



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**



Pipeline Safety

2016 Gas Payment Agreement (Notice of Grant Award) and Certification Regarding Lobbying

for

NORTH DAKOTA PUBLIC SERVICE COMMISSION

Please follow the directions listed below:

1. Review the entire document for completeness.
2. Review and have an authorized signatory sign the following pages:
 1. **Page 3, under State Agency.**
 2. **If your allocation is more than \$100,000 then you need to sign the Certification Regarding Lobbying, page 4.**
3. Scan all pages, including the cover page, and upload the document to FedSTAR.

5 GS-15-678 Filed 07/21/2016 Pages: 15
Partially executed 2016 Gas Payment Agreement
Public Service Commission



PIPELINE SAFETY PROGRAM - CFDA 20.700

Base Grant

Federal Award Identification Number DTPH5616GSBG32

Award Date: June 17, 2016

Period of Performance: January 1, 2016 - December 31, 2016

This agreement is between the Pipeline and Hazardous Materials Safety Administration (PHMSA) and *NORTH DAKOTA PUBLIC SERVICE COMMISSION* (State Agency)

PHMSA will reimburse the State Agency by one of the following options based on available funding:

- the lesser of \$240,307.00 ; or
- a percentage of the State Agency's actual approved cost and the exclusion of the State Agency's performance scores; or
- a percentage of the State Agency's actual approved costs and the "Percent Funding" indicated on the Scoring/Allocation Document.

The reimbursement option will be at PHMSA's discretion. The amount reimbursed under any of the options will not exceed 80 percent of the State Agency's actual approved cost. The total amount of Federal Funds Obligated for this award is \$240,307.00.

Additionally, PHMSA may choose to allocate the available funding based on actual approved costs and the State Agency's performance scores or on actual approved costs without scoring, so as to reimburse the State Agency up to 80 percent of the State Agency's actual approved program costs, even if this amount is greater than the amounts provided for above. This option is contingent on adequate funding.

Signature

Associate Administrator for Pipeline Safety
Title

Date

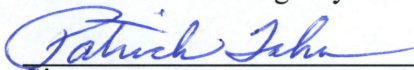
The State Agency (State) agrees to carry out the Pipeline Safety Program to meet the following terms and conditions:

1. State has entered into and maintains a 60105 certification and/or a 60106 agreement for the grant period.
2. State is responsible for ensuring that the *Guidelines for States Participating in the Pipeline Safety Program* manual (version effective to the grant period, incorporated into this agreement) are followed and program funds are accounted for under its provisions.

3. State shall permit representatives of the Department of Transportation and other authorized Federal agencies to review their Pipeline Safety Program and to inspect records, invoices, and other relevant data pertaining to this payment agreement.
4. State signs and submits form "Certification Regarding Lobbying and Disclosure of Lobbying Activities" if grant award is estimated to be \$100,000 or more and form OMB SF-LLL, "Disclosure Form to Report Lobbying", if applicable.
5. State adheres to all terms and assurances within the application package and to all terms and conditions of this Grant Agreement.
6. If you included a request for Indirect Costs, your Indirect Cost Rate(ICR) plan is applicable to the period of performance of this award. Your current IRC plan must be on file with the PHMSA State Programs office during the applicable period of performance.
7. The State's application and project plan are incorporated by reference into this Agreement. The State is responsible for accomplishing the objectives, tasks and deliverables of this Grant Agreement, and for performing the tasks and the deliverables outlined in the State's project plan.
8. State must ensure it will provide the remaining costs of their safety program per 49 USC 60107(b).
9. State total expenditures (excluding grants of the United States Government) for the safety program must at least equal the average amount spent for the three fiscal years prior to the fiscal year in which the Secretary makes the payment, as required in 49 CFR 60107(b) unless a waiver of 49 USC 60107 (b) has been granted to the State.
10. State can be reimbursed twice a year, per the schedule described in the first paragraph of this agreement. In July, the state may be reimbursed for costs incurred during the first six months of the grant period (Mid-Year Payment Request). Participation in the Mid-Year Payment Request for Reimbursement is optional. Every State seeking reimbursement must submit a Year-End Payment Request for Reimbursement package; it is a mandatory program. Both the Mid-Year (optional) and Year-End payment requests are completed using FedSTAR and DELPHI/iSupplier.
11. State must review the list of parties excluded from Federal procurement or non-procurement programs located on the Excluded Parties List System (EPLS) website at <https://www.sam.gov/> before entering into an assistance sub-award.
12. State must inform the PHMSA Grant Officer when the State suspends or debar a contractor or awardee.
13. PHMSA Contact Information: Rex.Evans@dot.gov

