

ORGANIZATION CERTIFICATIONS AND GRANT CONDITIONS
For CLEAN WATER ACT SECTION 319(h) FINANCIAL ASSISTANCE AGREEMENTS
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Section 319(h) grant applicants must certify that the following organization certifications and grant conditions, dated July 20, 2010, are acceptable and true. A summary of the organization certifications and grant conditions can be found on pages 3 through 17 of this document.

Upon review of this document, complete page 2 and return pages 1 and 2 to:

Illinois Environmental Protection Agency
Bureau of Water, Watershed Management Section
P.O. Box 19276
Springfield, Illinois 62794-9276

List of Organization Certifications:

1. Capability
2. Recipient Share
3. Responsibility of the Recipient
4. Findings Confidential
5. Subcontracts
6. Statutory Certifications
7. Contracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms
8. More Favorable Terms Clause
9. Violating Facilities
10. Fraud and Other Unlawful or Corrupt Practices
11. Educational Loans & Debt Delinquency
12. Sarbanes-Oxley Act of 2002/Illinois Securities Law of 1953
13. Bid Rigging and Bid Rotating
14. Suspension and Debarment
15. Bribery
16. Drug Free Workplace Certification
17. Privity of Agreement
18. Covenant Against Contingent Fees
19. Compliance with Government-Wide Guidance on Lobbying Restrictions
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List of Grant Conditions:

- 27. Supersession
- 28. Right of Illinois EPA to Products of the Agreement
- 29. Appropriation Contingency (Multiyear)
- 30. Liability of the Illinois EPA
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- 32. Amendments
- 33. Termination
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I, the undersigned, being duly authorized to take such actions, have: (i) reviewed the Organization Certifications and Grant Conditions for Clean Water Act Section 319(h) Financial Assistance Agreements; (ii) retained a copy of the Illinois Environmental Protection Agency's ("Illinois EPA") Organization Certifications and Grant Conditions; and (iii) certify that items 1 through 34 of the Illinois EPA's Organization Certifications and Grant Conditions are acceptable and true.

Signature of Authorized Representative

Printed Name

Title

Signed by (if other than Authorized Representative)

Printed Name

Title

Date

This Agency is authorized to require this information under 415 ILCS 5/4(k). Disclosure of this information is required. Failure to do so may prevent this form from being processed and could result in your application being denied.

ORGANIZATION CERTIFICATIONS AND GRANT CONDITIONS
For CLEAN WATER ACT SECTION 319(h) FINANCIAL ASSISTANCE AGREEMENTS
ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

The term “Agreement” means the Financial Assistance Agreement between the Illinois Environmental Protection Agency (“Illinois EPA”) and the Recipient.

The term “Agreement Period” means the period of performance covered by the Agreement. The start and end date of the Agreement Period is expressly set out in the Agreement.

The term “consultant services” means any services provided under a financial assistance agreement to the State by any consultant qualified by education, experience, and technical ability to advise and assist in solving specific management and programmatic problems involving the organization, planning, direction, control, and operation of Illinois EPA.

The term “Recipient” means the individual or entity identified as the applicant in a Section 319(h) Financial Assistance Agreement Application for funding consideration. The term “Recipient” also refers to an individual or entity that has entered into a Financial Assistance Agreement with the Illinois EPA.

The term “subcontractor” is used interchangeably with the term “consultant” for purposes of the Agreement and these organizational certifications and grant conditions.

Recipients can access:

- the Illinois Compiled Statutes (“ILCS”) at <http://www.ilga.gov/legislation/ilcs/ilcs.asp>;
- the United States Code (“USC”) at <http://www.gpoaccess.gov/uscode/>; and
- the Code of Federal Regulations (“CFR”) at <http://www.gpoaccess.gov/CFR/>.

