

## HAVA GRANT ASSURANCES

### Resolution from the Governing Body

A resolution from the county Commissioners Court must be on file with the Secretary of State that includes, at a minimum, the following statements (the same resolution may be used for any HAVA funds awarded to the county provided the statements remain true and correct):

\_\_\_\_\_ Commissioners Court agrees that the expenditure of the funds will be in accordance with applicable federal and state law and any agreement between \_\_\_\_\_ County and the State of Texas, Office of the Secretary of State as authorized under Section 101 of the Help America Vote Act of 2002 and in consultation and agreement with the county election official(s) as defined in Sections 12.001 and 31.091 of the Texas Election Code.

\_\_\_\_\_ Commissioners Court agrees to assign a single point of contact (SPOC) to act on behalf of the county in communicating with the Office of the Secretary of State, including the submission of all necessary reports.

\_\_\_\_\_ Commissioners Court agrees claims against the fund shall be audited and approved in the same manner as other claims against the county before they are paid.

\_\_\_\_\_ Commissioners Court agrees that it will not consider the availability of the funds in adopting the county budget.

\_\_\_\_\_ Commissioners Court agrees that in the event of loss, misuse, or noncompliance pursuant to any grant award agreement with the Secretary of State, \_\_\_\_\_ Commissioners Court assures that the funds will be returned to the Office of the Secretary of State in full.

### State Voting System Certification

If equipment or software is being acquired that requires Secretary of State prior approval pursuant to Section 123.035 of the Texas Election Code, the county must comply with the following:

1. Provide a copy of the relevant portions of the contract containing the identifying information that the Secretary of State needs to determine whether the version of what is being acquired under the contract complies with the applicable requirements.
2. The county may not expend funds unless it has received a letter from the Secretary of State confirming that the acquisition under the contract satisfies the applicable requirements for approval.

### Financial Management Standards

The financial management system of the county must meet the following standards:

1. Financial reporting. Accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant award.
2. Accounting records. The county must maintain records which adequately identify the source and application of funds provided for financially-assisted activities. These records must contain information pertaining to grant awards and authorizations, obligations, un-obligated balances, assets, liabilities, outlays or expenditures, and income.
3. Internal control. Effective control and accountability must be maintained for all grant award cash, real and personal property, and other assets. The county must adequately safeguard all such property and must assure that it is used solely for authorized purposes.
4. Budget control. Actual expenditures or outlays must be compared with budgeted amounts for each grant award. Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant award agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible.
5. Allowable cost. Applicable OMB cost principles, agency program regulations, and the terms of grant award agreement will be followed in determining the reasonableness, allowability, and allocability of costs.
6. Source documentation. Accounting records must be supported by such source documentation as canceled checks, paid bills, payrolls, time and attendance records, contract and grant award documents, etc.
7. The Secretary of State or its designee may review the adequacy of the financial management system of any applicant for financial assistance as part of a pre-award review or at any time subsequent to award.

### Procurement

The county shall use its own procurement procedures and regulations, provided that the procurement conforms to applicable laws and the standards identified in Chapter III (State Uniform Administrative Requirements for Grants and Cooperative Agreements), Subpart C, Section 36 of the Uniform Grant Management Standards.

### Property Management

Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part with grant funds, until disposition takes place will, at a minimum, meet the following requirements:

1. Property records must be maintained that include a description of the property, a serial number or other identification number, the source of property, who holds title, the acquisition date and cost of the property, percentage of the Secretary of State participation in the cost of the property, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.
2. A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.
3. A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft shall be investigated. Certain types of equipment are classified as "controlled assets". The Comptroller's State Property Accounting User Manual, available on the Internet, contains the most current listing.

4. Adequate maintenance procedures must be developed to keep the property in good condition.
5. Counties should attempt to get trade-in value or sell HAVA-funded equipment after it is no longer needed for its original intended purpose, and use the proceeds toward replacement equipment or other related activities. Proper sales procedures must be established to ensure the highest possible return.