NORTH DAKOTA PUBLIC SERVICE COMMISSION

Name of the State Agency


Signature

DIRECTOR, COMPLIANCE & COMPETITIVE MARKETS
Title

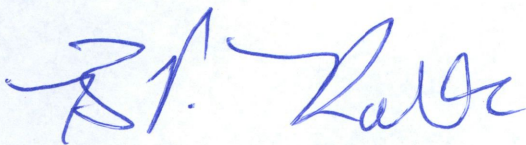
July 21, 2016
Date

CERTIFICATION REGARDING LOBBYING

Certification For Contracts, Grants, Loans, And Cooperative Agreements

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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



Signature/Authorized Certifying Official

BRIAN P. KALK , COMMISSIONER

Printed Name and Title

NORTH DAKOTA PUBLIC SERVICE

Applicant/Organization

July 21, 2016

Date Signed

**Department of Transportation
Pipeline and Hazardous Materials Safety Administration(PHMSA)**

**Financial Assistance Awards to State and Local Governments
Award Terms and Conditions**

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1. Definitions

- a) **Recipient** - A non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term "recipient" does not include subrecipients.
- b) **Grant Officer (GO)** - The GO has full authority to negotiate, administer, and execute all business matters of the award. Further, should any changes to the scope, budget, schedule, or any other terms of the agreement become necessary, only the GO has the authority to amend the award.
- c) **Grant Administrator (GA)** - The GA is responsible for the daily administration of the award. The GA is NOT AUTHORIZED to change the scope, budget, specifications, and terms and conditions as stated in the award, to make any commitments that otherwise obligates the Government or authorize changes which affect the award budget, delivery schedule, period of performance, or other terms and conditions.
- d) **Grant Officer's Technical Representative (GOTR)** - The GOTR assists in monitoring the work under the award. The GOTR will oversee the technical administration of the award and will act as a technical liaison with the performing organization. The GOTR is NOT AUTHORIZED to change the scope, budget, specifications, and terms and conditions as stated in the award, to make any commitments that otherwise obligate the Government or authorize changes which affect the award budget, delivery schedule, period of performance, or other terms and conditions.
- e) **Principal Investigator (PI)** - The PI is the individual designated by the Recipient and approved by PHMSA who is responsible for the technical direction of the project. The PI cannot be changed or become someone substantially less involved than was indicated in the Recipient's proposal, without prior written approval of the Grant Officer.

2. Recipient Responsibilities

In accepting a PHMSA financial assistance award (grant or cooperative agreement), the Recipient assumes legal, financial, administrative, and programmatic responsibility for administering the award in accordance with the laws, rules, regulations, and Executive Orders governing grants and cooperative agreements, and these Award Terms and Conditions, including responsibility for complying with any provisions included in the award.

Failure to comply with these requirements may result in suspension or termination of the award and PHMSA recovery of funds.

3. Compliance with Award Terms and Conditions

Submission of pages 1-3 of this award with a State Agency authorized representative's signature on page 3 constitutes the Recipient's agreement to comply with and spend funds consistent with all the terms and conditions of this award.

4. Order of Precedence

Any inconsistency or conflict in the terms and conditions specified in this award shall be resolved according to the following order of precedence:

- a) The Federal statute authorizing this award or any other Federal statutes, laws, regulations or directives directly affecting performance of this award.
- b) Terms and Conditions of this award.

5. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR 200)

The recipient (and any subrecipients) must comply with these requirements including the cost principles which apply to the recipient, and the audit requirements the recipient must follow. A recipient which expends \$750,000 or more of federal funds, in the recipient's fiscal year, must have an audit conducted.