CERTIFICATIONS:

1. Capability

The Recipient certifies that it:

- a. has the authority to accomplish the planned scope of work in the Agreement project area;
- b. has the ability to accomplish the planned scope of work pursuant to deadlines to be scheduled as part of the Agreement; and
- c. can obtain financial resources (i.e., eligible match) and has the necessary legal and institutional capability to perform the project activities throughout the Agreement Period.

2. Recipient Share

The Recipient certifies that federal funding makes up no part of the Recipient's share of the total project cost and that the Recipient Share is used exclusively for this project. Recipient further certifies that the Recipient Share for this project is not being used to match or financially qualify for any other federal grant.

3. Responsibility of the Recipient

The Recipient certifies that it is responsible for the professional quality, technical accuracy, timely completion, and the coordination of all services furnished by the Recipient under the Agreement. The Recipient must, without additional financial assistance, correct or revise any errors or deficiencies in its services.

The Recipient certifies that it will perform such services as necessary to accomplish the objectives of the Agreement, in accordance with all the terms of the Agreement.

Illinois EPA's financial obligations to the Recipient are limited to the amount of funding identified as "Assistance Amount" in the Agreement. If the Recipient incurs costs in anticipation of receiving additional funds from Illinois EPA, Recipient does so at its own risk.

4. Findings Confidential

The Recipient certifies that any reports, information, documents, etc., given to, prepared or assembled by the Recipient under the Agreement that the Illinois EPA requests be kept confidential, as required by the Illinois Environmental Protection Act (415 ILCS 5/7 and 415 ILCS 5/7.1), shall not be made available to any individual or organization without prior written approval of the Illinois EPA.

5. Subcontracts

The Recipient must submit a draft of any contract for consultant services to the Illinois EPA for approval. The Recipient may not use any consultant services in connection with the services covered by the Agreement unless the Recipient is specifically authorized to do so, in writing, by the Illinois EPA.

Any Recipient who enters into a financial assistance agreement for consultant services with a State agency must specify in the Agreement whether the Recipient will utilize the services of a subcontractor(s). The Agreement shall include the anticipated amount of money that will be paid to the subcontractor(s).

The Recipient must establish all subcontracts in a writing that includes these organization certifications and grant conditions. If consultant services are authorized in writing by the Illinois EPA, the Recipient must submit to the Illinois EPA an executed copy of each agreement that the Recipient enters into with subcontractor(s) within seven (7) days after the date on which the Recipient enters into the agreement with the subcontractor(s). Along with the agreement required by this paragraph, the Recipient must certify, in writing, that any subcontracts are necessary, reasonable, and allocable.

If at any time, subsequent to entering into the Agreement, the Recipient desires to utilize the services of a subcontractor in a manner inconsistent with the stipulations of the Agreement's Estimated Allowable Project Costs section, the Recipient must file a revised Project Cost Summary form with the Illinois EPA in addition to the other information required by this Subcontracts Section. The revised Project Cost Summary form must include a Subcontractor line item and the anticipated amount of money to be used under that line item. The Recipient must obtain Illinois EPA approval of the revised Project Cost Summary form before any changes indicated in the revised Project Cost Summary will take effect.

The Recipient certifies that it will maintain responsibility for ensuring successful completion of the Agreement's scope of work. This responsibility cannot be delegated or transferred to a subcontractor. The Recipient may not assign or transfer either the Agreement or any interest resulting from the Agreement without prior written authorization from the Illinois EPA. In addition, the Recipient certifies that it is responsible for selecting its subcontractors and, if applicable, for conducting subaward competitions.

If the Recipient uses any consultant services in connection with the services covered by the Agreement, the Recipient must ensure that all subcontractors abide by these certifications and conditions.

