respect to the amount of funding to be provided for the same or any other purpose.

(4) The transfer, by contract or other means, of a significant part of the research or substantive programmatic effort, unless described in the approved application or approved modifications to the award. The recipient must submit a justification, a description of the scientific/technical impact on the project, and a budget estimate to the cognizant Federal awarding agency official.

(c) All prior approvals required in OMB Circulars A-21 and A-122, except those waived in subparagraphs (1) – (6) of this Article, and in Article 27, must be obtained. The recipient is authorized to do any one or more of the following:

(1) Incur pre-award costs 90 calendar days prior to award (or more than 90 calendar days with the prior approval of the Federal awarding agency). Pre-award expenditures prior to funding of an increment within a multiple-year project, including any optional years, are not subject to this limitation or approval requirement. All costs are incurred 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 an award or if the award is less than anticipated and inadequate to cover such costs).

(2) Initiate a one-time extension of the expiration date of the award of up to 12 months unless one or more of the following conditions applies:

(i) The agency-specific requirements of the award prohibit the extension

(ii) The extension requires additional Federal funds.

(iii) The extension involves any change in the approved objectives or scope of the project.

(3) For one-time extensions, the recipient must notify the Federal awarding agency in writing with the supporting reasons and revised expiration date at least 10 days before the expiration date specified in the award. This one-time extension may not be exercised merely for the purpose of using unobligated balances.

(4) Carry forward unobligated balances to subsequent funding periods. Any unobligated balance of funds which remains at the end of any funding period, except the final funding period of the project, shall be carried over to the next funding period, and may be used to defray costs of any funding period of the project in addition to the current year's funding. Since the carryover of unobligated balances is automatic, no separate or specific awarding agency prior approval shall be required to authorize use of the funds.

(5) The inclusion of costs that require the Federal awarding agency's prior approval under the applicable cost principles. Applicable cost principles depend upon the type of organization, as described in section ____27 of OMB Circular A-110. Note that the Federal awarding agency gives its approval for the inclusion of certain costs for which the agency's prior approval is required by the applicable cost principles, as detailed in Article 27.

(6) The transfer of amounts budgeted for indirect costs to absorb increases in direct costs, or vice versa, if approval is required by the Federal awarding agency.

(7) The transfer of funds allotted for training allowances (direct payment to trainees) to other categories of expense.

(d) The recipient must provide revised budget information to the Federal awarding agency if there are any significant changes in the size or scope of the project or in the originally negotiated total estimated cost for the project period.

(1) To request approval for budget revisions, the recipient shall use the budget forms that were used in the application unless the Federal awarding agency states in its Agency-Specific Requirements that a letter of request suffices.

(2) Within 30 calendar days from the date of receipt of the request for budget revisions, the Federal awarding agency shall review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, the Federal awarding agency shall inform the recipient in writing of the date when the recipient may expect the decision.

26. Non-Federal audits. The recipient will obtain audits and require subrecipients to obtain audits in accordance with section ____26 of OMB Circular A-110.

27. Allowable costs. This includes costs of the award and costs of subrecipients under subawards to the award. Allowable costs of the recipient and subrecipients are in accordance with the cost principles described in section ____27 of OMB Circular A-110, with the following clarifications:

(a) Educational institutions covered by OMB Circular A-21.

(1) Prior approvals. The Federal awarding agency hereby approves the inclusion of certain costs for which the agency's prior approval is required by the cost principles for educational institutions, in OMB Circular A-21. Agency approval is granted for the recipient to:

(i) Include charges for faculty consulting on sponsored agreements that exceed a faculty member's base salary, but only in unusual cases where: (a) consultation is across departmental lines or involves a separate or remote operation; and (b) the consulting work is in addition to the faculty member's regular departmental load [reference paragraph J.10.d.(1) of OMB Circular A-21].

(ii) Include as direct charges capital expenditures for general purpose equipment or special purpose equipment, but only if the equipment is primarily used in the actual conduct of the research, as stated in paragraph 34.(c) of Article 34 of these General Terms and Conditions [reference paragraphs J.18.b(1) and (2) of OMB Circular A-21].