2 CFR 200 is incorporated by reference into this award and can be viewed at http://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title02/2cfr200_main_02.tpl

6. Restrictions on Use of Funds for Lobbying or in Support of Litigation

The Recipient may not conduct political lobbying, as defined in the statutes, regulations, and 2 CFR 200.450 "Lobbying", within the Federally-supported project. The Recipient may not use Federal funds for lobbying specifically to obtain grants and cooperative agreements. The Recipient must comply with 49 CFR 20, U.S. Department of Transportation "New Restrictions on Lobbying." The Recipient is prohibited from using funds provided under this agreement in direct support of litigation unless approved by the PHMSA Director of State Programs.

49 CFR 20 is incorporated by reference into this award.

7. Nondiscrimination

The Recipient must comply with Title VI of the Civil Right Act of 1964, which provides that no person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied benefits of, be subject to discrimination under any program or activity receiving Federal financial assistance. The Recipient must comply with 49 CFR 21, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation --Effectuation of Title VI of the Civil Rights Act of 1964."

49 CFR 21 is incorporated by reference into this award.

In an effort to ensure that all Recipients of PHMSA funds are aware of their responsibilities under the various civil rights laws and regulations, the PHMSA Office of Civil Rights has developed an information tool and training. These documents are found on the PHMSA website at <http://www.phmsa.dot.gov/org/civilrights/grantrecipientinformation>. If you should have any questions concerning your responsibilities under the External Civil Rights Program, please contact Rosanne Goodwill, Civil Rights Director, at 202-366-9638 or by e-mail at rosanne.goodwill@dot.gov.

8. Government-wide Debarment and Suspension (Non-procurement)

The Recipient must review the "list of parties excluded from federal procurement or non-procurement programs" located on the Excluded Parties List System (EPLS) website: <https://www.sam.gov/> before entering into a sub-award. No sub-award may be issued to an entity or person identified in the "list of parties excluded from federal procurement or non-procurement programs".

2 CFR Part 1200 is incorporated by reference into this award.

The Recipient must inform the GO if the recipient suspends or debar a sub-awardee.


9. Drug-Free Workplace


The Recipient must comply with the provisions of Public Law 100-690, Title V, Subtitle D, "Drug-Free Workplace Act of 1988," which require the Recipient to take steps to provide a drug-free workplace. The Recipient must comply with 49 CFR 32, "Government-wide Requirements for Drug Free Workplace (Financial Assistance)."

49 CFR 32 is incorporated by reference into this award.

10. Payments

Reimbursement payments will be made after the receipt of "Request for Advance or Reimbursement," Standard Form SF-270.

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- a) Method of payment.
 - i) The Government will make all payments under this agreement by electronic funds transfer (EFT), except as provided by paragraph (a)(ii) of this clause. As used in this clause, the term "EFT" refers to the funds transfer and may also include the payment information transfer.
 - ii) If the Government is unable to release one or more payments by EFT, the Recipient agrees either to -
 - (a) Accept payment by check or some other mutually agreeable method of payment; or
 - (b) Request the Government to extend the payment due date until such time as the Government can make payment by EFT (but see paragraph d. of this clause).
 - b) Recipient's EFT information. The Government will make payment to the Recipient using the EFT information contained in the System for Award Management (SAM). If the EFT information changes, the Recipient is responsible for providing the updated information to the SAM database.
 - c) Mechanisms for EFT payment. The Government may make payment by EFT through either the Automated Clearing House (ACH) network, subject to the rules of the National Automated Clearing House Association, or the Fedwire Transfer System. The rules governing Federal payments through the ACH are contained in 31 CFR Part 210.
 - d) Suspension of payment. If the Recipient's EFT information in the SAM database is incorrect, the Government is not obligated to make payment to the Recipient under this agreement until the correct EFT information is entered into the SAM database. An invoice or agreement-financing request is not a proper invoice for the purpose of prompt payment under this agreement.
 - e) Recipient EFT arrangements. If the Recipient has identified multiple payment receiving points (i.e., more than one remittance address and/or EFT information set) in the SAM database, and the Recipient has not notified the Government of the payment receiving point applicable to this agreement, the Government will make payment to the first payment receiving point (EFT information set or remittance address as applicable) listed in the SAM database.
 - f) Liability for uncompleted or erroneous transfers.
 - i) If an uncompleted or erroneous transfer occurs because the Government used the Recipient's EFT information incorrectly, the Government remains responsible for -
 - (a) Making a correct payment;
 - (b) Paying any prompt payment penalty due; and
 - (c) Recovering any erroneously directed funds.
 - ii) If an uncompleted or erroneous transfer occurs because the Recipient's EFT information was incorrect, or was revised within 30 days of Government release of the EFT payment transaction instruction to the Federal Reserve System, and -
 - (a) If the funds are no longer under the control of the payment office, the Government is deemed to have made payment and the Recipient is responsible for recovery of any erroneously directed funds; or
 - (b) If the funds remain under the control of the payment office, the Government will not make payment, and the provisions of paragraph d. of this clause apply.