6. Statutory Certifications

The Recipient certifies that it will comply with:

- a. all environmental laws and regulations;
- b. the Illinois Human Rights Act (775 ILCS 5 (2006)), and its implementing rules and regulations;
- c. the American's with Disabilities Act (42 USCA 12101 (2008));
- d. Titles VI and VII of the Civil Rights Act of 1964 (42 USCA 2000 (2008));
- e. Section 504 of the Rehabilitation Act of 1973;
- f. Title IX of the Education Amendments of 1972;
- g. the Age Discrimination Act of 1975;
- h. the Department of Labor regulations (41 CFR Part 60);
- i. the federal Davis-Bacon Act (40 USCA 3141 (2008)) wage determinations;
- j. the Architectural, Engineering, and Land Survey Qualifications Based Selection Act (30 ILCS 535 (2006));
- k. the Steel Products Procurement Act (30 ILCS 565 (2006));
- l. the Energy Policy and Conservation Act (42 USCA 6321 (2008)); and
- m. the State Prohibition of Goods from Forced Labor Act (30 ILCS 583 (2006)).

If the Recipient violates any law, regulation, or order, the Recipient may be declared ineligible for future financial assistance agreements or subcontracts with the State of Illinois or any of the State of Illinois' political subdivisions or municipal corporations, the Agreement may be terminated under the Termination Section of this Agreement, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation.

7. Contracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms

The Recipient must comply with the requirements of U.S. EPA's program for utilization of small, minority and women's business enterprises, contained at 40 CFR Part 33, including, but not limited to, 40 CFR 33.301, 33.302, and 33.501, and shall maintain records relating thereto. The Recipient accepts the applicable Minority and Women's Business Enterprises fair share objectives negotiated with U.S. EPA by the Illinois EPA as follows:

Minority Business Enterprises ("MBE"):	5%
Women's Business Enterprises ("WBE"):	12%

Pursuant to 40 CFR 33.301, the Recipient certifies that it will make the following good faith efforts whenever procuring construction, equipment, services, and supplies under an Illinois EPA financial assistance agreement, and to ensure that subcontractors, subrecipients, loan recipients, and prime contractors also comply. Records documenting compliance with these six good faith efforts shall be retained:

- (a) Ensure Disadvantaged Business Enterprises ("DBE") are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. For Indian Tribal, State and Local and Government recipients, this will include placing DBEs on solicitation lists and soliciting them whenever they are potential sources.
- (b) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid or proposal closing date.
- (c) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. For Indian Tribal, State and local Government recipients, this will include dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process.
- (d) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually.

- (e) Use the services and assistance of the United States Department of Commerce.
- (f) If the Recipient awards subcontracts, the Recipient must take the steps in paragraphs (a) through (e) of this Contracting with Small and Minority Firms, Women's Business Enterprise, and Labor Surplus Area Firms Section.

The Recipient agrees to complete and submit U.S. EPA Form 5700-52A, "MBE/WBE Utilization Under Federal Grants, Cooperative Agreements and Interagency Agreements" beginning with the Federal Fiscal year reporting period the Recipient receives the award, and continuing until the project is completed. United States EPA Form 5700-52A may be obtained from the U.S. EPA Office of Small Business Program's home page on the Internet at www.epa.gov/osbp.

For purposes of this certification, "Disadvantaged Business Enterprise" or "DBE" has the same meaning as provided in 40 CFR 33.103.

8. More Favorable Terms Clause

All Agreements that include the rental or lease of electronic data processing equipment shall include a clause that if more favorable terms are granted by the lessor, supplier, dealer, or manufacturer to any similar state or local governmental agency in any state in contemporaneous leases or rental agreements covering data processing equipment let under the same or similar financial terms and circumstances, the more favorable terms shall be applicable to all agreements or contracts made by any similar Illinois state agency for the rental or lease of comparable data processing equipment from the lessor, supplier, dealer, or manufacturer.

9. Violating Facilities

The Recipient or any approved subcontractor is prohibited from using any of the facilities included on the U.S. EPA list of Violating Facilities unless and until the U.S. EPA eliminates the name of such facility from the listing. A searchable database of parties that are excluded from receiving Federal contracts, certain subcontracts, and certain Federal financial and nonfinancial assistance and benefits is maintained at www.epls.gov.

