

GENERAL REQUIREMENTS
FOR
RECIPIENTS AND SUB-RECIPIENTS
CONCERNING DISADVANTAGED BUSINESS ENTERPRISES

It is the policy of the U. S. Department of Transportation that disadvantaged business enterprises (DBEs) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this Agreement.

The recipient or its contractor agrees to ensure that DBEs as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBEs have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

If as a condition of assistance the recipient has submitted and the Department has approved a disadvantaged business enterprise affirmative action program, which the recipient agrees to carry out, this program is incorporated into this financial assistance agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement. Upon notification to the recipient of its failure to carry out the approved program, the Department shall impose such sanctions as noted in 49 CFR Part 26, Subpart F, which sanctions may include termination of the Agreement or other measures that may affect the ability of the recipient to obtain future DOT financial assistance.

The recipient shall advise each sub-recipient, contractor or subcontractor that failure to carry out the requirements set forth in 49 CFR Part 26, Subsections 26.101 and 26.107 shall substitute a breach of contract and after the notification of the Department, may result in termination of the agreement or contract by the recipient or such remedy as the recipient deems appropriate.

(NOTE: Where appropriate, the term "recipient" may be modified to mean "sub-recipient", and the term "contractor" modified to include "subcontractor".)

LOCAL AGENCY
CONSULTANT SELECTION PROCEDURES

Section I – Application

These procedures apply to federally funded contracts for engineering and design services for projects subject to the provisions of 23 U.S.C. 112, i.e. for construction performed under the supervision of the Arkansas State Highway and Transportation Department (AHTD). In accordance with 23 CFR 172 the AHTD has approved these procedures for use by the Local Agency for the “competitive negotiation” method of procurement as defined in 23 CFR 172.5, Methods of Procurement.

The Local Agency will use these procedures for Federal-aid contracts and may elect to use them for non-Federal-aid contracts.

These procedures do not apply to design-build Contracts.

Section II – Advertisement for Letters of Interest.

The Local Agency may employ a consultant engineering firm when a need exists for engineering services and it is in the Local Agency’s best interest to employ an engineer or engineering firm.

As a minimum, the Local Agency will advertise in the “Arkansas Democrat-Gazette,” a statewide newspaper; the “Engineering-News Record”, a trade magazine; and the Local Agency’s website (if available), advising that consultant engineering services are being sought. Interested firms must furnish a Letter of Interest listing experience in similar work, the resumes of key personnel, a general description of the firm, and Standard Form SF 254, Architect-Engineer and Related Services Questionnaire. The advertisement will be for either a specific single job, a group of jobs, or for an indefinite delivery of jobs to be determined at a later date with specific task orders issued for each one.

When the Local Agency advertises a specific job, the advertisement will describe the work in general terms so that firms may evaluate their interest in performing the desired services.

When the Local Agency advertises a group of jobs, a general description of work will be furnished. Firms will be asked to specify the jobs they are interested in performing. When the Local Agency decides to proceed with a certain job, those firms having expressed interest in that job will be considered for selection.

When the Local Agency advertises for an indefinite delivery of jobs with later specified task orders, the advertisement will include a general description of work for the job tasks.

Section III – Evaluation of Letters of Interest.

The Local Agency will designate a selection committee to evaluate and analyze the Letters of Interest that are received with regard to each consultant firm's:

1. Professional staff including the education, experience, number of personnel available, and any partnerships with sub-consultants
2. Experience with projects of a similar nature as those advertised
3. General and professional reputation, including responsiveness to civil rights and equal employment opportunity requirements and opportunities
4. Past work performance

Following their review, the selection committee will prepare a short list of engineering firms and recommend to the Local Agency that these firms submit detailed proposals for further evaluation.

Section IV – Request for Proposal.