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- g) EFT and prompt payment. A payment will have been made in a timely manner in accordance with the prompt payment terms of this agreement if, in the EFT payment transaction instruction released to the Federal Reserve System, the date specified for settlement of the payment is on or before the prompt payment due date, provided the specified payment date is a valid date under the rules of the Federal Reserve System.
 - h) EFT and assignment of claims. If the Recipient assigns the proceeds of this agreement, the Recipient must require, as a condition of any such assignment, that the assignee register in the SAM database and be paid by EFT in accordance with the terms of this clause. In all respects, the requirements of this clause will apply to the assignee as if it were the Recipient. EFT information that shows the ultimate recipient of the transfer to be other than the Recipient, in the absence of a proper assignment of claims acceptable to the Government, is incorrect EFT information within the meaning of paragraph d. of this clause.
 - i) Liability for change of EFT information by financial agent. The Government is not liable for errors resulting from changes to EFT information made by the Recipient's financial agent.
 - j) Payment information. The payment or disbursing office will forward to the Recipient available payment information that is suitable for transmission as of the date of release of the EFT instruction to the Federal Reserve System. The Government may request the Recipient to designate a desired format and method(s) for delivery of payment information from a list of formats and methods the payment office is capable of executing. However, the Government does not guarantee that any particular format or method of delivery is available at any particular payment office and retains the latitude to use the format and delivery method most convenient to the Government. If the Government makes payment by check in accordance with paragraph a. of this clause, the Government will mail the payment information to the remittance address contained in the SAM database.

k) eInvoicing (iSupplier):

i) Recipients of PHMSA grants, cooperative agreements, and other transaction agreements (OTA) must use the Delphi eInvoicing System.

ii) Requirements of recipients:

- a) must have internet access to register and submit payment requests through the Delphi eInvoicing system.
- b) must submit payment requests electronically, and receive payment electronically.

iii) System User Requirements:

- a) Contact the PHMSA State Program Specialist (Carrie Winslow) directly to sign up for the system. PHMSA will provide the recipient's name and email address to the DOT Financial Management Office. The DOT Financial Management Office will then invite the recipient to sign up for the system.
- b) DOT will send the recipient a form to verify identity. The recipient must complete the form, and present it to a Notary Public for verification. The recipient will return the notarized form to:

DOT Enterprise Service Center
FAA Accounts Payable, AMK-316
PO Box 25710
Oklahoma City, OK 73125

- c) DOT will validate the information on the form and email a user ID and password to the recipient. Contact the PHMSA grant administrator with any changes to the recipient's system information.

Note: Additional information, including access forms and training materials, can be found on the DOT eInvoicing website (<http://www.dot.gov/cfo/delphi-einvoicing-system.html>)

iv) Waivers

DOT Financial Management officials may, on a case by case basis, waive the requirement to register, and use, the electronic payment system. Waiver request forms can be obtained on the DOT eInvoicing website (<http://www.dot.gov/cfo/delphi-einvoicing-system.html>) or by contacting the PHMSA Grant Administrator. Recipients must explain why they are unable to use or access the internet to register and enter payment requests.