(iii) Include as direct charges capital expenditures for improvements to equipment that materially increases the equipment's value or useful life, but only if the equipment is primarily used in the actual conduct of the research [reference paragraph J.18.b.(3) of OMB Circular A-21].

(iv) Include preagreement costs, to the extent described in paragraph 25.(c)(1) of Article 25 of these General Terms and Conditions [reference paragraph J.36. of OMB Circular A-21].

(v) Include rearrangements and alteration costs under \$25,000 [reference paragraph J.40. of OMB Circular A-21], subject to the following conditions:

(A) The alteration or renovation must be essential to the project supported;

(B) The facility to be altered or renovated must have a useful life consistent with research purposes and be architecturally and structurally suitable for conversion to the type of space required;

(C) The space involved must actually be occupied by the project or program;

(D) The space must be suitable for human occupancy before alteration or renovation work is started, except where the purpose of the alteration or renovation is to make the space suitable for some purpose other than human occupancy (e.g., storage);

(E) If the space is rented, evidence must be provided that the terms of the lease are compatible with the alteration and renovation proposed.

(2) The following clarification applies to the standard in paragraph c.4.d. of OMB Circular A-21, which relates to allocation of costs for interrelated projects supported by multiple Federal awards: The

interrelationship between or among projects does not have to be formally stipulated, but must be demonstrable on the basis of the following criteria. Either: a. the theoretical approaches are interrelated; b. studies of the same phenomena are conducted by the same or different techniques; or c. studies of different phenomena are conducted by the same technique.

(b) Nonprofit organizations covered by OMB Circular A-122. The Federal awarding agency hereby approves the inclusion of certain costs for which the agency's prior approval is required by the cost principles for nonprofit organizations, in OMB Circular A-122. Agency approval is granted for the recipient to:

(1) Include as direct charges capital expenditures for general purpose equipment or special purpose equipment, but only if the equipment is primarily used in the actual conduct of the research, as stated in paragraph 34.(c) of Article 34 of these General Terms and Conditions [reference paragraphs 15.b.(1) and (2) of Attachment B to OMB Circular A-122].

(2) Include as direct charges capital expenditures for improvements to equipment that materially increases the equipment's value or useful life, but only if the equipment is primarily used in the actual conduct of the research [reference paragraph 15.b.(3) of Attachment B to OMB Circular A-122].

(3) Include participant support costs such as stipends, subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with meetings, conferences, symposia, or training projects [reference paragraph 33 of Attachment B to OMB Circular A-122.]

(4) Include pre-award costs incurred up to 90 days prior to the effective date of the award, as provided in Article 25.(c)(1) of these general terms and conditions [reference paragraph 36 of Attachment B to OMB Circular A-122.]

(5) Include costs of rearrangements and alterations under \$25,000 [reference paragraph 39 of Attachment B to OMB Circular A-122], subject to the following conditions:

(i) The alteration or renovation must be essential to the project supported;

(ii) The facility to be altered or renovated must have a useful life consistent with research purposes and be architecturally and structurally suitable for conversion to the type of space required;

(iii) The space involved must actually be occupied by the project or program;

(iv) The space must be suitable for human occupancy before alteration or renovation work is started, except where the purpose of the alteration or renovation is to make the space suitable for some purpose other than human occupancy (e.g., storage);

(v) If the space is rented, evidence must be provided that the terms of the lease are compatible with the alteration and renovation proposed.

(6) Include costs for foreign travel outside of Canada and the United States and its territories and possessions [reference paragraph 51.e. of Attachment B to OMB Circular A-122.]

(c) Hospitals covered by 45 CFR 74, Appendix E. The Federal awarding agencies hereby approve the inclusion of certain costs for which the agency's prior approval is required by the cost principles for hospitals, in 45 CFR 74, Appendix E. Agency approval is granted for the recipient to:

(1) Include as direct charges capital expenditures for general purpose equipment or special purpose equipment, but only if the equipment is primarily used in the actual conduct of the research as stated in paragraph 34.(c) of Article 34 of these General Terms and Conditions (reference paragraphs IX.B.4 & 12 of 45 CFR 74, Appendix E).

(2) Include charges for non-hospital professional activities that exceed a staff member's base salary, but only in unusual cases where (a) the non-hospital professional activities are across departmental lines

or involve a separate or remote operation; and (b) the non-hospital professional work is in addition to the staff members regular departmental load (reference paragraph IX.B.7.f. of 45 CFR 74, Appendix E).