### **Records Retention**

1. The county must maintain records for at least three years following the submission of the final expenditure report.
2. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

### **Compliance Reviews**

1. Compliance reviews include programmatic and financial auditing.
2. The Secretary of State reserves the right to conduct its own audit or contract with another entity to audit the county.
3. The Secretary of State or its designee may conduct compliance reviews throughout the existence of a grant or conduct an audit after the grant period has ended. The county must make all grant-related records available to the Secretary of State or its representatives unless the information is sealed by law.
4. Compliance reviews may be on-site or desk reviews and may include any information that the Secretary of State deems relevant to the project.

### **Remedies for Noncompliance**

If a county fails to comply with any term or condition of this award agreement or any applicable statutes, rules, regulations, or guidelines, Secretary of State may take one or more of the following actions:

1. Require the return of funds if disbursements have already been made.
2. Temporarily withhold all payment to the county pending correction of the deficiency by the county.
3. Temporarily withhold all payments for other HAVA grant funds awarded to the county pending correction of the deficiency by the county.
4. Disallow all or part of the cost of the activity or action that is not in compliance.
5. Impose administrative sanctions, other than fines, on the county.
6. Withhold further HAVA grant funds from the county.
7. Terminate the award agreement in whole or in part.
8. Exercise other remedies that may be legally available.

### **Collection of Amount Due**

Any funds paid to the county in excess of the amount to which the county is finally determined to be entitled under the terms of the award constitute a debt to the Secretary of State. If not paid within 30 days after demand, the federal or state agency may reduce the debt by:

1. Making an administrative offset against other requests for reimbursements;
2. Withholding payments otherwise due to the county; or
3. Other action permitted by law.

Except where otherwise provided by statutes or regulations, the federal government may charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (4 CFR Ch. II). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

### **Standard Federal Assurances**

#### *Certification Regarding Lobbying for Contracts, Grants, Loans and Cooperative Agreements*

The signing authority certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the signing authority, 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 signing authority shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The signing authority 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.

*Certification Regarding Trafficking in Persons*

The signing authority certifies to his or her understanding that this grant is subject to the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. § 7104) as follows:

**I. Provisions applicable to a recipient that is a private entity.**

- A. You as the recipient, your employees, subrecipients under this award, and subrecipients' employees may not:
  - 1. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
  - 2. Procure a commercial sex act during the period of time that the award is in effect; or
  - 3. Use forced labor in the performance of the award or subawards under the award.
- B. We as the federal awarding agency may unilaterally terminate this award, without penalty, if you or a subrecipient that is a private entity
  - 1. Violates a prohibition in paragraph A of this award term; or
  - 2. Has an employee who violates a prohibition in paragraph A of this award term through conduct that is either:
    - a) Associated with performance under this award; or
    - b) Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)".

**II. Provisions applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is not a private entity—**

- A. Is determined to have violated an applicable prohibition of paragraph I.A of this award
- B. term; or
- C. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph I.A of this award term through conduct that is—
  - 1. Associated with performance under this award; or
  - 2. Imputed to you using the standards and due process for imputing conduct of an individual to an organization that are provided in 2 CFR Part 180, "OMB 12 Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement)," as implemented by our agency at 2 CFR Part 2200.

**III. Provisions applicable to any recipient.**

- A. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph I A of this award term.
- B. Our right to terminate unilaterally that is described in paragraph (1) and (2) of this section:
  - 1. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
  - 2. Is in addition to all other remedies for noncompliance that are available to us under this award.
- C. You must include the requirements of paragraph I A of this award term in any subaward you make to a private entity.

**IV. Definitions. For purposes of this award term:**

- A. "Employee" means either:

1. An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
2. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose service are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.

B. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

C. “Private entity”:

1. Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR §175.25.
2. Includes:
  - a) A nonprofit organization, including any non-profit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR § 175.25(b).
  - b) A for-profit organization.

D. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. § 7102).