10. Fraud and Other Unlawful or Corrupt Practices

The Recipient certifies that it will effectively pursue available state or local legal and administrative remedies, and take appropriate remedial action with respect to any allegations or evidence of such illegality or corrupt practices, which are brought to its attention, such as bribery, graft, or kickbacks. The Recipient bears the primary responsibility for prevention and detection of such conduct and for cooperation with appropriate authorities in the prosecution of any such conduct. The Recipient must advise the Illinois EPA immediately when any such allegation or evidence comes to its attention, and must periodically advise the Illinois EPA of the status and ultimate disposition of any such matter.

11. Educational Loans & Debt Delinquency

The Recipient certifies that it, its staff, and any subcontractors are not in default on an educational loan as provided in Section 3 of the Educational Loan Default Act.

The Recipient certifies that it, its staff, and any subcontractors are not barred from being awarded a contract under Section 50-11 of Article 50 of the Illinois Procurement Code (30 ILCS 500/50-11) which provides that “No person shall submit a bid for or enter into a contract with a State agency under this Code if that person knows or should know that he or she or any affiliate is delinquent in the payment of any debt to the State, unless the person or affiliate has entered into a deferred payment plan to pay off the debt.” 30 ILCS 500/50-11(a). The Recipient and all subcontractors acknowledge that the Illinois EPA may declare the contract void if this certification is false.

12. Sarbanes-Oxley Act of 2002/Illinois Securities Law of 1953

The Recipient certifies that it, its staff, and any subcontractors are not barred from being awarded a contract under Section 10.5 of Article 50 of the Illinois Procurement Code (30 ILCS 500/50-10.5), which provides that “no business shall bid or enter into a contract with the State of Illinois or any State agency if the business or any officer, director, partner, or other managerial agent of the business has been convicted of a felony under the Sarbanes-Oxley Act of 2002 or a Class 3 or Class 2 felony under the Illinois Securities Law of 1953 for a period of 5 years from the date of conviction.” 30 ILCS 500/50-10.5. The Recipient and all subcontractors acknowledge that the Illinois EPA may declare the contract void if this certification is false.

13. Bid Rigging and Bid Rotating

The Recipient certifies that it has not violated Section 33E-3 of the Criminal Code of 1961 (720 ILCS 5/33E-3) during the 5-year period ending on the date of the Agreement. The Recipient certifies that it has never violated Section 33E-4 of the Criminal Code of 1961 (720 ILCS 5/33E-4). The Recipient and all subcontractors acknowledge that the Illinois EPA may declare the contract void if this certification is false.

14. Suspension and Debarment

Recipient must fully comply with Subpart C of 2 CFR Part 180 and 2 CFR Part 1532. Recipient is responsible for ensuring that any lower tier covered transaction as described in Subpart B of 2 CFR Part 180 and 2 CFR Part 1532 includes a term or condition requiring compliance with Subpart C of 2 CFR Part 180. Recipient is responsible for further requiring the inclusion of a similar term or condition in any subsequent lower tier covered transactions. Recipient acknowledges that failing to disclose the information required by 2 CFR 180.335 may result in: (a) the delay of this Agreement; (b) this Agreement becoming void; and (c) pursuit of legal remedies by Illinois EPA, including suspension and debarment.

Recipient may access the Excluded Parties List System at www.epls.gov.

15. Bribery

The Recipient certifies that it or its representatives have not been convicted of bribing or attempting to bribe an officer of the State of Illinois, nor has the Recipient made an admission of guilt of such conduct which is a matter of record. The Recipient and all subcontractors acknowledge that the Illinois EPA may declare the contract void if this certification is false.

16. Drug Free Workplace Certification

The Recipient certifies that it will provide a drug free workplace as required by the Drug Free Workplace Act (30 ILCS 580/1), and will comply with all the provisions of that Act. Under Federal law, the Recipient must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 40 CFR 36.200-36.230.

