

# Administrative and National Policy Requirements

## Non-Discrimination Legal Requirements for Recipients of Federal Financial Assistance

Recipients of federal financial assistance (FFA) from HHS are required to follow all applicable nondiscrimination laws. Recipients agree to this when they register in SAM.gov. Recipients must also submit an HHS Assurance of Compliance form ([HHS-690](#) (PDF) (PDF)). To learn more, see the [HHS Office of Civil Rights website](#).

By applying for or accepting federal funds from HHS, recipients certify compliance with all federal antidiscrimination laws and these requirements and that complying with those laws is a material condition of receiving federal funding streams. Recipients are responsible for ensuring subrecipients, contractors, and partners also comply.

The HHS Office for Civil Rights provides guidance on complying with civil rights laws enforced by HHS. See information [For Providers of Health Care and Social Services](#) and the [HHS Nondiscrimination Notice](#). As a condition of the award, all HHS recipients are required to submit a signed HHS 690 form regarding nondiscrimination compliance.

For guidance on access to recipient programs or activities by limited English proficient individuals, see a [Fact Sheet on Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient \(LEP\) Persons](#) and the [Limited English Proficiency \(LEP\)](#).

- For information on recipient specific legal obligations for serving qualified individuals with disabilities, including providing program access, reasonable modifications, and to provide effective communication, see [Discrimination on the Basis of Disability](#).
- HHS funded health and education programs must be administered in an environment free of sexual harassment, see [Discrimination on the Basis of Sex: Title IX of the Education Amendments of 1972](#).
- For information on administering recipient project in compliance with applicable federal religious nondiscrimination laws and applicable federal conscience

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protection and associated anti-discrimination laws, see [Conscience Protections and Religious Freedom](#).

## Prohibition Against Profit

Unless exempted by 2 CFR §200.101, program regulations, and/or the terms and conditions of the award:

- Recipients are subject to the limitations set forth in 2 CFR §300.218 Special provisions for awards to for-profit organizations as recipients, which states under (b) that, "...no HHS funds may be paid as profit to any recipient even if the recipient is a for-profit organization. Profit is any amount in excess of allowable direct and indirect costs."
- Recipients are subject to the limitations under 2 CFR §200.400 Policy Guide, which states under (g) that "The recipient or subrecipient must not earn or keep any profit resulting from Federal financial assistance unless explicitly authorized by the terms and conditions of the Federal award. See also 2 CFR §200.307. When the required activities of a fixed amount award were completed in accordance with the terms and conditions of the award, the unexpended funds retained by the recipient or subrecipient are not considered profit."

## Award Term and Condition under the Trafficking Victims Protection Act of 2000

According to [2 CFR Part 175](#), ACL must include Appendix A to Part 175 Award Term Trafficking in Persons for the following Federal awards: grant or cooperative agreement to 1) a private entity (as defined under 2 CFR §175.300) and 2) State, local government, Indian Tribe, foreign public entity, or any other recipient if funding under the award could be provided to a subrecipient that is a private entity. (2 CFR §175.200(a))

- 2 CFR §175.300 defines *Private Entity* as any entity, including for-profit organizations, nonprofit organizations, institutes of higher education, and hospitals. The term does not include foreign public entities, Indian Tribes, local governments, or states as defined in 2 CFR §200.1.

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## Requirements for Drug-Free Workplace

The Drug-Free Workplace Act of 1988 (41 U.S.C. §§ 8101-8106) requires that all organizations receiving awards from any federal agency agree to maintain a drug-free workplace. By signing the application, the Authorizing Official agrees that the recipient will provide a drug-free workplace and will comply with the requirement to notify ACL if an employee is convicted of violating a criminal drug statute. Failure to comply with these requirements may be cause for debarment. Government-wide requirements for Drug-Free Workplace for Financial Assistance are found in 2 CFR Part 182; HHS implementing regulations are set forth in 2 CFR Part 382.400. All recipients of ACL awards must comply with the requirements in Subpart B - Requirements for Recipients Other Than Individuals 2 CFR § 382.225. [View the rule.](#)

## Debarment and Suspension

HHS regulations published in 2 CFR Part 376 implement the government-wide debarment and suspension system guidance (2 CFR Part 180) for HHS' non-procurement programs and activities. "Non-procurement transactions" include, among other things, grants, cooperative agreements, scholarships, fellowships, and loans. ACL implements the HHS Debarment and Suspension regulations as a term and condition of award. Recipients may decide the method and frequency by which this determination is made and may check the Excluded Parties List System (EPLS) located at <https://www.sam.gov>, although checking the EPLS is not required.