The Local Agency will prepare a scope of work statement and request proposals from the engineering firms on the short list. A Local Agency's scope of work will typically include the following:

1. A detailed description of the work
2. Services that will be furnished by the Local Agency
3. Services expected of the consultant
4. Project conditions of the work
5. Special conditions of the work
6. Assurance of participation of Disadvantaged Business Enterprises (DBE) in Federal-aid projects. The Local Agency may establish a DBE goal of a certain percentage of the work for DBE's to assure DBE's participation in Federal-aid projects. When a DBE goal is specified, the Local Agency will ensure that a certified DBE(s) performs the identified engineering work and that the payments to the DBE(s) verify that the goal was reached. The establishment of a DBE goal does not preclude a DBE from being the prime consultant for the job.

The short-listed firms should submit proposals that contain the following:

1. A description of the firm
2. A detailed work plan that identifies the major tasks of work
3. A list of major concerns associated with completing the work
4. A detailed work schedule for specific jobs as requested
5. An organization chart listing key personnel by name and title
6. Resumes of key personnel who will be assigned to the project
7. A manpower estimate for specific jobs as requested

The Local Agency will designate a selection committee to review the proposals with regard to the same items, among others, outlined in Section III. Particular attention will be directed to the following evaluation factors:

1. Obvious indication that the scope of work is clearly understood
2. Comprehensive, coherent, and detailed work plan
3. Realistic work schedule when applicable
4. Proposed working office location, need for a local office, and any local representative
5. Identification of sub-consultants and responsiveness to DBE goals and opportunities

Based on these various items, the selection committee will rank the firms in order of preference and submit the list to the Local Agency who will either: (1) select one firm to enter negotiations with, (2) select two or more firms to interview (a firm may present additional information concerning their proposal at the interview), or (3) select multiple firms for an indefinite delivery contract. If the Local Agency decides to conduct interviews, the selected firms will be advised and interviews will be scheduled. After the selection committee conducts the interviews, it will rank the firms based on the same items as noted previously and submit the list to the Local Agency. The Local Agency will review the ranking and make the final selection.

The contract file will contain records of the rankings and supporting data; however, the rankings will not be public information. Copies of the Letter of Interest advertisement, the rankings, and supporting data will be submitted to AHTD for the contract file.

Section V – Negotiation and Contract Preparation.

Once a firm is selected for negotiation for a specific job or a group of jobs, it will prepare a draft contract including a cost estimate for the project. The other firms on the short list will be advised of the firm selected, subject to successful negotiations.

More than one firm may be selected for an indefinite delivery contract. The contract will establish a maximum cost for the contract as well as an expiration date. As individual task orders are issued, individual task order cost estimates will be negotiated.

The selected firm will prepare a draft contract based on a sample contract furnished by the AHTD. The draft contract must include overhead rates in accordance with the principles of 23 CFR 172. For contracts exceeding \$250,000 and for contracts less than \$250,000 when there is insufficient knowledge of the consultant's accounting system, when there is previous unfavorable experience regarding the reliability of the consultant's accounting system, or when the contract involves procurement of new equipment or supplies for which cost experience is lacking, the overhead rates will be

verified by an audit by a certified public accountant on behalf of the consultant prior to execution of the contract.

The Local Agency will review the draft contract proposal and either approve it as submitted or enter into negotiations with the selected firm to establish a contract and contract amount that the Local Agency deems is fair and reasonable. If a satisfactory contract cannot be negotiated with the selected firm, negotiations will be formally terminated. The Local Agency will then enter into negotiations with the second ranked firm. If negotiations with that firm fail, the Local Agency will formally terminate those negotiations and begin to negotiate with the third ranked firm, and so on. If the Local Agency cannot negotiate a satisfactory contract with any of the ranked firms, the Local Agency shall either (1) select additional firms in order of their competence and qualifications and continue the negotiation process, or (2) terminate all negotiations and begin the selection process again.

When the Local Agency and the consultant agree on a negotiated contract regarding the scope of the work, the professional services to be furnished by the consultant, the services to be furnished by the Local Agency, and the amount of compensation and method of payment, the consultant will prepare a final draft and submit it to the Local Agency and AHTD for review. After review and a determination that it is acceptable, the consultant will sign the contract and then the Local Agency will execute the contract. The contract will then be submitted to AHTD for final review and approval. When approved, copies of the signed contract will be distributed within the Local Agency and to the consultant.

