

9. PRE-AWARD ADMINISTRATIVE REQUIREMENTS

A. Application Package. For discretionary competitive programs, each DOC Program Officer must prepare an application package, which may be in electronic format. Application packages should include all of the information that prospective applicants need to apply for an award under the program involved. The Program Officer should consult the Grants Officer when preparing the application package. The application package must be cleared by the Grants Officer and reviewed by FALD prior to issuance. It must also be reviewed by OAM prior to issuance if the application package contains any program specific forms or requirements beyond those listed below. Specific application package contents may vary; however, application packages must include the following minimum information.

1. Copy of the applicable *Federal Register* notice(s) and FFO prepared in accordance with Chapter 19 of this Manual.
2. Application Forms. Program Officers must use the following OMB-prescribed standard forms, as applicable, and/or any other forms approved by DOC and OMB for inclusion in the application package. Generally, in the case of paper applications, the applicant is required to submit one original and two copies of these forms. Additional copies of these forms and unique or program-specific forms must be approved by DOC and OMB in accordance with the requirements of 5 CFR Part 1320, "Controlling Paperwork Burdens on the Public."
 - a. Standard Form 424 - Application for Federal Assistance
 - b. Standard Form 424A - Budget Information - Non-Construction Programs
 - c. Standard Form 424B - Assurances - Non-Construction Programs
 - d. Standard Form 424C - Budget Information - Construction Programs
 - e. Standard Form 424D - Assurances - Construction Programs
 - f. Standard Form 424 - Family of Forms for Research and Related Programs
 - g. Standard Form 424 - Short Organizational Family
 - h. Standard Form 424 - Individual Form Family
 - i. Standard Form 424 - Mandatory Family
 - j. Standard Form LLL - Disclosure of Lobbying Activities
 - k. Form CD-511 - Certification Regarding Lobbying

1. Form CD-512 - Certification Regarding Lobbying - Lower Tier Covered Transactions

3. Information about Intergovernmental Review of Federal Programs in accordance with the provisions of EO 12372 if the program is subject to this review. The following information should be provided:

- a. A current list of the State Point of Contacts (SPOCs), including their names, addresses, and telephone numbers;
- b. The address to which the SPOCs should send any State process recommendations; and
- c. The specific due date for State process recommendations (formally 60 days after the application deadline date), and a statement that the funding agency does not guarantee to “accommodate or explain” for State process recommendations received after that date.

B. Recommendation for Funding. Once an application has been identified as one that will be recommended for funding, the Program Office staff will ensure that complete application recommendation packages are prepared to be forwarded to the Grants Officer. The following are minimum requirements for a complete application recommendation package:

1. Application (Standard Form 424 Series or SF-424 Family of forms, or other authorized forms) with original or electronic signature, including complete proposal with any revisions; a detailed budget narrative; a copy of the current approved negotiated indirect cost agreement (if budget includes indirect costs and the applicant has a negotiated agreement); and signed Forms CD-511, and SF-LLL as applicable.
2. Recommendation memorandum from the selecting official, indicating if the award is intended to be a grant or a cooperative agreement. If the award is recommended to be a cooperative agreement, the package should include a description of the funding agency’s substantial involvement. The Grants Officer will make the final decision concerning the type of funding instrument.
3. Copy of the applicable *Federal Register* notice and FFO or the justification for noncompetitive award as provided in Chapter 8, Section F, the original documentation of the review panel’s evaluations, and the selecting official’s basis for determination to recommend for funding based on program priorities if not already provided in a summarized package in accordance with Chapter 8, Section C. When institutional awards are providing additional funding without competition through either a new award or an amendment, a summary including the date of the most recent report and brief description of the results of the last program review conducted in accordance with provisions of Chapter 16, Section K.2., of this Manual must be included.

4. The Budget Officer's or other responsible official's certification (e.g., CD-435) of availability of funds.
5. Credit report, if applicable.
6. Copy of all pertinent pre-award correspondence with the applicant.

C. Budget Analysis. Prior to award of a grant, the Program Officer and Grants Officer shall perform a thorough review and evaluation of the applicant's proposed budget data, documentation of which will be maintained in the official grant file. Costs charged to a financial assistance award must be allocable, allowable, and reasonable.