## Stevens Amendment

Beginning in 1989, the United States Department of Health and Human Services' (HHS) annual appropriations included a provision known as the "Stevens Amendment" to ensure transparency and accountability in federal spending. The Stevens Amendment requires all HHS grant and cooperative agreement recipients to acknowledge federal funding when publicly communicating projects or programs funded through the HHS annual appropriation.

When issuing statements, press releases, publications, requests for proposal, bid solicitations and other documents --such as tool-kits, resource guides, websites, and presentations (hereafter "statements") -- describing the projects or programs funded in whole or in part with HHS federal funds, the recipient must clearly state:

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1. the percentage and dollar amount of the total costs of the program or project funded with federal money; and,
2. the percentage and dollar amount of the total costs of the project or program funded by non-governmental sources.

When issuing statements resulting from activities supported by HHS financial assistance, the recipient entity must include an acknowledgement of federal assistance using one of the following or a similar statement.

If the HHS Grant or Cooperative Agreement is **NOT** funded with other non-governmental sources:

- "This [project/publication/program/website, etc.] [is/was] supported by the Administration for Community Living (ACL) of the United States (U.S.) Department of Health and Human Services (HHS) as part of a financial assistance award totaling \$XX with 100 percent funded by ACL/HHS. The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by ACL/HHS, or the U.S. Government.

The HHS Grant or Cooperative Agreement **IS** partially funded with other nongovernmental sources:

- "This [project/publication/program/website, etc.] [is/was] supported by the Administration for Community Living (ACL) of the United States (U.S.) Department of Health and Human Services (HHS) as part of a financial assistance award totaling \$XX with XX percentage funded by ACL/HHS and \$XX amount and XX percentage funded by non-government source(s). The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by ACL/HHS, or the U.S. Government.

The federal award total must reflect total costs (direct and indirect) for all authorized funds (including supplements and carryover) for the total competitive segment up to the time of the public statement. Any amendments by the recipient to the acknowledgement statement must be coordinated with the HHS Awarding Agency. If the recipient plans to issue a press release concerning the outcome of activities supported by HHS financial assistance, it should notify the HHS Awarding Agency in advance to allow for coordination.

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## Freedom of Information Act (FOIA)

Applications funded by federal awards are subject to disclosure under the Freedom of Information Act (FOIA), 5 U.S.C. §552. Each released application will receive appropriate redaction of specific information to protect personal privacy and competitively sensitive commercial information.

## Award Term and Condition for Unpaid Federal Tax Liability

Recipients are subject to the requirement contained in Section 744 of the “Consolidated Appropriations Act” (Division E-Financial Services and General Government Appropriations Act, Title VII, General Provisions — Government-Wide), which says “None of the funds made available by this or any other Act may be used to enter into a contract, memorandum of understanding, or cooperative agreement with, make a grant to, or provide a loan or loan guarantee to, any corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.”

## Requirements for Recipient Electronic and Information Technology

Section 504 of the Rehabilitation Act of 1973 ([29 U.S.C. 794\(a\)](#)), states that no otherwise qualified individual with a disability in the United States shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Department. To assist recipients in these compliance obligations, HHS suggests implementing the Section 508 standards when the recipient anticipates public use of its electronic and information technology. Section 508 of the Rehabilitation Act of 1973 ([29 U.S.C. 794d\(a\)\(1\)\(A\)](#)) requires that when Federal agencies develop, procure, maintain, or use electronic and information technology, individuals with

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disabilities have access to and use of information and data that is comparable to that provided to the public who are not individuals with disabilities.