(3) Include preagreement costs to the extent described in paragraph 25.3.1 of Article of these General Terms and Conditions (reference paragraph IX.B.27 of 45 CFR 74, Appendix E).

(4) Rearrangement, alteration and reconversion costs under \$25,000 (reference paragraphs IX.B.32 & 33 of 45 CFR 74, Appendix E) subject to the following conditions:

(i) The rearrangement or alteration must be essential to the project supported;

(ii) The facility to be altered or rearranged must have a useful life consistent with research purposes and be architecturally and structurally suitable for conversion to the type of space required;

(iii) The space involved must actually be occupied by the project or program;

(iv) The space must be suitable for human occupancy before alteration or rearrangement work is started, except where the purpose of the alteration or rearrangement is to make the space suitable for some purpose other than human occupancy (e.g., storage);

(v) If the space is rented, evidence must be provided that the terms of the lease are compatible with the alteration and rearrangement proposed.

28. Period of availability of funds. The recipient may charge to the award only allowable costs resulting from obligations incurred during the funding period specified, any pre-award costs authorized in accordance with paragraph (c) of Article 25 of these General Terms and Conditions, and costs incidental to the production of the final report.

29. Reserved.

III.B. Property Standards.

30. Purpose of property standards.

Sections ____.31 through ____.37 set forth uniform standards governing management and disposition of property furnished by the Federal Government whose cost was charged to a project supported by a Federal award.

31. Insurance coverage. Requirements for insuring real property or equipment under the award are as stated in section ____.31 of OMB Circular A-110.

32. Real property. The recipient may not acquire real property under the award without the prior approval of the Federal awarding agency, in accordance with paragraph J.18.b.(1) of OMB Circular A-21. Should approval be granted to do so, the Federal awarding agency will prescribe requirements for use and disposition of the property, in accordance with section ____.32 of OMB Circular A-110.

33. Federally-owned and exempt property. (a) Federally-owned property includes: equipment or supplies that are furnished by the Federal Government; or equipment acquired by the recipient under a Federal award that specifies that title to the property vests upon acquisition in the Federal Government. The recipient:

(1) Must submit annual and final reports for any Federally-owned property under the award, in accordance with paragraph (a)(1) of section ____.33 of OMB Circular A-110.

(2) May use Federally-owned equipment on other activities not sponsored by the Federal Government only if authorized by the Federal awarding agency. User charges must be treated as program income, in accordance with paragraph (d) of section ____.34 of the Circular A-110.

(3) Must administer Federally-owned equipment in accordance with paragraph (f) of section ____.34.

(b) Exempt property. All equipment and supplies acquired by the recipient under the award are "exempt property," as that term is defined in OMB Circular A-110. Articles 34 and 35 of these General Terms and Conditions address the requirements for equipment and supplies, respectively.

34. Equipment.

(a) Unless the agency-specific requirements provide otherwise, title to all equipment purchased or fabricated with Federal awarding agency or recipient cost sharing funds, as direct costs of the project or program, shall vest in the recipient upon acquisition without further obligation to the Federal Government, subject to the following conditions:

(1) The Federal awarding agency may require that title be transferred to the Federal Government or a third party if the project or program for which the equipment was purchased is transferred to another recipient. In any such case, the Federal awarding agency will notify the recipient of the intent to transfer title within 120 days following the expiration or termination of the project and paragraph (g)(2) of section ____34 of OMB Circular A-110 then applies.

(2) As long as the Federal Government continues to support the project or program for which the equipment was purchased, the recipient:

(i) Must use the equipment in that project or program, unless it no longer is needed for that project or program. The recipient may not encumber the equipment without the approval of the Federal awarding agency.

(ii) Must use the equipment in accordance with paragraphs (b) and (d) of section ____34 of OMB Circular A-110. In accordance with paragraph (b), the recipient shall not use equipment acquired with Federal funds to provide services to non-Federal outside organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute.

(iii) May, when acquiring replacement equipment, use the equipment that is being replaced as trade-in or sell the equipment and use the proceeds to offset the costs of the replacement equipment, as authorized by paragraph (e) of section ____34 of OMB Circular A-110.