1. When the budget data provided by the applicant does not provide the level of detail sufficient for an informed analysis to be performed, the Grants Officer or Program Officer shall contact the applicant for additional information or clarification. In the unusual circumstance that an award is approved without proper and complete budget information, a special award condition must be included in the award requiring submission of needed information within a specified time period. The official award file must contain a written justification for approving the award prior to receipt of budget information.

2. The budget analysis shall include the evaluation of cost data, including a determination that the costs proposed are in accordance with applicable cost principles; the evaluation of specific elements of costs; and projection of these data to determine the effect on such factors as:

- a. The allowability and necessity for individual cost categories;
- b. The reasonableness of amounts estimated for necessary costs;
- c. The basis used for allocating indirect or overhead costs; and
- d. The appropriateness of allocating particular overhead costs to the proposed project as direct costs.

3. In rare instances where complete funding is not available for a proposed award at the time of funding approval, the award document will include a special award condition regarding the award being made contingent upon the availability of prospective funding and a written justification from the Grants Officer for proceeding despite the lack of complete funding, which will be placed in the official award file. If complete funding is not available, the portion of the time being funded will need a project description that represents an increment of meaningful work. Also, see Chapter 20 of this Manual for establishing multi-year awards funded on an incremental basis.

D. Costs. Eligible costs under a DOC financial assistance award must be in accordance with the applicable cost principles.

1. Cost Sharing or Matching Funds. Cash and in-kind contributions that are included in the budget of the award must be valued in accordance with the applicable administrative requirements and are subject to the appropriate cost principles. In accordance with provisions of Public Law 95-134, Title V, § 501 (1977), as amended (48 U.S.C. 1469a), DOC has determined that any requirement for local matching funds under \$200,000 (including in-kind contributions) to be provided by American Samoa, Guam, the Virgin Islands, and the Northern Mariana Islands shall be waived, notwithstanding any other provision of law. Any matching funds otherwise required by law to be provided by government entities of an insular area may be waived at the discretion of the operating unit.

2. Direct Costs. Costs that are directly related and can be traced to the cost of the project being supported and that are within approved budget categories may be charged to the award. For example, if the budget provides costs only for Personnel, Fringe Benefits, Supplies, Equipment, and Travel, the recipient is not allowed to charge to the award costs for Contracting or Consultants without the prior written approval of the Grants Officer.

3. Federal Employee Expenses. An agency is generally barred from accepting funds from a recipient to pay transportation, travel, or any other expenses for any Federal employee unless specifically approved in the terms of the award. Use of award funds (Federal or non-Federal) or the recipient's provision of in-kind goods or services for the purposes of transportation, travel, or any other expenses for any Federal employee may raise appropriation augmentation issues. In addition, Department policy prohibits the acceptance of gifts, including travel payments for federal employees, from recipients or applicants regardless of the source. Program Officers and Grants Officers should contact the FALD for guidance on such issues.

4. Indirect Cost Rates. Indirect cost rates will generally be in accordance with negotiated indirect cost rate agreements which are established for all a recipient's Federal assistance awards by its cognizant agency. The Program Officer should consult with the Grants Officer and FALD before limiting indirect costs. Any proposed limitation must be published in the *Federal Register* or in a program regulation. The recipient should be advised to provide OAM with a copy of its proposal for a negotiated rate when DOC is the cognizant agency. (For awards subject to OMB Circular A-21, the term "indirect costs" has been replaced with "facilities and administrative costs.")

5. Pre-Award Costs. Pre-award costs may only be considered where costs are incurred prior to the award, but after program authority has been enacted and the appropriation becomes available, unless a contrary indication exists in the language or legislative history of the program statutory authority or appropriation. If pre-award costs are incurred before the funding becomes available, but after program authority exists, pre-award costs may be awarded on a case-by-case basis, depending on statutory language, legislative history, or other particular factors, such as applicable program regulations. Pre-award costs incurred before both program authority and funding are

available may generally not be funded retroactively. Questions about availability of appropriations for pre-award costs should be directed to the FALD.

a. Approval of pre-award costs should be kept to a minimum. Generally, the period for such costs should not exceed 90 days prior to the start of the project period.

b. When a request for approval of pre-award costs is required, an applicant should provide a written request to the Program Officer at the earliest possible time. (See 15 CFR § 14.25(e) for prior written approval requirements for pre-award costs, including the requirements for research awards.) The request should contain the following information: Pre-award time period, line item budget for the period, narrative description of the task to be completed, and a compelling justification of why the government should approve pre-award costs. The Program Officer should analyze the request and provide a recommendation to the Grants Officer. The Grants Officer will review the recommendation and the applicant's request. If the pre-award request is disapproved, the Grants Officer will notify the recipient in writing. If the request is approved, notice will be incorporated into the award document.