All waiver requests should be sent to:

Director of the Office of Financial Management, U.S. Department of Transportation, Office of Financial Management, B-30, Room W93-431, 1200 New Jersey Avenue SE, Washington DC 20590-0001, DOTElectronicInvoicing@dot.gov.

The Director of the DOT Office of Financial Management will confirm or deny the request within approximately 30 days.

A copy of the form should also be sent to U.S. Department of Transportation, PHMSA, Office of Pipeline Safety (PHP-4), Gwendolyn Hill, 1200 New Jersey Avenue SE, Washington DC 20590-0001.

If a recipient is approved for a waiver, the recipient should submit all hard-copy invoices directly to:

U.S. Department of Transportation
Federal Aviation Administration, MMAC
Financial Operations, AMK-316
P.O. Box 269039
Oklahoma City, Oklahoma 73126-9039
ATTN: Ms. Margaret Gorman
(405) 954-7468

11. Reporting Executive Compensation, and First Tier Sub-Awards

Reporting Executive Compensation and First Tier Sub-Awards:

a) *Definitions.* As used in this provision:

“Executive” means an officer or any other employee in a management position.

“First-tier sub-award” means an award issued directly by the prime Awardee to a sub-awardee to provide support for the performance of any portion of the substantive project or program for which the award was received. A sub-award includes an agreement that the prime Awardee or a sub-awardee considers a contract.

“Total compensation” means the cash and noncash dollar value earned by the executive during the Awardee's preceding fiscal year and includes the following:

- i) Salary and bonus.
- ii) Awards of stock, stock options, and stock appreciation rights.
- iii) Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

- iv) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.
- v) Above-market earnings on deferred compensation which is not tax-qualified.
- vi) Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

- b) **System for Award Management (SAM).** As a recipient of a Federal award you are required to register in the SAM at <https://www.sam.gov>
- c) **Notification to Sub-Awardees.** Awardees are required to report information on sub-awards. The law requires all reported information be made public; therefore, the Awardee is responsible for notifying its sub-awardees that the required information will be made public.
- d) **Reporting of First-Tier Sub-Awards.** By the end of the month following the month of award of a first-tier sub-award with a value of \$25,000 or more, the Awardee shall report the information below at <http://www.fsr.gov> for each first-tier sub-award. (The Awardee shall follow the instructions at <http://www.fsr.gov> to report the data.) If the Awardee, in the previous tax year, had gross income from all sources under \$300,000, the Awardee is exempt from the requirement to report subcontractor awards. If a sub-awardee, in the previous tax year had gross income from all sources under \$300,000, the Awardee does not need to report awards made to that sub-awardee.

- i) Unique identifier (9-digit Data Universal Numbering System (DUNS) number) for the sub-awardee receiving the award, and for the sub-awardee's parent company, if the sub-awardee has a parent company.
- ii) Name of the sub-awardee.
- iii) Amount of the sub-award.
- iv) Date of the sub-award.
- v) A description of the effort being provided under the sub-award, including the overall purpose and expected outcome or result of the sub-award.
- vi) Sub-award number (assigned by the Awardee).
- vii) Sub-awardee's physical address including street address, city, state, country, 9-digit zip code and congressional district.
- viii) Sub-awardee's primary performance location including street address, city, state, country, 9-digit zip code, and congressional district.
- ix) The prime award number (assigned by PHMSA)
- x) Awarding agency name. (PHMSA)
- xi) Funding agency name. (PHMSA)
- xii) Government awarding office code. (56)
- xiii) Treasury account symbol (TAS) as reported in FAADS.
- xiv) The applicable North American Industry Classification System (NAICS) code.

- e) **Reporting Executive Compensation of Awardee.** If the Awardee, in the previous tax year, had gross income from all sources under \$300,000, the Awardee is exempt from the requirement to its executive compensation.

By the end of the month following the month of receipt of a prime award, and annually thereafter, the Awardee shall report the names and total compensation of each of the five most highly compensated executives for the Awardee's preceding completed fiscal year at <https://www.sam.gov> if, in the Awardee's preceding fiscal year, the Awardee received:

- i) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and
- ii) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and

iii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

f) **Reporting Executive Compensation of Sub-Awardees.** If the Awardee, in the previous tax year, had gross income from all sources under \$300,000, the Awardee is exempt from the requirement to report the executive compensation of sub-awardees. If a sub-awardee, in the previous tax year had gross income from all sources under \$300,000, the Awardee does not need to report the executive compensation of that sub-awardee.