(3) The recipient must account for the equipment in accordance with paragraph (f) of section ____34. The recipient must continue to account for the equipment after the cessation of Federal support for the project or program for which the equipment was purchased, in a manner that ensures that: (a) equipment purchased under the award is not later included as a contribution toward cost sharing under another Federal award; and (b) depreciation or use charges for the equipment are not later included in any proposal for Facilities and Administration costs.

(b) The recipient shall specify in any cost-type subaward whether title to equipment purchased or fabricated under the subaward vests in the recipient or subrecipient. If title vests in the subrecipient, it must be subject to the conditions specified in paragraph 34 (a) of this article (modified appropriately if the subrecipient is not an institution of higher education or nonprofit organization and its property management standards are specified in a document other than OMB Circular A-110). The recipient shall also require each subrecipient to specify, in any lower-tier, cost-type subaward that the subrecipient awards, whether title to equipment purchased or fabricated under that lower-tier subaward vests in the subrecipient making the subaward or in the lower-tier subrecipient.

(c) Expenditures for acquisition or improvement of special purpose and general purpose equipment, as defined in paragraphs J.18.a.(3) and (4) of OMB Circular A-21, are allowable as direct costs of the project in accordance with Article 27, Section (a)(1)(C).

35. Supplies. Section ____35 of OMB Circular A-110 governs the vesting of title and requirements for use and disposition of supplies, with the following clarification: (a) Unless the agency-specific requirements provide otherwise, title to supplies shall vest in the recipient upon acquisition unconditionally, without further obligation to the Federal Government.

36. Intangible property. Section ____36 of OMB Circular A-110 specifies the Government's and recipient's rights and responsibilities concerning copyrights, patents and inventions, and data that are generated or acquired under the award, with the following clarifications:

(a) The Federal awarding agency does not waive the Federal Government's rights concerning data first produced under the award, as described in paragraph ____36(c)(1) and (2).

(b) The award shall be subject to the Patents Rights (Small Business Firms and Nonprofit Organizations) clause at 37 CFR 401.14 and the following:

(1) In each instance where the term "contract" or "contractor" is used in the clause, those terms shall be read as "award" and "recipient," respectively.

(2) In each instance where the term "Federal Agency," "agency," or "funding Federal agency" is used in the clause, the term shall be read to mean the awarding agency for the award.

(3) Under paragraph (g) of the clause, the title shall read "Contracts and Subawards Under the Award" and, in that paragraph, "subcontract" and "subcontractor": shall be read as "contract" or "subaward."

(4) Under subparagraph (g)(2) of the clause, if a contract or subaward is to be made to any organization other than a non-profit organization or small business firm, as defined in paragraph (a) of the clause, the recipient shall contact the cognizant awarding agency official to ascertain the appropriate patent clause.

(c) See the agency-specific requirements of the award for the point of contact for communications on matters relating to the clause.

37. Property trust relationship. Section ____37 of OMB Circular A-110 applies to real property, equipment and intangible property acquired or improved with Federal funds under the award. This Article imposes no additional requirements for notices of record over and above any described in Articles 32 through 36 of these general terms and conditions and the associated agency-specific requirements.

III.C. Procurement Standards.

40. Procurement. The recipient shall maintain a procurement system that, at a minimum, meets the requirements of sections ____41 through ____48 of OMB Circular A-110, with the following clarifications:

(a) In paragraphs (e)(2) through (5) of section ____44, section ____46, and paragraphs (a) and (b) of section ____48, the term "small purchase threshold" is replaced by "simplified acquisition threshold," the term that now is defined at 41 U.S.C. 403(11). The simplified acquisition threshold currently is \$100,000.

(b) In paragraph (e) of section ____48, the words "all contracts, including small purchases" is replaced by the words "all contracts, including those for amounts less than the simplified acquisition threshold."

(c) The reference in paragraph (e) of section ____48 to "Appendix A to this Circular" is replaced by a reference to Appendix A of these general terms and conditions.