After the Local Agency executes an indefinite delivery contract, it will assign specific jobs by task order for the duration of the contract period. The consultant will prepare each task order based on the scope of work furnished by the Local Agency. The task order will include a manpower estimate and cost. The Local Agency will review the task order and approve it as submitted or negotiate with the consultant to establish a task order and task order amount that the Local Agency deems is fair and reasonable. After review and a determination that the task order is acceptable, the consultant will sign the task order and then the Local Agency will execute the task order. The task order will then be submitted to AHTD for final review and approval. When approved, copies of the signed task order will be distributed within the Local Agency and to the consultant.

Section VI – Monitoring the Contract.

The Local Agency may identify staff members as key liaisons for specific projects or for technical matters during the administration of the contract period.

The Local Agency will:

1. Maintain the contract files
2. Arrange and attend periodic progress meetings
3. Coordinate reviews and approval actions with other agencies when necessary
4. Review progress payments
5. Coordinate questions from the consultant.

6. Negotiate any change or amendment to the contract and submit to AHTD as detailed above.
7. Prepare an evaluation of the consultant's performance after completion of the contract. A copy of the evaluation will be submitted to the AHTD.

Section VII – Consultant Liability

The Local Agency will include a contract requirement that the consultant will warrant that all services and work products provided as part of the contract are free from defects in workmanship at the time of acceptance and that the work conforms to the requirements of the contract. This warrant is effective regardless of the degree of inspection and acceptance by the Local Agency or others.

If the consultant is required to correct or re-perform any work or services, the work will be performed at no cost to the Local Agency, and any work or services corrected or re-performed by the consultant shall also be warranted that it is free from defects in workmanship. If the consultant fails or refuses to correct or re-perform, the Local Agency may, by contract or otherwise, correct or replace the deficient items or services with similar work or services, and charge the cost to the consultant or make an equitable adjustment in the consultant's reimbursement.

Acceptance is an act of an authorized representative of the Local Agency by which the Local Agency approves specific services, as partial or complete performance of the contract. Correction is the elimination of a defect.

DATE

Ms. Cathy Matthews
Historic Preservation Program
1500 Tower Building
323 Center Street
Little Rock, AR 72201

Re: Job #
Job Name
County

Dear Ms. Matthews:

The *City of* proposes the enhancement of *project and location*.

Describe the project. A location map is enclosed.

(enclose a map a USGS 7.5 minute topographic quadrangle is preferred by SHPO)

We appreciate any comments you may have regarding the handling of this project. If *name the contact person for the sponsor and phone number ...* can be of assistance in this activity, please let us know.

Sincerely,

NAME & OFFICE
(Sponsor's CEO)

Enclosure(s)

REQUIRED CONTENTS OF BIDDING PROPOSALS FEDERAL-AID PROJECTS

1) **FHWA-1273**

Each set of contract documents shall include FHWA-1273, "Required Contract Provisions, Federal-aid Construction Contracts," and such supplements that may modify the FHWA-1273. Copies of FHWA-1273 and supplements will be provided by the Department.

2) **Anti-Collusion and Debarment Certification**

The certification shall either be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the State to administer oaths or in the form of an unsworn declaration executed under penalty of perjury of the law of the United States. The required form for the Anti-Collusion and Debarment Certification will be provided by the Department. The certification includes:

- Anti-collusion - A statement executed by, or on behalf of the person, firm, association, or corporation submitting the bid certifying that such person, firm, association, or corporation has not, either directly or in-directly, entered into any agreement, participated in any collusion, or otherwise taken any action, in restraint of free competitive bidding in connection with the submitted bid.
- Debarment - A statement regarding debarment, suspension, ineligibility and voluntary exclusion as required by Title 49 of the Code of Federal Regulations, Part 29 (49 CFR 29).

Failure to submit the executed Certification as part of the bidding documents will make the bid nonresponsive and not eligible for award consideration.

3) **Lobbying Certification**

This certification is required by 49 CFR 20. The form for this certification will be provided by the Department.

4) **Davis-Bacon Pre-determined Minimum Wage Rates**

Davis-Bacon requirements apply to all projects greater than \$2,000 that are physically located within the existing right-of-way of a functionally classified city street. The Davis-Bacon wage rates will be provided by the Department.