By the end of the month following the month of a first-tier sub-award with a value of \$25,000 or more, and annually thereafter, the Awardee shall report the names and total compensation of each of the five most highly compensated executives for each first-tier sub-awardee for the sub-awardee's preceding completed fiscal year at <http://www.fsrs.gov>, if in the sub-awardee's preceding fiscal year, the sub-awardee received:

- i) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and
- ii) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and sub-awards), cooperative agreements, other transaction agreements; and
- iii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)

12. Contracting with Small Businesses, Small Minority-Disadvantaged Businesses, and Small Businesses which are Women-Owned, Veteran-Owned, Disabled Veteran-Owned or located in HubZone Areas

- a) It is the Department of Transportation (DOT) policy to award a fair share of contracts to small businesses, small minority-disadvantaged business, and small businesses which are women-owned, veteran-owned, disabled veteran-owned or located in a HubZone. DOT is strongly committed to the objectives of this policy and encourages all Recipients of its Grants and Cooperative Agreements to take affirmative steps to ensure such fairness on the awarding of any subcontracts.
- b) The Recipient and any Sub-recipients are encouraged to take all necessary affirmative steps to assure that small businesses, small minority-disadvantaged businesses, and small businesses which are women-owned, veteran-owned, disabled veteran-owned, or located in a HUBZone are used when possible.
- c) Affirmative steps include:
 - i) Placing qualified small businesses, small minority-disadvantaged businesses, and small businesses which are women owned, veteran-owned, disabled veteran-owned, or located in a HUBZone on solicitation lists;
 - ii) Assuring that small businesses, small minority-disadvantaged businesses, and small businesses which are women-owned, veteran-owned, disabled veteran- owned or located in a HUBZone are solicited whenever they are potential sources;
 - iii) Dividing total requirements, when economically feasible, into small tasks or quantities to permit maximum participation by small businesses, small minority-disadvantaged businesses, and small businesses which are women-owned, veteran-owned, disabled veteran-owned, or located in a HUBZone;
 - iv) Establishing delivery schedules, when economically feasible, into small tasks or quantities to permit maximum participation by small businesses, small minority-disadvantaged businesses,

and small businesses which are women-owned, veteran-owned, disabled veteran-owned, or located in a HUBZone; and

- v) Using the services and assistance of the Small Business Administration and the Office of the Small and Disadvantaged Business Utilization of the Department of Transportation, as appropriate.

13. Seat Belt Use Policies and Programs

In accordance with Executive Order 13043, the Recipient is encouraged to adopt on-the-job seat belt use policies and programs for its employees when operating company-owned, rented, or personally-owned vehicles. The National Highway Traffic Safety Administration (NHTSA) is responsible for providing leadership and guidance in support of this presidential initiative. For information on how to implement such a program or for statistics on the potential benefits and cost-savings to your company or organization, please visit the Buckle Up America section on NHTSA's website at www.nhtsa.dot.gov. Additional resources are available from the Network of Employers for Traffic Safety (NETS), a public-private partnership headquartered in Washington, D.C. dedicated to improving the traffic safety practices of employers and employees. NETS is prepared to help with technical assistance, a simple, user-friendly program kit, and an award for achieving the President's goal of 85 percent seat belt use. NETS can be contacted at 1-888-221-0045 or visit its website at www.trafficsafety.org.

14. Ban on Text Messaging While Driving

- a) *Definitions.* The following definitions are intended to be consistent with the definitions in DOT Order 3902.10 and the E.O. For clarification purposes, they may expand upon the definitions in the E.O.

“Driving”-

- i) Means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise.
- ii) It does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

“Text messaging” --- means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

- b) In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, financial assistance recipients and subrecipients of grants and cooperative agreements are encouraged to:
 - i) Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving--
 - (a) Company-owned or -rented vehicles or Government-owned, leased or rented vehicles; or
 - (b) Privately-owned vehicles when on official Government business or when performing any work for or on behalf of the Government.
 - ii) Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as--
 - (a) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - (b) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- c) *Assistance Awards.* All recipients and subrecipients of financial assistance to include: grants, cooperative agreements, loans and other types of assistance, shall insert the substance of this clause, including this paragraph (c), in all assistance awards.