(d) The recipient shall give preference in its procurements using Federal funds to the purchase of recycled products pursuant to the EPA guidelines in 40 CFR §§ 247-254 if it is a State or local institution of higher education, hospital, or non-profit organization to which the Resource Conservation and Recovery Act (RCRA) applies, in accordance with section ____16 of OMB Circular A-110.

(e) The recipient's procurement system, in its essential elements, shall remain as approved by the Office of Naval Research (ONR) and the ONR shall be notified of any major change(s) to the approved system, if the ONR has reviewed and approved the recipient's procurement system for any of the following reasons:

(1) The ONR is the cognizant Federal agency for the recipient or has reviewed the recipient's procurement system at the request of another Federal awarding agency.

(2) The recipient also receives Federal procurement contracts; the administrative contracting officer has determined that there is a need for a contractor's purchasing system review, in accordance with 48 CFR § 44.302 in the Federal Acquisition Regulation; and the ONR is the office responsible for conducting the review.

III.D. Reports and Records.

50. Purpose of reports and records. Sections ____51 through ____53 set forth the procedures for monitoring and reporting on the recipient's financial and program performance and the necessary standard reporting forms. They also set forth record retention requirements.

51. Monitoring and reporting program performance. The recipient's responsibilities for programmatic monitoring and reporting are as stated in paragraphs (a) through (g) of section ____51 of OMB Circular A-110, with the following additions and clarifications:

(a) Publications. The recipient is expected to publish or otherwise make publicly available the results of the work conducted under the award. An acknowledgment of awarding agency support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this project, as follows:

(1) The acknowledgment will be: "This material is based upon work supported by the [name of awarding agency(ies) under Award No. [recipient should enter the awarding agency(ies) award number(s)]."

(2) The disclaimer will be: "Any opinions, findings, and conclusions or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the [name(s) of awarding agency(ies)]."

(b) Technical reports.

(1) The final technical report, in accordance with paragraphs (b) through (d) of section ____51, is due 90 calendar days after the expiration or termination of the award, unless the agency-specific or award-specific terms and conditions state that a final report is not required.

(2) The recipient is encouraged to submit technical reports in computer or electronic formats. When paper copies are submitted, the recipient shall provide an original and two copies, as provided in paragraph (e) of section ____51.

(c) Site visits. With respect to paragraph (g) of section ____51, the Federal awarding agency's authorized representatives have the right to make site visits at all reasonable times to review project accomplishments and provide such technical assistance as may be required. All site visits and evaluations shall be performed in a manner that does not unduly interfere with or delay the work.

52. Financial reporting. If payments are made in advance, in accordance with Article 22.(a) of these general terms and conditions, the Federal Cash Transactions Report (SF-272) or its electronic equivalent shall be submitted within 15 days following the end of each funding quarter.

53. Retention and access requirements for records. The rights and responsibilities of the recipient and Federal awarding agency are as stated in section ____53 of OMB Circular A-110, with the following clarifications:

(a) With the exception of types of records described in paragraphs (b)(1) through (b)(4) of section ____53, the recipient must retain financial and programmatic records, supporting documents, statistical records, and all other records of a recipient that are required by the terms of a grant, or may reasonably be considered pertinent to a grant, for a period of 3 years from the date the Financial Status Report is submitted. Since NSF does not use the Financial Status Report, records for NSF grants must be kept of a period of 3 years from the date the final Federal Cash Transaction Report is submitted.

(b) In accordance with paragraph (c) of section ____53, copies of original records, either in paper or in computer or electronic format, may be substituted for the original records.

54. Reporting Potentially Classifiable Information.

(a) **This award is intended for unclassified, publicly releasable research.** The recipient will not be granted access to classified information. The awarding agency does not expect that the results of the research project will involve classified information. Under certain circumstances, however, a classification review of information originated under the award may be required. The awarding agency may review research work generated under this award at any time to determine if it requires classification.

(b) Executive Order 12958 (60 Fed. Reg. 19,825 (1995)), as amended by Executive Order 13292 (68 Fed. Reg. 15315 (2003)) states that basic scientific research information not clearly related to the national security shall not be classified. Nevertheless, some information concerning (among other things) scientific, technological, or economic matters relating to national security, which includes defense against transnational terrorism, or cryptology may require classification. If a recipient originates information during the course of this award that it believes requires classification under this Executive order, the recipient must promptly:

(1) Notify the awarding agency's program official or the person identified in the Agency Specific Requirements.