6. Profit or Fee. Fee or profit or other increment above cost may not be paid on Department of Commerce financial assistance awards unless there is statutory authorization to do so. Requests for fee or profit by recipients of any type should be referred to FALD for review.

7. Program Income.

a. Recipients are required to account for program income related to projects financed in whole or in part with Federal funds. Program income is gross income earned by the recipient from Federally supported activities. Program income excludes interest earned on advances and includes, but is not limited to, income from service fees, conference fees, sale of commodities, usage or rental fees, and royalties on patents and copyrights.

b. Proceeds from the sale of real and personal property purchased in whole or in part with Federal funds is not program income and shall be handled in accordance with the property management provisions set forth in the award.

c. Recipients have no obligation to the Federal Government with respect to program income earned from license fees and royalties copyrighted material, patents, patent applications trademarks, and inventions produced under the award, unless otherwise required by statute, agency regulations, or the terms and conditions of the award. In particular, inventions made under an experimental, developmental, or research award must comply with the requirements of 35 U.S.C. § 18 and 37 CFR Part 401.

d. The disposition of program income shall be in accordance with the applicable Federal administrative requirements and will be specified in the terms and conditions of each award. See 15 CFR § 14.24 or 15 CFR § 24.25, as applicable.

E. "Intergovernmental Review of Federal Programs," Executive Order 12372.

In accordance with EO 12372, each operating unit shall provide the states the opportunity for consultation on proposed Federal financial assistance and direct Federal development programs. The EO was issued with the desire to foster intergovernmental partnership and strengthen federalism by relying on State and local processes for the coordination and review of proposed Federal financial assistance and direct Federal development. Under the EO, state and local officials, not the Federal Government, will determine what Federal programs and activities to review and the procedures for the review.

F. Applicant's Management and Financial Capabilities. DOC policy is to make awards to applicants and recipients who are competently managed, responsible, capable, and committed to achieving the objectives of the awards they receive. It is essential, therefore, that precautions be taken to award grants only to reliable and capable applicants who can reasonably be expected to comply with award requirements. Therefore, the following pre-award screening of applicants for financial assistance awards will be conducted as appropriate.

1. **Credit Checks.** A credit check will be performed on individuals, for-profit, and non-profit applicants. In instances where applicants are delinquent in their Federal obligations, including Federal tax liens, or if any other negative findings are reported, the Grants Officer must investigate those findings and determine whether an award is justified despite negative findings or whether the applicant should be designated as a high-risk recipient (*see* Section G. of this chapter). A copy of the justification for funding despite negative findings signed by the Grants Officer, credit report, and description of actions taken to investigate/resolve negative findings concerning nonresponsibility determinations must be included in the official award file. The OIG will be consulted with respect to assessing the applicant's financial condition and capacity. The final decision will rest with the Grants Officer. Credit reports should generally be obtained through the Federal Supply Schedule negotiated by the GSA. A listing of contractors that provide collection services under the Treasury Debt Collection contract can be found at the Department of the Treasury's Web www.fms.treas.gov.

2. **Delinquent Federal Debts.** A review will be conducted of the accounts receivable listings of each DOC Finance Office and of the credit report for delinquent debts to the Federal Government. No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

- a. The delinquent account is paid in full;
- b. A negotiated repayment schedule is established and at least one payment is received; or
- c. Other arrangements satisfactory to DOC are made.

3. **Individual Background Screening.** Individual background screenings are intended to reveal if any key individuals associated with the applicant have been convicted of or are presently facing criminal charges such as fraud, theft, perjury, or other matters which significantly reflect on the applicant's management honesty or financial integrity. See Chapter 21, "Guidelines and Procedures for Completing an Individual Background Screening Using Form CD-346, Applicant for Funding Assistance."