RIGHT-OF-WAY AND UTILITY CERTIFICATION LETTER

DATE

Mr. Frank Vozel
Deputy Director and Chief Engineer
Arkansas State Highway and Transportation Department
P. O. Box 2261
Little Rock, AR 72203

Re: Job #
F.A.P. #
Job Name
County

Dear Mr. Vozel:

Regarding right-of-way for the referenced Federal-aid project, I certify that
(Choose one of the following)

(1) title to right-of-way necessary for construction of the project is already in public ownership. No additional right-of-way is needed.

(2) title to a portion of the right-of-way necessary for construction of the project is already in public ownership. The additional right-of-way necessary for this project has been acquired in accordance with applicable Federal Highway Administration procedures as shown below.

Tracts _____ # Paid _____ # Donations _____ # Condemnations _____

(3) title to right-of-way necessary for construction of the project has been acquired in accordance with applicable Federal Highway Administration procedures as shown below.

Tracts _____ # Paid _____ # Donations _____ # Condemnations _____

Enclosed are preliminary plans showing the existing right-of-way limits. ***(for No. 2 and 3 above, add the following)*** and the boundary of additional right-of-way needed for construction of this project.

Additionally, I certify that arrangement for adjustment of existing conflicting utilities has been accomplished.

Utilities _____ # Complete _____ % Remaining _____ Exp. Comp. Date _____

Sincerely,

NAME & OFFICE
(Sponsor's CEO)

Enclosure(s)

CERTIFICATION LETTER
REQUESTING AUTHORITY TO ADVERTISE

DATE

Mr. Frank Vozel
Deputy Director and Chief Engineer
Arkansas State Highway and Transportation Department
P. O. Box 2261
Little Rock, AR 72203

Re: Job #
Job Name
County

Dear Mr. Vozel:

The following documents are submitted concerning the referenced project:

1. One set of plans and specifications.
2. A copy of the preliminary estimate of cost.
3. An unexecuted copy of the bid proposal form.

I certify that the plans, specifications and estimate were prepared by or under the direct supervision of a Professional Engineer/Architect licensed to practice in the State of Arkansas and that the plans and specifications comply with the Americans with Disabilities Act (ADA), the American Association of State Highway and Transportation Officials (AASHTO) design standards, and all other applicable state and federal regulations, including airport clearance when necessary, for the type of work involved.

I understand that if any project items are declared non-participating in federal funds due to failure to comply with any State or federal requirements, the City will promptly repay such funds to the Arkansas State Highway and Transportation Department (AHTD). Further, I hereby authorize the Director of the Arkansas State Department of Finance and Administration to transfer such funds from the City's State Turnback Funds to the AHTD's RRA Fund upon notification by the Director of Highways and Transportation that such funds are due AHTD and have not been paid by the City.

Approval to proceed with advertisement of the project for bids is requested.

Sincerely,

NAME & OFFICE
(Sponsor's CEO)

Enclosures

GUIDELINES FOR ADVERTISING AND OPENING BIDS FEDERAL-AID PROJECTS

Upon receipt of written authorization from the Arkansas State Highway and Transportation Department, the project may be advertised for bids. The following minimum guidelines for advertising must be met:

- The minimum advertising period is three weeks.
- In addition to meeting the State requirements for advertising for construction projects, the project must be advertised a minimum of two times in a statewide newspaper.
- The notice must contain: (1) the time, date, and place that sealed bids are to be accepted, opened, and publicly read; (2) a brief description of the kind or type of work contemplated; and (3) the place at which prospective bidders may obtain plans and specifications.
- The Sponsor will include the following language in the solicitation for bids:

“The Sponsor hereby notifies all bidders that this contract is subject to applicable labor laws, non-discrimination provisions, wage rate laws and other federal laws including the Fair Labor Standards Acts of 1938. The Work Hours Act of 1962 and Title VI of the Civil Rights Act of 1964 also apply.”
- All bids received in accordance with the terms of the advertisement shall be publicly opened and at a minimum, the total amount bid must be read (the sponsor may choose to read the bids item by item).
- If any bid received is not read aloud, the name of the bidder and the reason for not reading the bid aloud shall be publicly announced at the letting.
- **Negotiation with contractors during the period following the opening of bids and before the award of the contract shall not be permitted.**