17. Privity of Agreement

The Agreement is expected to be funded in part with funds from the U.S. EPA. Neither the United States nor any of its departments, agencies or employees is, or will be, a party to the Agreement or any lower tier agreement under these certifications and conditions. This Agreement is subject to regulations contained in 40 CFR Part 31 in effect on the date of the assistance award for this project.

18. Covenant Against Contingent Fees

The Recipient warrants that no person or selling agency is currently or will be employed or retained to solicit or secure the Agreement for a commission, percentage, brokerage, or contingent fee. For breach or violation of this warranty, the Illinois EPA will have the right to void the Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

19. Compliance with Government-wide Guidance on Lobbying Restrictions

The Recipient certifies that the requirements of Section 1352 of Title 31 of the United States Code have been met with regard to the Agreement. The Recipient agrees to comply with 40 CFR Part 34, *New Restrictions on Lobbying*. Pursuant to Part 34, the Recipient certifies, to the best of Recipient's knowledge and belief, that:

- a. 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 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;
- b. if any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form LLL (“Disclosure Form to Report Lobbying”) in accordance with its instructions; and
 - c. The undersigned shall require that the language of this certification be included in the award documents for all subcontracts 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 these certifications and conditions were executed. Submission of this certification is a prerequisite, imposed by Section 1352, Title 31, U.S. Code, for making or entering into the Agreement. Therefore, the Illinois EPA may declare the contract void if this certification is false. The Recipient shall include the above language in award documents for all subawards and require that subrecipients submit certification and disclosure forms accordingly.

The Recipient shall abide by the applicable Office of Management and Budget (“OMB”) Circular A-21, A-87, or A-122, all of which prohibit the use of federal grant funds for litigation against the United States, for lobbying, or other political activities.

In accordance with the Byrd Anti-Lobbying Amendment, any Recipient who makes a prohibited expenditure under 40 CFR Part 34 or fails to file the required certification or lobbying forms shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure.

20. Single Audit Act

Any Recipient annually receiving \$500,000.00 or more in federal funds must comply with the Single Audit Act in accordance with OMB Circular A-133. The Recipient must submit to the Illinois EPA no less frequently than every two years, an independent audit report covering the award prepared in accordance with the provisions of OMB Circular A-133.

21. Audit and Access to Records

The Recipient certifies that it will maintain books, records, documents, and other evidence directly pertinent to performance of U.S. EPA and Illinois EPA funded work under the Agreement in accordance with generally accepted accounting practices and principals consistent with 40 CFR Part 31. The Recipient certifies that it will also maintain the financial information and data used in the preparation or support of the cost submission required under 40 CFR 31.36(f) for any negotiated agreement and provide a copy of that cost summary to the Illinois EPA. The U.S. EPA, the Comptroller General of the United States,

the U.S. Department of Labor, the Illinois EPA, the Illinois Attorney General, and the Auditor General or any of their authorized representatives shall have access to all such books, records, documents and other evidence for the purpose of inspection, audit and copying during normal business hours. The Recipient will provide proper facilities for such access and inspection.

Audits conducted under this certification shall be in accordance with generally accepted auditing standards and with established procedures and guidelines of the reviewing or auditing agencies.

The Recipient certifies that it will maintain, for a minimum of five (5) years after the completion of the Agreement, adequate books, records, and supporting documents to verify the amounts, receipts, and uses of all disbursements of funds passing in conjunction with the Agreement; and the Recipient agrees to cooperate fully with any audit conducted by the Auditor General and to provide full access to all relevant materials. Failure to maintain the books, records, and supporting documents required by this Section shall establish a presumption in favor of the State for the recovery of any funds paid by the State under the Agreement for which adequate books, records, and supporting documentation are not available to support the purported disbursement of the funds.