4. **Financial Pre-Award Screening.** The DOC's Office of Inspector General (OIG) performs pre-award screening procedures to review an applicant's credit rating and related financial information, the status of previous Federal audit findings and recommendations for the applicant, and other relevant data. The following three categories of applicants are exempt from this review: (1) applicants for awards in amounts of \$100,000 or less; (2) applicants who have been recipients of financial assistance from the DOC for three or more consecutive years without any adverse programmatic or audit findings; and (3) applicants that are units of a State or local government or that are accredited colleges and universities.

5. **List of Parties Excluded from Procurement and Non-Procurement Programs.** The Excluded Parties Listing System (EPLS) maintained by the GSA (found at <http://www.epls.gov>) that lists parties excluded from Federal procurement and non-procurement programs will be checked to ensure that the recipient has not been debarred or suspended on a government-wide basis from receiving financial assistance. No awards shall be made to applicants who have been excluded from participating in Federal financial assistance programs. See 2 CFR part 1326.

6. **Past Performance.** Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding if a determination of "nonresponsibility" is made by the Grants Officer, based on recommendation of an appropriate program official (*see* Section G.3 below).

7. **Pre-Award Accounting System Surveys.** The Grants Office, in cooperation with the OIG when appropriate, may require a pre-award survey of the applicant's financial management system in cases where the recommended applicant has had no prior Federal support, the operating unit has reason to question whether the financial management system meets Federal financial management standards, or the applicant is being considered for a high-risk designation. If a pre-award survey is not conducted, a special award condition should be incorporated into the award to require the recipient to obtain a certification from a certified independent public accountant that the recipient's accounting system is adequate to meet the Federal financial management standards.

G. High-Risk Recipients.

1. The Grants Officer is charged with determining whether an applicant is sufficiently responsible to receive Federal financial assistance in accordance with the requirements established in 15 CFR §§ 14.14 or 24.12, as applicable. The Grants Officer

should use the following indicators to determine whether a high risk designation is warranted.

- a. **Financial Instability.** Circumstances that may be relied on as indications of financial instability include factors that contributed to bankruptcy or insolvency, or substantial financial dependency on Federal support. A decision not to make an award only on the basis of bankruptcy or insolvency may be in violation of 11 U.S.C. 525(a), which prohibits discrimination against organizations that have filed such actions;
- b. **Inadequate Internal Controls.** Examples of inadequate internal financial or administrative controls are the inability to comply with the financial management standards or procurement standards in OMB and Treasury circulars which are grave enough to raise serious doubts whether the entity can properly account for Federal funds or use them for their intended purpose; delinquency in payments to the Internal Revenue Service for Federal income and Federal Insurance Contributions Act taxes withheld from employees; or delinquency in repaying a receivable to another Federal agency;
- c. **Unsatisfactory Performance under Other Federal Awards.** Examples of unsatisfactory performance include material violations of award conditions, present debarment, suspension, or voluntary exclusion from Federal programs, termination of a previous award for cause, unsatisfactory or incomplete performance under a prior or current award, or failure to repay a debt owed to the Federal Government;
- d. **Irresponsible Officials or Key Employees.** Examples of possible lack of responsibility are when officials or key employees of an entity responsible for administering a Federal grant:
 - (1) Have been convicted of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (2) Have been convicted of any other offense indicating a lack of business integrity or business honesty that raises questions regarding the appropriateness of selecting the organization for Federal funding; or
 - (3) Are the subject of adverse information as revealed through the individual background screening procedure, which reflects significantly on the applicant's honesty or financial integrity?
- e. **Unsatisfactory Audits.** An issue of the applicant's responsibility may arise when prior audits, which have been resolved, indicate a lack of adherence to administrative and cost accounting guidelines, or a failure to achieve programmatic objectives resulting in disproportionately high disallowances;
- f. **Failure to submit Form SF-LLL, "Disclosure of Lobbying Activities," if required;**
- g. **Failure to submit Forms SF-424B or SF-424D, as applicable; and**