CERTIFICATION LETTER
REQUESTING CONCURRENCE IN AWARD OF THE CONTRACT

DATE

Mr. Frank Vozel
Deputy Director and Chief Engineer
Arkansas State Highway and Transportation Department
P. O. Box 2261
Little Rock, AR 72203

Re: Job #
Job Name
County

Dear Mr. Vozel:

The following documents are submitted concerning the referenced project:

1. One set of bid tabulations.
2. A check in the amount of \$1,000 for the AHTD administration costs.
3. Justification of award (if low bid amount is greater than 10% over the estimate).

I certify that the referenced project was advertised and bids were received in accordance with the regulations governing Federal-aid projects and all other applicable state and federal regulations, and that this process has been reviewed and approved by the City Attorney. Additionally, I certify that the bid is being awarded to the lowest responsive and qualified bidder and that there has not been, nor will there be, any negotiations with the contractor or other bidders regarding the amount bid.

Your concurrence in the award of this contract to CONTRACTOR is requested.

Enclosures

CONSTRUCTION CERTIFICATION AND REIMBURSEMENT REQUEST

Revised: 5/8/07

PAGE 1 OF 2 PAGES

Job No.: _____
 FAP: _____
 County: _____
 Job Name: _____

Payee/Sponsor: _____
 address _____
 Federal Tax ID No.: _____

DATE: _____
 PAY REQUEST # _____
 FROM: _____ TO: _____

SPONSOR'S REQUEST FOR PAYMENT

- 1 Maximum Approved Federal-aid Amount
- 2 Original Contract Amount
- 3 Net Changes by Change Orders
- 4 Present Contract Total
- 5 Present Federal-aid Amount (80% of Line 4 or Amount on Line 1, whichever is less)
- 6 Work Completed to Date
- 7 Federal Match (80% of Line 6 or amount on Line 5, whichever is less)
- 8 Previous Reimbursements (Federal)
- 9 **Amount Due this Estimate**
 (subtract Line 8 from Line 7)

| CHANGE ORDER SUMMARY | ADDITIONS | DEDUCTIONS |
|--|-----------|------------|
| Total changes previously approved | | |
| Total approved this Request Period | | |
| TOTALS | | |
| NET CHANGES by Change Order (Line 3 above) | | |

Interim Estimate Request and Certification

Payment is requested from the Arkansas State Highway and Transportation Department for the Amount Due. I certify that the Contractor and/or subcontractor(s) are complying with the provisions of FHWA-1273, Required Contract Provisions, Federal-aid Construction Contracts, and Supplements; that the work has been completed by the Contractor in accordance with the plans and specifications; and that the Contractor has been paid for this work.

By: _____ Date: _____
 Title: _____

Final Estimate Request and Certification

Final payment is requested from the Arkansas State Highway and Transportation Department for the Amount Due. I certify that the Contractor and/or subcontractor(s) have complied with the provisions of FHWA-1273, Required Contract Provisions, Federal-aid Construction Contracts, and Supplements; that the project has been completed by the Contractor in accordance with the plans and specifications; and that the Contractor has been paid for this work.

By: _____ Date: _____
 Title: _____

| DEPARTMENT USE ONLY | | | |
|---|---|--|----------------------------------|
| Recommended for Payment in Accordance with Project Agreement | Recommended for Payment in Accordance with Project Agreement | Approved for Payment | PAID |
| _____ Resident Engineer | _____ Construction Engineer | _____ Asst. Chief Engineer-Operations | Voucher No. _____ Date: _____ |