In addition, records that relate to (i) any controversy arising under a U.S. EPA assistance agreement, (ii) litigation, (iii) the settlement of claims arising out of such performance, or (iv) records that relate to costs or items to which an audit exception has been taken shall be maintained and made available by the Recipient until three (3) years after the date of resolution of the appeal, litigation, claim, or exception.

In addition to the access to records provisions of Title 40 of the CFR, cited above, the Recipient agrees to allow any appropriate representative of the Office of Inspector General to (1) examine any records of the Recipient, and of its procurement contractors and subcontractors or subgrantees, or any State or local agency administering such contract, that pertain to, and involve transactions relating to, the procurement contract, subcontract, grant or subgrant; and (2) interview any officer or employee of the recipient, subcontractor, grantee, subgrantee, or agency regarding such transactions.

Access to records is not limited to the required retention periods. The Recipient certifies that the authorized representatives designated in paragraph 1 of this Audit and Access to Records Section will have access to records at any reasonable time for as long as the records are maintained.

This Audit and Access to Records Section applies to financial records pertaining to all financial assistance agreements and all amendments to those agreements regardless of the type of agreement. In addition this section applies to all records pertaining to all agreements and amendments to those agreements:

- a. to the extent the records pertain directly to financial assistance agreement performance;

- b. if there is any indication that fraud, gross abuse, or corrupt practices may be involved; and
- c. if the financial assistance agreement is terminated for substantial failure or for convenience.

The Recipient is advised that providing false, fictitious or misleading information with respect to the receipt and disbursement of Illinois EPA grant funds may result in criminal, civil or administrative fines and penalties.

22. Indemnity

Neither Recipient, its staff, and any of its subcontractors nor Illinois EPA shall be liable for any negligent or intentional acts or omissions chargeable to the other, unless such liability is imposed by law. The Agreement shall not be construed as seeking to either enlarge or diminish any obligation or duty owed by one party to the other or to a third party.

The Recipient agrees to defend, indemnify and hold harmless the State of Illinois including the Illinois EPA, its officers, employees, agents and volunteers from any and all costs, demands, expenses, losses, claims, damages, liabilities, settlements and judgments, including in-house and contracted attorneys' fees and expenses, caused by, arising out of, or occurring in connection with (a) this Agreement, (b) any actual or alleged death or injury to any person, damage to any property, or any other damage or loss suffered, claimed to result in whole or in part from this Agreement, or (c) any act, activity or omission of Recipient or any of its employees, representatives, contractors, subcontractors, or agents.

23. Recycling and Waste Prevention

In accordance with the policies set forth in U.S. EPA Order 1000.25 and Executive Order 13423, Strengthening Federal Environmental, Energy and Transportation Management (January 24, 2007) and 40 CFR 30.16, the Recipient certifies that recycled paper and double sided printing will be used for all reports which are prepared as a part of the Agreement and delivered to Illinois EPA and U.S. EPA. This certification does not apply to reports prepared on forms supplied by Illinois EPA or U.S. EPA, or to Standard Forms.

24. Trafficking Victim Protection Act of 2000

To implement requirements of Section 106 of the Trafficking Victims Protection Act of 2000, as amended, the following provisions apply to this award:

- a. Illinois EPA, as the awarding Agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity:
 - i. is determined to have violated an applicable prohibition in the Prohibition Statement below; or
 - ii. has an employee who is determined by Illinois EPA to have violated an applicable prohibition in the Prohibition Statement below through conduct that is either:

1. associated with performance under this award; or
 2. imputed to 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).” You must inform Illinois EPA immediately of any information you receive from any source alleging a violation of prohibition in the Prohibition Statement below.
- b. Illinois EPA’s right to terminate unilaterally that is described in paragraph (a) of this Trafficking Victim Protection Act of 2000 Section of this award term:
 - i. implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
 - ii. is in addition to all other remedies for noncompliance that are available to Illinois EPA under the Agreement.
 - c. The Recipient must include the requirements of the Prohibition Statement below in any subaward the Recipient makes to a private entity.