- h. Other adverse information about the responsibility of the entity.
2. If sufficiently adverse factors about the applicant are discovered during the course of reviewing an application, the Grants Officer may, depending on their nature and severity:
 - a. Not make the award;
 - b. Delay the award until conditions are corrected; or
 - c. Consider the recipient to be "high-risk" and make the award with special award conditions to protect the Federal Government's interest, and inform the recipient of the corrective action(s) required to remove the special award conditions. *See* Section I.3.c.(2) of this chapter for guidance. *See also* 15 CFR §§ 14.14 or 24.12, as applicable.
 3. In any instance where a Grants Officer intends to deny, or a program office fails to recommend, a grant or cooperative agreement to an applicant on the basis of pre-award concerns relating to the applicant's present responsibility, the applicant must be given notice of the Department's determination. Such a high-risk determination relates solely to the applicant's present responsibility and the particular award for which the determination is being made, and does not affect the applicant's eligibility for future awards. The notice to the applicant must provide the applicant an opportunity to submit information showing that the Department's determination is in error or otherwise warrants reconsideration. Once an adverse determination has been made, an award may be made to the next appropriate applicant. Whenever a "high risk" determination is made which will deny an award based on responsibility concerns, and the denial is part of a long-term plan to disqualify the applicant, DOC's formal debarment and suspension regulations (2 CFR Part 1326) must be followed. These regulations provide procedures for excluding organizations from participating in Federal procurement and nonprocurement activities on a government-wide basis. Failure to provide the appropriate procedures may expose DOC to a valid claim of de facto debarment based on an argument by the applicant that it has been denied due process of law. As a practical matter, government-wide debarment and suspension under 2 CFR Part 1326 are used only in the most serious cases, such as indictment for and/or conviction of criminal offenses.
 4. The Grants Officer may take any of the steps identified below if adverse information on the recipient, or any key individual associated with the recipient, reflects significantly and adversely on the recipient's honesty or financial integrity, and is discovered after an award is made:
 - a. Require the removal of personnel from association with the management of and/or implementation of the project and require Grants Officer approval of personnel replacements; and

- b. Consider designating the recipient as "high-risk" and unilaterally impose special award conditions to protect the Federal Government's interest, as appropriate, including making changes with respect to the method of payment and/or financial reporting requirements (*see* Subparagraph I.3.c.(2)) of this chapter for guidance; or
 - c. Terminate or suspend the award until corrective action has been taken. Such action should be taken only after the recipient has been afforded adequate due process as noted in G.3. of this chapter.
 - d. Require the recipient to make other changes as appropriate.
5. If any of the adverse factors set forth in this chapter are present, the Grants Officer shall document the official grants file to indicate the circumstances, the nature of the action taken, and the reason.

H. Awards to Insular Areas. Operating units are encouraged to consolidate financial assistance awards to insular areas when project activities are similar. If awards are consolidated, operating units shall take the following actions:

- 1. Provide for a single set of written program and financial reports for each consolidated award, instead of individual reports for each project activity which has been consolidated;
- 2. Receive centrally and distribute all requested reports to appropriate program offices;
- 3. Designate a primary contact with the recipient on all administrative matters related to the consolidated award;
- 4. Maintain one official grant file on the consolidated award; and
- 5. Review cost sharing requirements in accordance with provisions of Section D.1. of this chapter.

I. Preparation of Financial Assistance Award.

- 1. Uniform Administrative Requirements. The uniform administrative requirements that apply to a specific grant depend on the type of recipient.
 - a. "*Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*," 15 CFR Part 24, applies to State, local, and Federally-recognized Indian tribal governments.

b. “*Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals, Other Non-Profit, and Commercial Organizations*,” 15 CFR Part 14, applies to institutions of higher education, hospitals, other non-profit, and commercial organizations. This part also applies to grants and agreements awarded to foreign governments, organizations under the jurisdiction of foreign governments, and international organizations unless otherwise determined by the Grants Officer after coordination with the appropriate program officials.

2. Cost Principles. The Federal cost principles that apply to a specific grant also depend upon the type of recipient.

a. “*Cost Principles for State and Local Governments*,” 2 CFR Part 225 (OMB Circular A-87), applies to state, local, and Federally-recognized Indian tribal governments.

b. “*Cost Principles for Educational Institutions*,” 2 CFR Part 220 (OMB Circular A-21), applies to public and private institutions of higher education.

c. “*Cost Principles for Non-Profit Organizations*,” 2 CFR part 230 (OMB Circular A-122), applies to non-profit organizations.

d. “*Contracts with Commercial Organizations*,” 48 CFR Part 31, applies to for-profit organizations and individuals.

e. “*Principles for Determining Costs Applicable to Research and Development under Grants and Contracts with Hospitals*,” Appendix E to 45 CFR Part 74, applies to hospitals other than those that are non-profit.