CONSTRUCTION CERTIFICATION AND REIMBURSEMENT REQUEST

Revised: 11/30/99

DETAIL ESTIMATE

JOB NUMBER: _____
FAP: _____
JOB NAME: _____
SPONSOR: _____

REQUEST NO: _____ DATE: _____
FROM: _____ TO: _____
CONTRACTOR: _____

| A ITEM NO. | B DESCRIPTION OF WORK | C SCHEDULED VALUE | D WORK COMPLETED | | F MATERIALS PRESENTLY STOCKPILED (NOT IN D or E) | G TOTAL COMPLETED & STOCKPILED TO DATE (D+E+F) | H % COMPLETED (G ÷ C) | I BALANCE TO FINISH (C - G) |
|---------------------|--------------------------|-------------------------|----------------------|-------------|--|--|--------------------------------|--------------------------------------|
| | | | PREVIOUS REQUESTS | THIS PERIOD | | | | |
| | | | | | | | | |
| GRAND TOTALS | | | | | | | | |

COPY OF SPONSOR'S PAYMENT CHECK FOR THIS ESTIMATE SHOULD APPEAR HERE

49 CFR 18.42

UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Post-Award Requirements

Retention and access requirements for records.

(a) *Applicability.* (1) This section applies to all financial and programmatic records, supporting documents, statistical records, and other records of grantees or subgrantees which are:

(i) Required to be maintained by the terms of this part, program regulations or the grant agreement, or

(ii) Otherwise reasonably considered as pertinent to program regulations or the grant agreement.

(2) This section does not apply to records maintained by contractors or subcontractors. For a requirement to place a provision concerning records in certain kinds of contracts, see Sec. 18.36(i)(10).

(b) *Length of retention period.* (1) Except as otherwise provided, records must be retained for three years from the starting date specified in paragraph (c) of this section.

(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.

(3) To avoid duplicate recordkeeping, awarding agencies may make special arrangements with grantees and subgrantees to retain any records which are continuously needed for joint use. The awarding agency will request transfer of records to its custody when it determines that the records possess long-term retention value. When the records are transferred to or maintained by the Federal agency, the 3-year retention requirement is not applicable to the grantee or subgrantee.

(c) *Starting date of retention period--*(1) *General.* When grant support is continued or renewed at annual or other intervals, the retention period for the records of each funding period starts on the day the grantee or subgrantee submits to the awarding agency its single or last expenditure report for that period. However, if grant support is continued or renewed quarterly, the retention period for each year's records starts on the day the grantee submits its expenditure report for the last quarter of the Federal fiscal year. In all other cases, the retention period starts on the day the grantee submits its final expenditure report. If an expenditure report has been waived, the retention period starts on the day the report would have been due.

(2) *Real property and equipment records.* The retention period for real property and equipment records starts from the date of the disposition or replacement or transfer at the direction of the awarding agency.

(3) *Records for income transactions after grant or subgrant support.* In some cases grantees must report income after the period of grant support. Where there is

such a requirement, the retention period for the records pertaining to the earning of the income starts from the end of the grantee's fiscal year in which the income is earned.

(4) *Indirect cost rate proposals, cost allocations plans, etc.* This paragraph applies to the following types of documents, and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(i) *If submitted for negotiation.* If the proposal, plan, or other computation is required to be submitted to the Federal Government (or to the grantee) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(ii) *If not submitted for negotiation.* If the proposal, plan, or other computation is not required to be submitted to the Federal Government (or to the grantee) for negotiation purposes, then the 3-year retention period for the proposal plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

(d) *Substitution of microfilm.* Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.

(e) *Access to records--*(1) *Records of grantees and subgrantees.* The awarding agency and the Comptroller General of the United States, or any of their authorized representatives, shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts.

(2) *Expiration of right of access.* The right of access in this section must not be limited to the required retention period but shall last as long as the records are retained.

(f) *Restrictions on public access.* The Federal Freedom of Information Act (5 U.S.C. 552) does not apply to records unless required by Federal, State, or local law, grantees and subgrantees are not required to permit public access to their records.

CERTIFICATION FOR GRANTS, LOANS, AND COOPERATIVE AGREEMENTS

The undersigned certifies to the best of his knowledge and belief that:

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 any Federal 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 Federal 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 sub awards at all tiers (including sub grants, and contracts and subcontracts under grants, sub grants, loans and cooperative agreements) which exceed \$100,000, and that all such sub recipients 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.