## **Award Term for System Award Management (SAM) and Unique Entity Identifier (UEI) (2 CFR Part 25)**

According to [2 CFR Part 25](#), ACL must include Appendix A to Part 25 Award Term in all Federal financial assistance agreements (2 CFR §25.400) to accomplish the purpose of 2 CFR §25.100. (2 CFR §25.220)

## **Award Term for Subaward and Executive Compensation Reporting (2 CFR Part 170)**

According to [2 CFR Part 170](#), ACL must include Appendix A to Part 170 Award Term in each Federal award to a recipient under which the total funding is anticipated to equal or exceed \$30,000 in Federal funding. When the amount is less than \$30,000 ACL is not required to include the term. However, ACL is including the award term for all Federal awards in the event that total funding under an award exceeds the \$30,000 threshold. (2 CFR §170.220)

## **Award Term for Recipient Integrity and Performance Matters (2 CFR Part 200)**

According to [2 CFR Part 200](#), ACL must include Appendix XII to Part 200 Award Term and Condition for Recipient Integrity and Performance Matters when the total Federal share of the Federal award exceeds \$500,000 over the period of performance. (2 CFR §200.211(c)(1)(iii))

## **Award Term and Condition on Subawards**

According to [2 CFR §200.101\(b\)\(1\)](#), terms and conditions of Federal awards flow down to subawards to subrecipients unless otherwise noted in 2 CFR 200 and 300 or under the Federal award. Pass-through entities must comply with the requirements described under [2 CFR §§200.331 — 200.333](#), and any other sections addressing pass-through entities.

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Under this award term and condition on subawards, ACL outlines the HHS subaward requirements for recipients and subrecipients under Notice of Funding Opportunities (NOFOs), such as:

- The role of the prime recipient;
- Eligibility requirements for subrecipients; and,
- Prime recipient monitoring and oversight responsibilities.

This term and condition applies to all ACL discretionary award recipients except as noted otherwise within this term and condition.

## Mandatory Disclosures

Recipients are subject to the requirements in [41 U.S.C. §2313](#), and provisions found in Federal regulations at 2 CFR §200.113 and Appendix XII of 2 CFR Part 200 — Award Term and Condition for Recipient Integrity and Performance Matters. Applicants and recipients must disclose, in a timely manner, in writing to Office of Grants Management (OGM), with a copy to HHS Office of Inspector General (OIG), all information related to violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Subrecipients must disclose, in a timely manner, in writing to the prime recipient and the HHS OIG, all information related to violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award.

Disclosures must be sent in writing to ACL and the HHS OIG at the following addresses:

The Administration for Community Living

U.S. Department of Health and Human Services

ATTN: [Insert Name of assigned Grants Management Specialist]

330 C Street, SW., Switzer Building

Washington, DC 20201

AND

U.S. Department of Health and Human Services

Office of Inspector General

ATTN: Mandatory Grant Disclosures, Intake Coordinator

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330 Independence Avenue, SW., Cohen Building

Room 5527

Washington, DC 20201

Fax: (202) 205-0604 (Include “Mandatory Grant Disclosures” in subject line) or

Email: [MandatoryGranteeDisclosures@oig.hhs.gov](mailto:MandatoryGranteeDisclosures@oig.hhs.gov)

Failure to make required disclosures can result in any of the remedies described in 2 CFR §200.339, including debarment and suspension. (See also 2 CFR Parts [180](#) and [376](#), and [31 U.S.C. 3321](#)). For more information, please also see the **Award Term for Recipient Integrity and Performance Matters (2 CFR Part 200)**.

## Salary Limitation – Federal Executive Level II

Annual appropriations law provides that no part of any funds awarded “shall be used to pay the salary of an individual, through a grant or other extramural mechanism,” which includes non-federal share, “at a rate in excess of” Federal Executive Level II salary for that calendar year. This amount is published annually by the U.S. Office of Personnel Management (OPM) and can be found on their Pay & Leave website at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/>, specifically under the subheading “Executive & Senior Level Employee Pay Tables: Rates of Pay for the Executive Schedule.” This amount reflects an individual's base salary (including any portion of the salary that is paid for with indirect costs), exclusive of fringe benefits and any income that an individual may be permitted to earn outside of the duties of the recipient or subrecipient organization. This salary limitation also applies to subawards, contracts, and subcontracts under an ACL grant or cooperative agreement.

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