(2) Submit the information for classification review as directed by the program official or by registered mail directly to the address specified in the Agency Specific Requirements.

(3) Restrict access to the information to the maximum extent possible until the recipient is informed that the information is not classified, but no longer than thirty (30) days after receipt by the Federal agency performing the classification review.

(c) If the agency performing the classification review determines any of the information requires classification, the recipient agrees that the awarding agency may terminate the award by mutual agreement in accordance with the termination provisions of the award, or otherwise amend it. All material deemed to be classified must be handled in accordance with agency instructions.

(d) If the agency performing the classification review does not respond within the specified time periods, the recipient is under no further obligation to restrict access to the information.

III.E. Termination and Enforcement.

61. Termination.

(a) Paragraph (a) of section ____61 of OMB Circular A-110 states the conditions under which the recipient and/or the Federal awarding agency may terminate the award before the date of completion specified in the award document and any amendments thereto.

(b) The recipient and Federal awarding agency are responsible for the closeout of the terminated award, as described in Article 71 of these terms and conditions.

(c) After the termination, the recipient and the Federal awarding agency continue to have the rights and responsibilities described in Article 72 of these terms and conditions.

62. Enforcement. Section ____62 of OMB Circular A-110 specifies the remedies available to the Federal awarding agency when the recipient materially fails to comply with the terms and conditions of the award. Section ____62 also states the rights and responsibilities of the recipient and the Federal awarding agency related to any enforcement action.

IV. AFTER-THE-AWARD REQUIREMENTS

71. Closeout procedures. The rights and responsibilities of the recipient and the Federal awarding agency are as stated in section ____71 of OMB Circular A-110, with the following clarifications:

(a) The Federal awarding agency shall make downward adjustments to the Federal share of costs, as described in paragraph (e) of section ____71, if the amount expended by the recipient on project costs is less than the amount stated in the award and any amendments thereto.

72. Subsequent adjustments and continuing responsibilities.

(a) The continuing rights of the Federal awarding agency and responsibilities of the recipient after closeout of the award are as stated in paragraph (a) of section ____72 of OMB Circular A-110.

(b) After closeout of the award, the recipient and the Federal awarding agency may modify or end those continuing rights and responsibilities by mutual agreement, as described in paragraph (b) of section ____72, provided that the responsibilities of the recipient referred to in paragraph (a) of section ____72 are considered and provisions made for continuing responsibilities of the recipient, as appropriate.

73. Collection of amounts due. The Federal awarding agency's rights and responsibilities for debt collection are as stated in section ____73 of OMB Circular A-110.

Appendix A

Contract Provisions

All contracts awarded by a recipient, including those for amounts less than the simplified acquisition threshold, shall contain the provisions described in paragraphs 1 through 8 in Appendix A of OMB Circular A-110, as applicable, with the following clarifications:

A.1. **Equal Employment Opportunity.** The reference to "40 CFR § 60" in paragraph 1 of the Appendix in OMB Circular A-110 is replaced by "40 CFR chapter 60." The text of Executive Order 11246 may be found at 3 CFR, 1964-1965 Comp., p.339, and that of Executive Order 11375 may be found at 3 CFR, 1966-1970 Comp., p. 684.

A.2. **Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333).** In paragraph 4 of the Appendix in OMB Circular A-110, the words "all contracts awarded by recipients in excess of \$2000 for construction contracts and in excess of \$2500 for other contracts that involve the employment of mechanics or laborers" are replaced by "all contracts awarded by recipients in excess of \$100,000 for construction or other purposes that involve the employment of mechanics or laborers."

A.3. **Debarment and Suspension (E.O.s 12549 and 12689).** Paragraph 8 of the Appendix in OMB Circular A-110 applies to contract awards that exceed the simplified acquisition threshold and certain other contract awards described in the Federal awarding agency's codification of the Government-wide rule implementing Executive Order 12549 (3 CFR, 1986 Comp. p. 189) and Executive Order 12689 (3 CFR, 1989 Comp., p. 235). The reference to the "small purchase threshold" in the final sentence of paragraph 8 is replaced by "simplified acquisition threshold" (currently \$100,000).