3. Award Document. The Form CD-450, “*Financial Assistance Award*,” or Form CD-451, “*Amendment to Financial Assistance Award*,” shall be used as the award documents for all grants or cooperative agreements funded by DOC. A copy of each of these forms is in Appendix A of this Manual. The following information must be included in every award:

a. The Project Period.

(1) The award must include a start date and end date. Project periods should not exceed five (5) years.

(2) The beginning of the project period should not ordinarily precede the Grants Officer’s signature date (award date). In order to avoid delays that could possibly jeopardize the success of a project or possibly result in the recipient putting itself at risk by incurring costs without having a properly executed award document, applications should be solicited and processed in a timely manner.

(3) Procedures for funding proposals that include a project description and budget incorporating more than one year of activity when only a portion of the entire amount of Federal funding is available are found in Chapter 20, "*Multi-Year Funding Procedures*" of this Manual.

b. Budget. A budget must be included in every award. It shall be used as the established standard for financial monitoring purposes. Changes made to the budget once the award is issued must be made in accordance with the DOC Standard Terms and Conditions, applicable regulations, and OMB Circulars. Each budget contains a detailed listing of categories of costs which are allowable under the award. Only those categories of costs which have funding included in the approved budget are considered allowable costs under a grant or cooperative agreement. The recipient cannot add a new budget category to an approved budget without prior written approval from the Grants Officer.

c. Special Award Conditions. In addition to the laws, regulations, OMB Circulars, and DOC Standard Terms and Conditions controlling the administration of a grant, special award conditions may also be imposed when justified by circumstances. Special award conditions imposed after the award has been made must be agreed to by both the recipient and the Federal Government unless Federal law or regulation provides the Federal Government with the right to impose special award conditions under the grant in accordance with 15 CFR §§ 14.14, 14.62 24.12, or 24.43, as applicable. Generic or Department-wide special award conditions found in Appendix B should be used, as applicable, in all DOC grants and cooperative agreements. However, information listed in Generic or Department-wide special award conditions numbered 2, 3, 4, and 5 (contact names) may be provided to the recipient in the letter transmitting the award and included in the official award file. Other special award conditions may include the following:

(1) When a cooperative agreement is selected as the funding instrument, the award must include, at a minimum, those items described in subparagraphs (a) through (c) below. When not clearly and specifically provided for in the application, proposal, or other statement of work that is incorporated in the award, special award conditions shall be included that provide:

(a) A project management plan identifying the respective role, responsibility, obligation, and accountability of each project participant;

(b) A statement of how project performance will be measured; and

(c) A statement delineating the expected level of substantial Federal involvement.

(2) In the event that the applicant or recipient is considered as "high-risk," the Grants Officer will notify it (in writing and in as timely a fashion as possible) of:

(a) The nature of the special award conditions or restrictions and the basis on which they are being imposed, which may include:

- 1 Payment only on a reimbursement basis;
- 2 Withholding authority to proceed to the next phase of activity until receipt of evidence of acceptable performance within a given funding period;
- 3 Requiring additional, more detailed financial reports;
- 4 Additional project monitoring;
- 5 Requiring that technical or management assistance be obtained;
- 6 Establishing additional requirements for prior approval; or
- 7 Prohibiting conduct of research involving human and/or animal subjects until certain requirements are met.

(b) The corrective action which must be taken by the applicant or recipient before the special award conditions will be removed and the time allowed for taking the action; and

(c) An explanation of how the applicant or recipient may request reconsideration of the special award conditions or restrictions being imposed.

(3) Where OMB guidance or DOC regulations and policy permit, the Grants Officer may use special award conditions to waive certain administrative requirements. When waiving these prior approval requirements, the Grants Officer may elect to require that the recipient provide notification after a specific action has been taken.

d. Standard Terms and Conditions.

(1) The "*Department of Commerce Financial Assistance Standard Terms and Conditions*" found in Appendix C must be incorporated into each award, except EDA construction awards and revolving loan fund (RLF) awards.

(2) EDA includes separate standard terms and conditions in its construction-related awards and revolving loan fund (RLF) awards, respectively, which derive from the DOC Standard Terms and Conditions in consultation with, and after timely consideration and comment from, OAM and FALD.