Prohibition Statement – The Recipient, the Recipient’s employees, subrecipients under these certifications and conditions, and subrecipients’ employees may not engage in severe forms of trafficking in persons during the period of time that the Agreement is in effect; procure a commercial sex act during the period of time that the Agreement is in effect; or use forced labor in the performance of the Agreement or lower tier agreements under these certifications and conditions.

25. Management Fees

Management fees or similar charges in excess of the direct costs and approved indirect rates are not allowable. The Recipient certifies that money received under terms of the Agreement will not be used for management fees or similar charges.

The term “management fees or similar charges” refers to expenses added to the direct costs in order to accumulate and reserve funds for ongoing business expenses, unforeseen liabilities, or for other similar costs which are not allowable under this assistance agreement. Management fees or similar charges may not be used to improve or expand the project funded under the Agreement, except to the extent authorized as a direct cost of carrying out the scope of work.

26. Hotel-Motel Fire Safety

The Recipient certifies that all space for conferences, meetings, conventions, or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act, pursuant to 40 CFR 30.18 and 15 USC 2225a. Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel/> to see if a property is in compliance, or to find other information about the Act.

CONDITIONS:

27. Supersession

The Illinois EPA and the Recipient agree that the provisions of 40 CFR Part 31 supersede any conflicting provisions of this Agreement.

28. Right of Illinois EPA to Products of the Agreement

The Recipient certifies that the Illinois EPA has the right to use (including, but not limited to, citing to, circulating, displaying, and reproducing) all products that result from the Recipient receiving financial assistance under the Agreement whether the product is developed by the Recipient or a subrecipient.

29. Appropriation Contingency (Multiyear)

The obligations of the State of Illinois and Illinois EPA to provide financial assistance will cease immediately without any penalty, accelerated payment, or other recoupment mechanism being required by the Recipient if in any fiscal year the Illinois General Assembly or funding source fails to make an adequate appropriation or otherwise make available sufficient funding to cover the Illinois EPA's Agreement obligations.

30. Liability of the Illinois EPA

The Recipient agrees that no personal claim shall be made of, or honored by, any independent contractor, employee, or member of the Illinois EPA by reason of any provision of the Agreement. If the appropriation of funds by the General Assembly of the State of Illinois available for payment of financial assistance agreements is exhausted, no State agency or State office, nor any independent Contractor, employee or member of the Illinois EPA will be obligated to pay the Recipient anything under the terms of the Agreement, and the Recipient will not be held to the terms of the Agreement after such exhaustion. Prior to fund exhaustion, the Illinois EPA must make a positive effort to notify the Recipient of exhaustion.

31. Disputes

Any dispute arising under the Agreement that is not disposed of by provisions of the Agreement shall be decided by the Director of the Illinois EPA or a duly authorized representative, who will render a decision in writing and mail or otherwise furnish a copy thereof to the Recipient. The decision of the Director of the Illinois EPA shall be final.

32. Amendments

These conditions and certifications must be attached to the final Agreement entered into between the Illinois EPA and the Recipient. The Agreement, these conditions and certifications, and any attachments constitute the entire agreement between the parties. No amendment to the Agreement shall take effect until approved in writing, by the Illinois EPA and the Recipient.

If a time extension is necessary to extend the period of availability of funds (Agreement Period), the Recipient must submit a written request, including a justification as to why additional time is needed and an estimated date of completion to the Illinois EPA not later than ninety (90) days before the Agreement Period expiration date.