15. Rights in Technical Data

Rights to intangible property under this agreement are governed in accordance with 2 CFR 200.315, "Intangible Property"

16. Notice of News Releases, Public Announcements, and Presentations

The Recipient must have the GO's prior approval of all press releases, formal announcements, or other planned written issuance containing news or information concerning this Grant Agreement before issuance. The Recipient must provide two (2) copies of the document to the GO and GOTR for review prior to release. Also, the GO must approve any planned presentations/briefings related to this Grant Agreement, as well as the actual presentation (e.g. slides/vu-graphs) to be used.

17. Violation of Award Terms

If the Recipient has materially failed to comply with any term of the award, the Grant Officer may suspend, terminate, or take other remedies as may be legally available and appropriate in the circumstances.

18. Fraud, Waste, or Abuse

Public Law 113-235 (at Section 743 of Division E, Title VII) prohibits the use of funds for a contract, grant, cooperative agreement or other transaction with an entity that requires employees or subcontractors to sign internal confidentiality agreements prohibiting employees or subcontractors from lawfully reporting fraud, waste or abuse to a designated investigative or law enforcement representative of a Federal department/agency authorized to receive such information.

Prohibition on Awarding To Entities that Require Certain Internal Confidentiality Agreements (PHMSA, FEB 2015)

- (a) The Recipient shall not require employees or subcontractors seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such 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 shall notify employees that the prohibitions and restrictions of any internal confidentiality agreements covered herein are no longer in effect.
- (c) The prohibition in paragraph (a) above 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) (1) In accordance with section 743 of Division E, Title VII, of the Consolidated and Further Continuing Resolution Appropriations Act, 2015 (P.L. 113-235), use of funds appropriated (or otherwise made available) under that or any other Act may be prohibited, if the Government determines that the Recipient is not in compliance with the provisions herein.
(2) The Government may seek any available remedies in the event the Recipient fails to comply with the provisions herein.

The DOT Inspector General maintains a toll-free hot line for receiving information concerning fraud, waste, or abuse under grants and cooperative agreements. Such reports are kept confidential and callers may decline to give their names if they choose to remain anonymous. The number is: (800) 424-9071.

The mailing address is:

DOT Inspector General Hotline
1200 New Jersey Ave SE
West Bldg 7th Floor
Washington, DC 20590
Email: hotline@oig.dot.gov
Web: <http://www.oig.dot.gov/Hotline>



19. Call Before You Dig Program

Damage to pipelines during excavation is a leading cause of accidents resulting in serious injuries and fatalities, but these accidents are preventable, and you can help in preventing them. 811 is designated as the national call-before-you-dig number. Every state has a one-call law requiring excavators to have underground utilities marked before digging.

There are five steps to safer digging:

1. Make a free call to 811 a few days before digging.
2. Wait the required time - which is prescribed in state law but generally two to three days.
3. Locate/mark the utilities accurately. (This step applies to underground facility/utility owners.)
4. Respect the marks.
5. Dig with care.

The recipient is encouraged to adopt the "Call Before You Dig" program for its employees when digging on company-owned, leased, or personally-owned property. For information on how to implement such a program please visit the *811 - Call Before You Dig* section of Pipeline and Hazardous Materials Safety Administration's (PHMSA's) website at www.phmsa.dot.gov.

20. Access to Electronic and Information Technology

Each Electronic and Information Technology (EIT) product or service, furnished under this award, must be in compliance with the Electronic and Information Technology Accessibility Standard (36 CFR 1194), which implements Section 508 of the Rehabilitation Act of 1973, codified at 29 U.S.C. § 794d. The PHMSA Office of Civil Rights (Code PH-20) will respond to any questions, and will certify Section 508 compliance for the requirement. You can reach the PHMSA Office of Civil Rights at phmsa.civilrights@dot.gov, or 202-366-9638.