33. Termination

- a. The Agreement may be terminated, in writing, in whole or in part by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement through no fault of the terminating party. Termination under this paragraph is not effective unless the failing party is provided: (i) at least ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate; and (ii) an opportunity for consultation with the terminating party prior to termination.
- b. The Agreement may be terminated, in writing, in whole or in part by the Illinois EPA for the Illinois EPA's convenience. Termination under this paragraph is not effective unless the Recipient is provided: (i) at least ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate; and (ii) an opportunity for consultation with the Illinois EPA prior to termination.
- c. If termination for substantial failure is effected by the Illinois EPA, under paragraph (a) of this Termination Section, an equitable adjustment in the price provided for in the Agreement shall be made. However, no adjustment in the price shall be allowed for anticipated profit on unperformed services or other work, and any payment due to the Recipient at the time of termination may be adjusted to cover any additional costs to the Illinois EPA resulting from the Recipient's substantial failure. If termination for substantial failure is effected by the Recipient, under paragraph (a) of this Termination Section, or if termination for convenience is effected by the Illinois EPA, under paragraph (b) of this Termination Section, the equitable adjustment shall include a reasonable profit for services or other work performed by the party that initiates termination.
- d. The equitable adjustment for a termination either (i) initiated by the Recipient under paragraph (a) of this Termination Section, or (ii) initiated by Illinois EPA under paragraph (b) of this Termination Section, shall provide payment to the Recipient for services rendered and expenses incurred prior to the termination, in addition to termination settlement costs incurred by the Recipient relating to firm commitments entered into prior to termination.

- e. Upon receipt of a termination action under paragraphs (a) or (b) of this Termination Section, the Recipient must 1) promptly discontinue all affected work (unless the notice directs otherwise), and 2) deliver or otherwise make available to the Illinois EPA all data, drawing, specifications, reports, estimates, summaries and such other information and materials accumulated by the Recipient in performing the Agreement, whether those items are complete or incomplete.
- f. Upon termination under paragraphs (a) or (b) of this Termination Section, the Illinois EPA may take over the work under the Agreement and may award the same or a similar agreement to another recipient to complete the work under the Agreement.
- g. If, after termination for failure of the Recipient, under paragraph (a) of this Termination Section, it is determined that the Recipient did not fail to fulfill the Agreement obligations, the termination will be deemed to have been for the convenience of the Illinois EPA, under paragraph (b) of this Termination Section. In such event, adjustment of the price provided for in the Agreement shall be made as provided in paragraph (d) of this Termination Section.

34. Payments

Requests for payment must be submitted by the Recipient's authorized representative no more frequently than monthly. Additionally, requests for payment must be submitted within 45 days after the work, subject of the request, has been completed.

Each request must detail the amount and value of the work performed and must be accompanied by such supporting documentation as required by the Illinois EPA. The Recipient may transfer amounts among the cost categories designated in the Estimated Allowable Project Cost Summary provided the categories do not increase or decrease by more than fifteen (15) percent. Transfer in excess of fifteen (15) percent may be made only after written approval by the Illinois EPA. The requests for payment shall be submitted to:

Illinois Environmental Protection Agency
Attention: Fiscal Service
Mail Code #2
P.O. Box 19276
Springfield, Illinois 62794-9276

The Illinois EPA may withhold payment to the Recipient if the Recipient's progress in completing the scope of work does not meet the project schedule contained in the Agreement to the satisfaction of Illinois EPA. The Illinois EPA may withhold payment to the Recipient if Recipient fails to file required reports.

The Illinois EPA retains the right to withhold ten (10) percent of the assistance amount, as identified in the Estimated Allowable Project Costs Section of the Agreement, until all products outlined in the Project Scope of Work are submitted and approved by Illinois EPA.

Upon satisfactory completion of the work performed under the Agreement, as a condition before final payment under the Agreement or as a termination settlement under the Agreement the Recipient must execute and deliver to the Agency a release of all claims against the Agency arising under the Agreement. Unless otherwise provided in the Agreement or in another writing executed by both the Illinois EPA and the Recipient, final payment under the Agreement or settlement upon termination of the Agreement shall not constitute a waiver of any claim that the Agency may have pertaining to the Agreement against any party affected by the Agreement.

Upon review of this document, complete page 2 and return pages 1 and 2 to the Illinois EPA.